

Mota and Others vs Minister of Police

All four plaintiffs sued the defendant for damages arising out of their alleged unlawful and wrongful arrest and detention in respect of which the defendant agreed to pay compensation to each of the plaintiffs.

In addition, the fourth plaintiff claimed damages as a result of being wrongfully and unlawfully assaulted by members of the South African Police Services. Defendant disputed that the fourth plaintiff was injured as a result of a gunshot fired by a police officer and also disputed the quantum claimed.

Held:

- The court was satisfied that the fourth plaintiff had discharged the onus of proving, on a balance of probabilities, that he was assaulted by a police officer employed by the defendant.
- In awarding damages, the court has to consider the extent of the injuries and sequelae suffered by the plaintiff and the awards made in comparable cases.
- It is settled law that a court has a large discretion to award fair and adequate compensation to the injured party. Comparisons are a useful guideline.
- The defendant was ordered to pay the fourth plaintiff R300 000 for general damages, R63 250 for future medical expenses and R4 520-51 for past medical expenses and interest on the aforesaid sums calculated at the rate of 15.5 per cent per annum from date of judgment to date of payment.
- The defendant was also ordered to pay the fourth plaintiff costs, which costs included the cost of all experts who filed reports and who testified.