IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 12707/2017

REPORTABLE: NO
OF INTEREST TO OTHER JUDGES: NO
REVISED

In the matter between:

M[....] B[....] obo a MINOR Plaintiff

And

ROAD ACCIDENT FUND Defendant

Date of hearing: 2 September 2021- In a 'virtual hearing' during a videoconference on Microsoft Teams digital platform.

Date of Judgment: 19 October 2021

This judgment is deemed to have been handed down electronically by circulation to the parties' representatives via email and uploaded to caselines.

JUDGMENT

GRAF AJ

INTRODUCTION

[1] The plaintiff's claim for damages is on behalf of a minor male child ('B') who was involved in a pedestrian motor vehicle collision on the 8th of June 2015 and on Queens Street. The minor child was 10 years old at the time of the collision. He is currently 16 years old.

[2] The plaintiff pleaded that a blue Nissan Hardbody motor vehicle with registration number PJY 402 GP, driven by the insured driver, collided with the minor child, who was trying to cross Sam Hancock Street at the time. The minor child sustained serious injuries as a result of the collision, which was caused by the sole negligence of the insured driver.

[3] According to the plaintiff the defendant is liable to compensate the minor child in the amount of R8 600 000-00 for general damages and future loss of earnings and to provide a statutory undertaking in respect of the minor's future medical expenses.

[4] The defendant entered an appearance to defend and filed a plea, but the defence was struck out on 24 May 2021, after the defendant failed to comply with a compelling order. It is on that basis that the plaintiff proceeded with an application for default judgment.

EVIDENCE

[5] The plaintiff called one witness, namely B, and submitted numerous expert reports confirmed by way of affidavits deposed to by the expert witnesses.

Viva voce evidence

[6] B testified that he was born on 14 May 2005 and that he was16 years old at the time of giving evidence in court. He understood the nature and import of the oath and was duly sworn in.

[7] B stated that on 8 June 2015 he was accompanied by a group of friends. They were on their way from Parktown, when they decided to cross the road at a traffic light. There were no motor vehicles in sight when they started crossing the road. While they were crossing the road a motor vehicle knocked B over. B's friends managed to safely cross the road and B suspected that they might have seen the motor vehicle prior to the collision.

[8] After the collision B experienced pain in his legs and he was unable to stand up. An ambulance was called and he was taken to hospital. He had to undergo surgery, due to the injuries sustained to both legs. Steel pins were placed in his legs to straighten the bones. B spent approximately 2 months in hospital, before being discharged. Even after his discharge from hospital he had to utilise crutches for a while and had to undergo physiotherapy. The steel pins were removed the following year.

[9] According to B he still occasionally experiences pain in his legs, more particularly in cold weather conditions. He is no longer able to participate in athletics or physical sports, as he used to, prior to the collision. B's current extramural activities include drama, debate and poetry. He is aspiring to become a lawyer. B sometimes has to take breaks while studying, or attending class, due to sharp pains in his legs.

Expert evidence presented by way of affidavit

[10] The plaintiff's orthopaedic surgeon, Dr RS Ngobeni, recorded that B sustained bilateral femur fractures as a result of the collision. B received acute treatment according to advanced trauma and life support principles and skin traction was applied. TENS nails were inserted and skin traction continued for a month. B received analgesics and physiotherapy. B still presented with bilateral thigh pain on exertion at the time of Dr Ngobeni's examination in 2018. Dr Ngobeni observed a 10 x 2 cm healed surgical scar on B's right thigh and a 4 x 2 cm healed surgical scar on B's left thigh.

[11] Dr Ngobeni assessed B's total whole person impairment according to AMA guidelines at 11%. He determined, however, that B qualified for general damages under the narrative test on the basis of permanent serious disfigurement. Dr Ngobeni duly completed the RAF 4 serious injury assessment form.

[12] Dr Ngobeni opined that the orthopaedic injuries sustained would not affect B's academic progression or career choice. He deferred to an educational and industrial psychologist for an opinion in that regard.

[13] According to Dr AB Mazwi, the plaintiff's neurosurgeon, B presented with significant memory disturbances, poor attention and poor abstract thinking and recall ability. Dr Mazwi opined that there was a nexus between B's problems and the accident. He concluded that B had no head injury, but that he experienced a significant loss of amenities of life.

