

iAfrica Transcriptions (Pty) Ltd

IN THE SOUTH GAUTENG HIGH COURT OF SOUTH AFRICA

JOHANNESBURG

CASE NO: 46854/2009

DATE: 29/04/2011

DELETE WHICHEVER IS NOT APPLICABLE	
REPORTABLE: YES/NO	
OF INTEREST TO OTHER JUDGES: YES/NO	
REVISED	
_____ DATE	_____ SIGNATURE

In the matter between:

MBONGISENI MAKHOMBOTHI

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

C. J. CLAASSEN J:

- [1] What remains to be decided, is the appropriate amount in respect of general damages for loss of amenities of life, pain and suffering and disfigurement. The plaintiff is an artisan who is dependent upon his physical ability to perform his profession. The medical reports indicate that there has been a substantial curtailment of his physical ability. There are some photographs which indicate this impairment quite clearly on page 36 of the plaintiff's expert bundle.

- [2] It is also common cause that the plaintiff will have to undergo future operations since the one leg is now shorter than the other. There will, therefore, be further pain and suffering and immobility for a shorter or a longer period of time.
- [3] Mr du Plessis asked for an amount of R150 000.00 in respect of general damages whereas Mr Pilusa submitted R100 000.00 would be appropriate. In my view general damages is, to a large extent, a gut feeling. In my view, it would not be unreasonable to award the amount of R150 000.00 for the general damages suffered by the plaintiff.
- [4] In this regard I order that paragraphs 1, 2 and 3 of the draft order marked "X" be made an order of court.

THUS DONE AND SIGNED AT JOHANNESBURG ON THIS 27th DAY OF JUNE 2011.

A handwritten signature in black ink, appearing to read 'C.J. Claassen', written in a cursive style.

C.J.CLAASSEN

JUDGE OF THE HIGH COURT