



CASE INFORMATION

Case name:	Mampomza MEC for Health Eastern Cape	Case no: 1476/2014
Judge/s:	Majiki J	
Division:	Eastern Cape Local Division, Mthatha	
Nature of matter:	<p>Negligence determination of liability—</p> <p>The plaintiff sued the defendant for general damages in her personal capacity for a sum of R500 000.00. She simultaneously sued for a sum of R15 033 200.00 in a representative capacity for her minor son, Siyolise. The defendant is sued in the representative capacity as a person vicariously liable for the negligent acts of the employees of the department of health, whilst acting within the course and scope of employment with the defendant. The plaintiff has alleged that the damages arose from inadequate and negligent medical treatment by the medical personnel who were involved in her treatment following her admission at Siphethu hospital (Siphethu) on 25 April 2011 during the birth of Siyolise. As a result of the alleged negligence Siyolise suffered hypoxic ischemic insult in consequence of which he suffered infantile epilepsy. At the commencement of the trial the court was requested to make an order in terms of rule 33(4) of the Uniform Rules for separation of the issues in the matter, merits and quantum. The court proceeded in respect of determination of liability only. The action is defended by the defendant who has in the main denied negligence on the part of its personnel.</p> <p>Held, that, in all probabilities the medical staff's failures as articulated above indicate that they acted negligently. Held, further, that the negligence of the medical staff in the court's view contributed a great deal in Siyolise's condition, both before birth and at neonatal stages. The omission by medical staff was in the court's view closely connected to what ultimately became the worse outcome in Siyolise's condition. Restriction of time of labour after 09h00 in the presence of foetal distress ought to have been prioritised.</p>	
Court Order:	<p>In the result the following court order was issued:</p> <p>The defendant was ordered to pay to the plaintiff such damages in her representative capacity as the mother of Siyolise as she may prove or agreed upon. The defendant was further ordered to pay the plaintiff's costs of suit in her representative capacity, such costs to include qualifying expenses of expert witnesses in respect of which Rule 36(9)(a) and (b) notices had been issued and their travel and accommodation costs.</p> <p>The plaintiffs claim in her personal capacity was absolved with costs.</p>	
The summary does not form part of the judgment, it is provided as a guide for research purposes.		<p>Heard on: (intermittently) between 3 August 2015 & 2 November 2016</p> <p>Delivered on: 17 October 2017</p>

Intermittent