[14] Hleziphi Matlou, the plaintiff's clinical psychologist, recorded that B's cognitive functioning performance revealed poor, unsubstantial capacities for attention and concentration, working memory and mental tracking. This suggested difficulty in both simple and complex attention and concentration functioning. Matlou opined that the problems in B's working memory and mental tracking affected his problem solving skills in terms of cognitive flexibility, which would adversely affect his performance in the classroom. According to Matlou the assessment pointed to areas of neurocognitive impairment which was probably accountable to factors pertaining to the trauma of the accident and residual pain. Matlou explained that chronic pain had a negative impact on both emotional and cognitive functioning and this was expected to adversely affect B in the higher grades when the demand of work increases. Additionally, B had been left physically vulnerable after the accident and his amenities of life had been affected by his physical residual difficulties.

[15] The salient portions of Aloshna Naicker, the plaintiff's educational psychologist's report are as follows: Naicker's assessment revealed that B's intellectual ability was probably in the average range of function pre-morbidly. He was likely to have obtained a matric and a diploma, but for the accident. B's attention fluctuated and this impacted on his memory. He presented with language and perceptual reasoning lags. The trauma, pain and discomfort that B experienced due to the accident had impacted on his scholastic performance. With the necessary support, rehabilitation and remediation to scaffold B may be able to obtain a Higher Certificate/NQF 5 qualification.

[16] According to Mbhekiseni J Dhlamini, an occupational therapist who assessed and examined B, the results of the assessment suggested that B should at least be able to enter into occupations that are sedentary to light to low medium in nature. Dhlamini opined that B would struggle executing duties that require frequent constant standing and walking, agility and flexibility of the lower limbs, constant

ladder and stair climbing as well as sustained or repetitive below knee level reach postures. B had, however, retained the physical capacity to operate in the open labour market with provision of reasonable accommodation and ergonomic factors put in place.

[17] The essence of the report compiled by Myra Tambwe, the plaintiff's industrial psychologist, is that B's post-morbid career progression will most likely differ from his probable pre-morbid career progression. Tambwe had regard to the reports compiled by the plaintiff's other experts, including the educational psychologist, in her assessment of B's vocational potential. She considered four possible scenarios in her projection of B's pre-accident employment and earning potential. Tambwe determined that, in terms of the most probable scenario, B would have completed Grade 12 and have obtained a diploma. He would have entered the labour market on a Paterson B2/B3 level and could have advanced to a Paterson C3/C4 level towards age 40-45.

[18] In her projection of B's post-accident employment and earning scenarios Tambwe took into account that B's work capacity had been compromised, due to his functional limitations. The accident had rendered him a psychologically vulnerable individual in the open labour market, and depending on the job demands, he could be a candidate for reasonable accommodation from a sympathetic employer. She concluded that two post-morbid career progression scenarios were possible. In scenario 1 the minor will enter and progress within the formal sector. He will enter the open labour market at Paterson A1/A2 and reach his career ceiling at Paterson B2/B3 towards age 40-45. In scenario 2 the minor will enter into and progress within the non-corporate sector. He will enter the labour market at the median quartile for unskilled labourers and reach his career ceiling at the midpoint between the median and upper quartiles for semi-skilled labourers towards age 40-45.

[19] Gregory Angus Whittaker, the plaintiff's actuary, compiled a report on the future loss of earnings to be suffered by B as a result of the injuries sustained. Whittaker based his actuarial calculations on Tambwe's postulations. He determined the value of B's projected future income, but for the accident, on the basis of the most probable scenario according to Tambwe, as R 8 184 560-00. The value of B's projected future income, having regard to the accident, on the basis of scenario 1,

was determined at R3 866 853-00. The value of B's projected future income, having regard to the accident, on the basis of scenario 2, was determined at R2 007 053-00. After applying a 23.5% contingency deduction to the uninjured earnings and a 43.5% contingency deduction to the injured earnings Whittaker calculated the net future loss of income on the basis of scenario 1 at R 4 076 417-00. Applying the same contingency deductions in respect of scenario 2 the net future loss of income amounts to R 5 127 203-00.

