REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

(1) REPORTABLE: ~~YES~~/NO

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO

(3) REVISED

CASE NO. 2018/15259

23/3/2019

In the matter between:

ISMAIL RIAZ Plaintiff

and

ROAD ACCIDENT FUND Defendant

JUDGMENT

NOCHUMSOHN (AJ)

1. This is an action instituted by the Plaintiff against the Road Accident Fund, arising out of injuries sustained in a motor vehicle collision that took place on 10 May 2017.

2. By agreement between the parties, the issues were separated in accordance with Uniform Rule of Court 33(4), thus the trial proceeded only on the question of liability, with the remaining issues relating to the

quantification of the Plaintiff's claim to be postponed *sine die.*

3. Prior to the commencement of the hearing on 15 May 2019, counsel for both the Plaintiff and Defendant jointly informed me, in chambers, that the following is common cause between the parties:
   3.1. The Plaintiff, Mr Riaz Ismail, was driving a white Volkswagen Polo behind a silver Kia, driven at the time by Ms Anneri Swanepoel, who in turn was driving behind a light delivery truck;
   3.2. The collision took place at the intersection of Hendrik Verwoerd Drive and Hippo Avenue, in Centurion;
   3.3. At the time of the collision, the robot was green in favour of all three vehicles, that is to say, the truck, the Kia and the Polo;
   3.4. Prior to entering the intersection, the driver of the truck braked and came to a sudden stop. Swanepoel, who was driving the Kia, which was travelling behind the truck, braked and came to a stop without hitting the truck, but the Polo collided into the rear of the Kia, pushing it into the truck;
   3.5. An unidentified taxi disturbed the driver of the truck causing the truck driver to stop.

4. How the presence of the unidentified taxi came about, from where it came and the manner in which it "disturbed" the truck driver, remained an issue for determination, suffice it to say that it was common cause that the presence of an unidentified taxi "disturbed" the truck driver.
5. At the commencement of the trial, I placed the above information on the record, which the counsel for both Plaintiff and Defendant confirmed.
6. I was informed by the Plaintiff's counsel that the truck driver had been subpoenaed but was not available to testify and that neither party would be calling the truck driver in the result.
7. In his opening address, counsel for the Plaintiff informed me that he would base the Plaintiffs case upon proving that the collision was caused by both the negligence of the unidentified taxi driver as well as that of the truck driver, who would not be called.

8. Against the aforementioned background, counsel for the Plaintiff called both the Plaintiff as well as an accident reconstruction expert, Professor Gerald Lemmer, to testify, and the Defendant called the driver of the Kia, Anneri Swanepoel.

9. The Plaintiff testified that:

9.1. He was a twenty-eight year old, employed as a Principal and English Educator at the Enderun College;

9.2. On the day of the collision, 10 May 2017 and at approximately 8.30 in the morning, he was driving the white Polo with registration number DML 101 L from Erasmia to Centurion on the way to take his car for its first year service;

9.3. He was approaching the intersection of Hendrik Verwoerd and Hippo, the traffic conditions were busy as it was peak hour, and the robot was green in his favour;

9.4. He was travelling between 55 to 58 kilometres per hour, which he said was his average speed as he was trying not to go over the speed limit;

9.5. He was travelling behind a silver Kia, which in turn was driving behind a truck;

9.6. As he was driving, the Kia in front of him stopped. Unfortunately, he was not able to stop and collided with the rear of the Kia;

9.7. Apart from applying his brakes, he could not recall whether there was anything else that he could have done to avoid the collision. He could not recall if there were vehicles on his left, and later, during the course of his cross-examination he said that he could not swerve to the right in the light of oncoming traffic;

9.8. After the collision he phoned his mother and spoke to the truck driver who informed him that he (the truck driver), hit "dead brakes" in order to avoid a collision with an unidentified taxi that had skipped the red robot;

9.9. He did not see the taxi, but in the course of his substantial cross-examination and re-examination, it emerged that he could not see

what was in front of the truck, as his vision was obliterated by the truck. He could however see that the robot was green in his favour, as the robots were on the sides and not directly in front of him;

9.10. He did not see that the truck had stopped. He only saw that the Kia in front of him suddenly stopped;

9.11. He testified that there was no reason for him to foresee that the car in front of him would suddenly stop;

9.12. He could not remember whether or not he had maintained a proper following distance;

9.13. His eyes were glued to the Kia in front of him;

9.14. The distance between him and the Kia, at the time that he applied brakes, was a normal car length;

9.15. He could not recall whether or not he skidded;

9.16. Weather conditions were good;

9.17. He had been a licensed driver since 2016;

9.18. He would always anticipate and be observant whilst driving;

9.19. He was observant on the morning of the accident;

9.20. He did not know if he was driving at a higher speed than that of the Kia;

9.21. He could not recall whether or not he spoke to the driver of the Kia after the collision;

9.22. It was put to him that the Kia driver, Ms Swanepoel would testify that immediately after the collision the truck driver spoke to both her and the Plaintiff and informed them that a taxi encroached upon him, which is why the truck driver had stopped. The Plaintiff said he could not comment but the truck driver had merely told him that he had been "disturbed" by the taxi.

Notwithstanding fierce cross-examination, the Plaintiff stood by his testimony.

10. Under cross-examination, the Affidavit that he signed in terms of Section

19(f) (pages 6 to 8 of the merits bundle) was drawn to the Plaintiff's attention, and in particular paragraph 6 thereof, which reads:

"I confirm that there was nothing that I could have done to avoid the collision."

