

REPUBLIC OF SOUTH AFRICA

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

CASE NO: 23697/2019

REPORTABLE: NO

OF INTEREST TO OTHER JUDGES: NO

REVISED.

10/3/222

In the matter between:

RAMANTSANE ESTER DIKELEDI

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

MAKUME J:

introduction

[1] On the 24th February 2018 the Plaintiff who was then 29 years old was a passenger in a motor vehicle with Registration number [...] driven by one Kabelo Monareng. A collision occurred near the Mall of Africa Shopping Mall in Midrand

between that motor vehicle and another motor vehicle with Registration number [....] there and then drive by one Modise.

[2] The Plaintiff sustained bodily injuries which are described in detail in the medical records. As a result the Plaintiff is now seeking payment of damages from the Defendant under the following heads:

- i) General Damages for pain suffering and disfigurement.
- ii) Past Medical Expenses.
- iii) Future Medical Expenses.
- iv) Future Loss of Earning Capacity.

[3] The Defendant has conceded liability and agreed to compensate the Plaintiff for its proven damages.

[4] When the hearing commenced before me on the 8th February 2022 both legal representatives of the parties informed me that:

4.1 The amount for General Damages has been settled and agreed upon in the amount of R550 000.00 (Five Hundred Thousand Rand).

4.2 The Defendant has also agreed to pay the Plaintiff Future Medical Expenses by issuing a Certificate in terms of Section 17(4) of the Act.

4.3 The only outstanding claims to be decided by the Court are:

- Past Medical Expenses.
- Future Loss of Earning Capacity.

[5] The Plaintiff was ready to commence with the matter when Counsel for the Defendant indicated that he need time to read and apprise himself of the Expert reports as he only received instructions that morning. The matter then stood down to Wednesday the 9th February 2022. I made an order that the Defendant pay the wasted costs of the day.

[6] On Wednesday the 9th February 2022 Mr Naidoo for the Defendant was not available on Teams at the agreed time of 10.00. The matter only commenced at 11.00am. All the Plaintiff's expert reports were by agreement between the parties handed in as evidence. They are the expert reports of the following doctors:

- | | | | |
|-----|--------------------|---|---------------------------|
| 6.1 | Dr RS Ngobeni | - | Orthopaedic Surgeon |
| 6.2 | Dr RS Ngobeni | - | Serious injury assessment |
| 6.3 | Dr A Mazwi | - | Neurosurgeon |
| 6.4 | Dr A Mazwi | - | Serious injury report |
| 6.5 | Hlezephi Matlou | - | Clinical Psychologist |
| 6.6 | Mbekiseni Dhlamini | - | Occupational Therapist |
| 6.7 | Zaheer Fakir | - | Industrial Psychologist |
| 6.8 | Algorithm | - | Consultants and Actuaries |

[7] The Plaintiff testified and also called Ms Raisibe Idah Makgamatho her supervisor at Ster-Kinekor as a witness. The evidence of the two ladies dovetails each other and confirm the following:

- That the Plaintiff was an active person at work as a result she received promotion.
- Since her return to work she is no longer as agile as she used to be and can no longer work overtime as a result her salary has dropped.
- She now and then had to be off work to attend medical Treatment.
- Now and then at work she has to take a rest.
- She uses crutches to go up and down the stairs.
- She did not pay the amount being claimed for Past Medical Expenses. She does not know who paid presumably her employer because it is them who removed her from Tembisa Hospital (A Provincial Public Hospital) to Zamokuhle a Private Hospital.

[8] The Plaintiff has now in the draft order abandoned the claim for Past Medical Expenses. What remains is how much the Court should award in respect of Loss of Earnings. The Actuary has calculated her Loss of Future Earnings to be the amount of R1 560 369.00 having applied reasonable contingency deduction. I had no difficulty accepting that calculation as being correct It was based on the other expert reports which were accepted into evidence without any opposition.

[9] In the result I hereby grant judgment in favour of the Plaintiff and order that the Defendant make payment to the Plaintiff the following amounts set out hereunder which amounts shall be paid into the Trust Account of the Plaintiff's Attorneys being Messrs NT Mdlalose Incorporated Trust Account Nedbank Account Number [....]

ORDER

It is hereby ordered that the Defendant pay to the Plaintiff the following amounts:

- i) R 550 000.00 General Damages
- ii) R1 560 369.00 Future Loss of Earnings

iii)	<hr/>	
	R2 110 369.00	Total
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iv) The above amount shall be paid into the Trust Account of the Plaintiff's Attorneys as set out in paragraph 9 above by not later than 180 days from date of this order

v) The Defendant shall furnish to the Plaintiff an undertaking to pay 100% of the costs of the future medical costs of the Plaintiff at any hospital or nursing home or treatment of or rendering service or supply of goods to the Plaintiff arising out of the injuries sustained in the motor collision of 24th February 2018 and the sequelae thereto after and costs have been incurred and copy proof thereof in terms of Section 17 (4) (a) of the Road Accident Fund Act 56 of 1996

vi) The Defendant shall pay the Plaintiff's taxed or agreed party and party costs which shall include Counsel's fees for two days on the applicable High Court Scale as well as the qualifying fees of the experts.

vii) In the event costs are not agreed upon the parties agree that the Plaintiff shall serve a notice of taxation on the Defendant Attorneys and afford the Defendant 14 days to pay the taxed costs.

DATED at JOHANNESBURG this the 10 day of MARCH 2022.

M A MAKUME
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

DATE OF HEARING	:	08 FEBRUARY 2022
DATE OF JUDGMENT	:	10 MARCH 2022
FOR APPLICANT	:	Adv Molope-Madondo
INSTRUCTED BY	:	NT Mdlalose Attorneys
FOR RESPONDENT	:	Attorney Naidoo
INSTRUCTED BY	:	Office of the State Attorney Johannesburg