EVALUATION

[20] In evaluating the evidence the court has to determine whether the plaintiff has established that the defendant is liable to compensate B for the alleged damages suffered. This determination has to be made with reference to the following salient questions:

> [20.1] Was the collision caused as a result of the negligence of the insured driver?
>
> [20.2] If so, did B sustain any injuries as a result of the collision?
>
> [20.3] If so, how should B be compensated for these injuries? This question should be decided with reference to the following heads of damages:
>
> - Future hospital and medical expenses.
> - Future loss of earnings.
> - General damages.

[21] I will proceed to consider these questions *seriatim*.

NEGLIGENCE OF THE INSURED DRIVER

[22] In regards to the merits of the matter the plaintiff relied on the *viva voce* evidence of B. B made a very good impression on the court. He answered all the questions truthfully and even made some concessions that did not advance the plaintiff's case. The defendant did not present any evidence to the contrary and the

court is satisfied that B's version of the events surrounding the collision is credible and reliable.

[23] From B's evidence it is clear that he was 10 years old at the time of the collision. He crossed the road at a traffic light and in circumstances where there was no motor vehicle around when he started crossing the road. He was part of a group of children that crossed the road. The other children managed to escape unscathed, but B did not see the motor vehicle, until it collided with him.

[24] It is trite that there is a duty on a driver of a motor vehicle that sees children upon or near a road or intersection to be alert and to exercise considerable care in avoiding any collision. In *Jones N.O v Santam Bpk* [1] it was said that:

> 'In the present case the driver's negligence was substantial. His conduct deviated substantially from the norm of the bonus paterfamilias. He was aware of the presence of children yet he did not keep them properly under observation. The law requires a high standard of alertness and care from a driver of a vehicle who sees children upon or near the roadway'.

[25] The plaintiff was part of a group of children that crossed the road at a traffic light. This happened during broad daylight. By being alert and keeping a proper lookout the insured driver would have seen the children and taken reasonable precautions to avoid the accident. In the absence of any evidence to the contrary, it is accepted that the insured driver was negligent, and that his negligence caused the accident.

[26] In pondering over the possibility of an apportionment, due to contributory negligence on the side of B, I found the following passage in Cooper Delictual Liability in Motor Law[2] to be instructive:

> 'Jansen JA at 399G-H held that there is a rebuttable presumption that an infantia maior (a child between the age of 7 years and puberty) is doli and culpae incapax; accordingly, that a claimant who seeks to hold an infantia maior liable in delict must prove the child's accountability'.

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[1] 1965 (2) SA 542 (A) at 544 G-H
[2] 1996 at 66

[27] In *Eskom Holdings Ltd v Hendricks*[3] the SCA confirmed this principle, in stating that:

> 'It was established in the evidence that at the time of the incident Jacques was at primary school in grade five and that he must have been taught the dangers of electricity. But there was little, if any cross-examination of Jacques himself or his parents to determine his intellectual and emotional maturity at the time, nor was any evidence led to rebut the inference of childish impulsive behaviour that arose from the conduct or, for that matter, to assist in the determination of the issue of maturity. In all the circumstances, I am unpersuaded that Eskom succeeded in rebutting the presumption that Jacques was culpae incapax at the time of the incident'.

[28] B was 10 years old at the time of the collision. The defendant failed to place any facts before this court to rebut the presumption that B was *culpae incapax*. It follows that no negligence can be attributed to B. It is accepted, in favour of the plaintiff, that the defendant is 100% liable for such damages as may be proved by the plaintiff.

INJURIES SUSTAINED BY THE CHILD

[29] The reports compiled by Dr Ngobeni and Dr Maswi corroborate B's evidence that he sustained injuries to his legs as a result of the collision and that he was treated and hospitalised, due to the injuries sustained. It is also apparent from Dr Maswi's evidence, coupled with the reports compiled by the clinical psychologist and the educational psychologist, that B suffered psychological *sequelae* and even areas of neurocognitive impairment, due to the trauma experienced as a result of the collision. The residual pain and mental disturbances experienced, following on the collision, are likely to have a negative impact on B's scholastic performance and career prospects.

[30] I am satisfied with the cogency and veracity of the plaintiff's expert reports. Moreover, no evidence to the contrary was received from the defendant. B clearly

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[3] 2005 (5) SA 503 (SCA) at [513 G-I

sustained injuries as a result of the collision and what remains to be considered is the issue of how he should be compensated as a result of these injuries.

QUANTUM OF DAMAGES

[31] Due to practical considerations the determination of the amount of damages to be awarded will be discussed under the headings of future hospital and medical expenses, loss of earnings and general damages.

Future hospital and medical expenses

[32] Dr Ngobeni indicated in his report that B will benefit from conservative treatment, i.e. analgesics and physiotherapy, even though there was no indication that surgery would be needed in the future. The educational psychologist recommended that B needed support, rehabilitation and remediation, in order to realise his ultimate vocational potential. I am accordingly satisfied that the plaintiff has established the need for the court to order the furnishing of an undertaking in terms of section 17(4)(a) of the Road Accident Fund Act[4] by the defendant.

Future loss of earnings

[33] I have scrutinised the report compiled by the industrial psychologist, Myra Tambwe. Tambwe has motivated her findings with reference to the assessments conducted by and conclusions of the plaintiff's other experts. I cannot see any reason to doubt Tambwe's projections of B's work capacity, employability and earning potential, disregarding and having regard to the accident related injuries. I am satisfied that Tambwe's opinion regarding the most probable career progression, but for the accident, is sound and reliable.

[34] I have also pondered over the two possible post-morbid career scenarios, as projected by Tambwe. In terms of scenario 1 the minor will enter the formal sector and in terms of scenario 2, he will enter the non-corporate sector. I am of the view that scenario 1 is more probable, having regard to B's evidence and the expert evidence presented by the plaintiff. The evidence shows that B has passed every grade, even though there was a decline in his academic performance since the

[4] Act 56 of 1996

accident. According to Tambwe's report, B was a prefect at school at the time of her assessment. B stated that he was aspiring to become a lawyer. It is clear from his *viva voce* evidence during the hearing that B is well-versed in English. His extra-mural activities include drama and debate and he is interested in poetry. B is an ambitious young man. It seems unlikely that he will enter the non-corporate sector as an unskilled labourer.

[35] The actuarial report is based on Tambwe's postulations. The actuary applied a deduction for general contingencies of 23.5% to the pre-morbid income and a contingency deduction of 43.5% to the post-morbid income.

[36] It is trite that the determination of a suitable contingency deduction falls within the discretion of the court. In *Southern Insurance Association Ltd v Bailey*[5] the advantage of applying actuarial calculations to assist in this task was emphasised. It was stated that:

> 'Any enquiry into damages for loss of earning capacity is of its nature speculative, because it involves a prediction as to the future without the benefit of crystal balls, soothsayers, augers or oracles. All that the court can do is to make an estimate, which is often a very rough estimate, of the present value of a loss. It has open to it, two possible approaches. One is for the Judge to make a round estimate on an amount which seems to him to be fair and reasonable. That is entirely a matter of guesswork, a blind plunge into the unknown. The other is to try and make an assessment, by way of mathematical calculations on the basis of assumptions resting on the evidence. The validity of this approach depends of course upon the soundness of the assumptions and these may vary from the strongly probable to the speculative. It is manifest that either approach involves guesswork to a greater or lesser extent. But the court cannot for this reason adopt a *non-possumus* attitude and make no award'.

[37] It was highlighted, however, that the trial judge is not 'tied down by inexorable actuarial calculations' and that he (or she) has a 'large discretion to award what he considers right'. In exercising that discretion, a discount should be made for

[5] 1984 (1) SA 98 (A) at 113H- 114E

'contingencies' or the 'vicissitudes of life'. These include possibilities such as the plaintiff experiencing periods of unemployment or having less than a 'normal expectation of life'. The amount of discount may vary, depending on the facts of the case[6].

[38] The learned author Koch[7] has suggested that as a general guideline, a sliding scale of 0,5% per year over which the applicable income must be calculated, be applied. For example, 25% for a child, 20% for a youth and 10% in middle age.

[39] With regard to the minor *in casu* and his particular capabilities I am of the view that the 23.5% pre-morbid contingency deduction, as applied by the actuary, is fair and reasonable. A 10% higher contingency deduction in respect of the post-morbid income will be justified in the circumstances of this matter.

[40] The resultant calculation will therefore be as follows:

[40.1] Pre-morbid income at R 8 184 560-00 less 23.5% = R 6 261 189-00.

[40.2] Post-morbid income at R3 866 853-00 less 33.5% = R 2 571 457-00.

[40.3] Loss of income (R 6 261 189-00 less R 2 571 457-00) = R 3 689 732-00.

General damages

[41] The defendant has not placed any evidence before court to counter the serious injury assessment that was done by Dr Ngobeni. It is accordingly accepted that the minor qualifies for general damages. The plaintiff has claimed the amount of R2 000 000-00 for general damages. Counsel contended, with reference to past awards that were made in comparative cases, that general damages in the amount of R700 000-00 should be awarded.

[42] Counsel referred me, amongst other things, to the matter of *Penane v Road Accident Fund*[8] where general damages in the amount of R505 000-00 was awarded to a minor in 2007.The minor, who was 4 years old at the time of the collision, had

[6] Sothern Insurance Association Ltd (note 5) at 116G-H.
[7] Robert J Koch, The Quantum Yearbook, 2009, p.100
[8] (7702/06)[2007]ZAGPH 397 (1 August 2007)

suffered a fracture of the right femur and a head injury resulting in a laceration of the forehead and a concussive brain injury.

[43] In *Tobi v Road Accident Fund*[9] the plaintiff sustained injuries to both legs, unsightly scars on the left leg and scars on the forehead and stomach, as a result of a motor vehicle collision. He experienced considerable pain and great difficulty in walking after the incident, as both kneecaps were injured. The court awarded an amount of R450 000-00 (before apportionment) for general damages in 2013.

[44] In *LT obo LT v Road Accident Fund*[10] an award for general damages in the amount of R550 000-00 was made to compensate a minor, who was 11 years old at the time of the motor vehicle collision. The minor had sustained a mild head injury, blunt chest injury and abrasions on the back and on the lower limbs as a result of the collision.

[45] Although I have not specifically mentioned all the matters that counsel referred me to in his heads of argument, I have considered the awards that were made in those matters, while bearing in mind that previous awards can only offer a broad and general guideline. In *Protea Assurance Co Ltd v Lamb*[11] Potgieter JA, in discussing the role that previous awards may play in the determination of general damages, pointed out that:

> '…the trial court, or the court of appeal, as the case may be, may pay regard to comparable cases. It should be emphasised, however, that this process of comparison does not take the form of a meticulous examination of awards made in other cases in order to fix the amount of compensation; nor should the process be allowed so to dominate the enquiry as to become a fetter upon the court's general discretion in such matters. Comparable cases, when available, should rather be used to afford some guidance, in a general way, towards assisting the court in arriving at an award which is not substantially out of general accord with previous awards in broadly similar cases, regard being had to all the factors which are considered to be relevant in the assessment of general damages. At the same time it may be permissible, in

[9] (868/2010) [2013] ZAECGHC 94 (20 September 2013)
[10] (2018) [2020] ZAGPPHC 101 (20 February 2020)
[11] 1971 (1) SA 530 (A)

an appropriate case, to test any assessment arrived at upon this basis by reference to the general pattern of previous awards in cases where the injuries and their sequelae may have been either more serious or less than those in the case under consideration'.

[46] The court, in making an award for general damages comprising pain and suffering, disfigurement, permanent disability and loss of amenities of life, has a wide discretion to award what it considers to be fair and adequate compensation to the injured party.[12] In exercising this discretion the court must be fair and reasonable to both parties. Although it is important to ensure that a plaintiff is sufficiently compensated for the injuries that he or she has suffered, care should be taken not to burden the defendant with an inordinately high award.[13]

[47] Having regard to the particular facts of the matter presently before me, I am of the view that an amount of R500 000-00 for general damages will be fair and adequate compensation for the injuries sustained by the minor.

ORDER

[48] The following order is made:

DEFAULT JUDGMENT is granted against the defendant in favour of the plaintiff as follows:

(i) The defendant is liable for 100% (one hundred percent) of the plaintiff's damages pertaining to the collision which occurred on the 8th of June 2015.

(ii) The defendant shall pay the Plaintiff in her representative capacity as mother and natural guardian of her minor son, B[....] Q[....] M[....] (ID Number: [....]) ('**B'**) the capital amount of R 4 189 732-00 within 30 days of this order, calculated as follows:

(a)The amount of R 500 000-00 in respect of general damages; and

(b) The amount of R 3 689 732-00 in respect of future loss of earnings.

[12] Road Accident Fund v Marunga 2003 (5) SA 164 (SCA) at 169 E -F
[13] De Jongh v Du Pisanie N.O [2004] ALL SA 565 (SCA)

(iii) The Defendant will not be liable for any interest on the abovementioned amount in paragraph (ii) if it is paid before the due date. Should the defendant not pay the above amount in paragraph (ii) before such date above, it will be liable to pay interest at 7% per annum calculated as from 30 days of this order until the date of payment.

(iv) The aforesaid capital amount and interest above shall be paid into the Plaintiff's attorneys' trust account, the particulars of which are:

Name of account holder	:	**NT Mdlalose Incorporated**
Account held	:	**Nedbank**
Branch code	:	**198765**
Account No.	:	**[....]**

(v) The Defendant shall furnish the Plaintiff and/or the trustee referred to in paragraph (vii) below, with an undertaking in terms of Section 17(4)(a) of the Road Accident Fund Act, 56 of 1996 ("the undertaking"), to reimburse the Plaintiff and/or the trustee for the cost of the future accommodation of B in a hospital or nursing home, or treatment of, or the rendering of a service, or the supplying of goods to him, arising out of the injuries he sustained, in the motor vehicle accident that occurred on 08 June 2015, after such costs have been incurred and upon proof thereof. In addition, the undertaking shall include the costs of the creation of the trust referred to in paragraph (vii) below, the costs of annually obtaining a security bond as required and the cost of the trustee in respect of the administration of the trust.

(vi) The Plaintiff's attorneys of record shall retain the aforesaid amounts, nett of the attorney's costs, in an interest-bearing account in terms of Section 78(2)(A) of the Attorneys Act, for the benefit of B, pending the creation of a Trust referred to in paragraph (vii) hereunder, and the issuing of letters of authority.

(vii) The Plaintiff's attorneys of record shall pay the above-mentioned amounts, together with any accrued interest, over to the trustee of a trust

which is to be created within four months from the date of this Order, and in respect of which trust, the following shall apply:

(a) the trust shall be created and established in accordance with the provisions of the Trust Property Control Act, No. 57 of 1988, in favour of B;

(b) the trust shall have as its trustee as Mahalia Molefe, or any so person appointed, of Absa Trust of Absa Trust Ltd,

(c) the trustee shall:

- be entitled, in the execution of its duties and fiduciary responsibilities towards the beneficiary of the trust, to have the attorney and own client costs and disbursements of the Plaintiff's attorneys of record taxed, unless agreed;

- be obliged to render security to the satisfaction of the Master of the High Court;

- be entitled to administer on behalf of B, the undertaking referred to in paragraph (v) above and to recover the costs covered by such undertaking on behalf of B for the benefit of the trust; and

- at all times administer the trust to the benefit of B;

(d) In the event of the trust not being created within four months from the date of this Order, the Plaintiff and his attorney are directed to approach this Court within two months after the expiry of the first period of four months, to obtain further directions with regard to the manner in which the capital amount should be further administered on behalf of B.

(viii) The Defendant shall pay Plaintiff’s taxed or agreed party and party costs on the High Court scale, such costs to include:

- the costs attendant upon the obtaining of payment of the full amount referred to in paragraph (ii) above; and

- the costs of the Plaintiff's medical-legal expert reports attending to the addendum of such reports.

- The preparation and/or qualifying cost, reservation costs and attendance costs, if any, of the abovementioned experts.

- Costs of Counsel's fees;

(ix) In the event that costs are not agreed:

- The plaintiff shall serve notice of taxation on the defendant's attorney of record;

- The plaintiff shall allow the defendant 7 (seven) court days to make payment of the taxed costs.

(x) This Order must be served by the Plaintiff's attorneys on the Defendant and the Master of the High Court within 30 days from the date of receipt of this Order from the Registrar in typed form.

A GRAF
ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Date of Hearing:	2 September 2021
Date of Judgment:	19 October 2021
Appearance for the Plaintiff:	Adv T Mathopo ktmathopo@gmail.com

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	siyakha@mdlalose.co.za
Appearance for the Defendant:	No appearance