He was pertinently asked the question as to how it came about that four months after the collision, the aforegoing was his evidence on affidavit, whereas in his evidence in chief, he testified to having applied the brakes. The Defendant's counsel called for an adverse inference to be drawn against the Plaintiff by virtue of this inconsistency. I do not view this statement as one in conflict with the Plaintiff's evidence. The statement merely lacks content to the effect that it does not contain the words *"apart from applying brakes",* there was nothing that he could have done. In the nature of things these statements are prepared by legal representatives and signed by the parties. While the statement is lacking, it does not oust the *vive voce* evidence from the plaintiff that he did "apply dead brakes" and there is no reason to discredit him or draw any adverse inference.

11. In re-examination, the Plaintiff was asked by his counsel if he had retained his consciousness throughout, to which he replied that he had experienced a seizure on the side of the road and that there was an initial diagnosis of concussion and thereafter epilepsy. This evidence was not brought to light in chief. Counsel for the Defendant initially objected to this evidence upon the grounds that it should have emerged in chief. Nevertheless, I allowed such evidence to be adduced in re-examination and gave counsel for the Defendant an opportunity to cross-examine upon such evidence, which opportunity was declined.

12. My reason for allowing such evidence is that it speaks to the Plaintiff's inability to clearly recall events. Initially, I had the impression that the Plaintiff was evasive as I could not understand why he could recall little

detail, but this was not the case given that he did experience a seizure after the collision, which fact only came to the fore in re-examination. It thus stands to reason that he could not recall much. This left me with a last impression that the Plaintiff was a sincere and honest witness who did not try to mislead the court in any way.

13. Counsel for the Plaintiff then called Professor Gerald Lemmer as an expert witness who had filed a one page report dated 25 April 2019 which was on record at page 1 of the Plaintiff's expert bundle and which report was admitted by the Defendant.

14. With reference to the series of photographs which form part of the trial bundle, Professor Lemmer testified that the probabilities were that the unidentified taxi had swerved from the left lane in front of the truck and encroached upon its path of travel, causing the truck driver to suddenly stop. One could see from the photographs taken immediately after the collision that the truck had stopped at least three car lengths before the intersection. This gave credence to the Professor's hypothesis.

15. The Professor testified further that:

    15.1. whilst both the truck had managed to stop without colliding with the unidentified taxi, and Swanepoel driving the Kia had managed to stop initially without colliding with the truck, it would not have been possible for the Plaintiff, who on his own version had been travelling at 55 to 58 kilometres per hour to have avoided colliding with the Kia, given that at the point of braking, there was only a single car distance of some four to five metres between the Polo and the Kia;

    15.2. at such speed, one would require far more than 4 to 5 metres of space in order to stop. He testified that reaction time would be approximately one and half seconds before braking, and at that speed, one would cover at least 25 metres in one and a half seconds. Thus, it would have been impossible to avoid the collision given the Plaintiff's following distance;

    15.3. the Plaintiff was probably travelling faster than the Kia, which was able to stop without hitting the truck;

15.4. whilst the Plaintiff was probably not maintaining an adequate following distance, in high density peak hour traffic, it is almost impossible to maintain a safe following distance. He ascribes as a reason for this that as soon as one falls back to maintain a safe following distance, invariably another driver will cut in front and close the gap. In the result, the Professor testified that nobody maintains an adequate following distance in high traffic density;

15.5. from a look of the photographs, the damage to the vehicles was insubstantial and the Plaintiff was probably travelling at no more than 20 kilometres per hour at point of impact. In the result, the Professor did not regard this as a high-speed collision. The Professor put this down to the Plaintiff having closed the gap between him and the Kia somewhat faster than the Kia had been closing the gap between it and the truck. This version also gave credence to the Plaintiff's testimony at having applied dead brakes, inasmuch as the Plaintiff would have slowed down from 55 kilometres per hour to 20 kilometres per hour at point of impact.

15.6. it would have been safer for the Plaintiff to have travelled at a slower speed and to have maintained a safer following distance.

16. The Plaintiff then closed its case whereupon the Defendant called Anneri Swanepoel, the driver of the Kia, as its only witness.

17. In chief, Swanepoel testified that she was travelling at no more than 40 kilometres per hour. This was contrary to her Witness Statement filed of record which reflected her speed as plus minus 50 kilometres per hour. Counsel for the Plaintiff objected to this evidence being led on the basis that the Witness Statement was common cause and admitted. In response, counsel for the Defendant correctly pointed out that in the Witness Statement the speed of 50 kilometres per hour was expressed as a plus-minus speed, which caters for her direct evidence of a speed of 40 kilometres per hour. I was prepared to accept this evidence on such basis,

which was consonant with that of the Professor, who testified that Swanepoel probably was driving slower than the Plaintiff, who on his own version testified that he was driving at 55 to 58 kilometres per hour.

18. Whilst there is not much of a difference between 40 kilometres per hour and 55 to 58 kilometres per hour, the difference of some 15 to 18 kilometres per hour can be fairly significant in the ability to bring about an emergency stop and the damages that would ensue.

19. Swanepoel testified that she had been maintaining a safe following distance between her and the truck, that the truck suddenly stopped and that as a result of the safe distance between her and the truck she was able to stop without colliding with the truck. She testified that her car, the Kia was struck thereafter in the rear by the Polo driven by the Plaintiff and pushed into the back of the truck.

20. Swanepoel testified further that it was bumper to bumper traffic, that the robot was green for her and that *"we all accelerated as it was our time to go".* Thereafter the truck suddenly applied brakes very sharply and she managed to stop behind him. She could see the truck's brake lights, which the Plaintiff could not as they as they were obliterated by the Kia.

21. Swanepoel testified that the truck driver had informed both her and the Plaintiff (although the Plaintiff could not remember this) that he had been disturbed by an unidentified taxi, although she too had also not seen the taxi.

22. Thereafter counsel for the Defendant closed his case. From the evidence presented, I am satisfied that neither Swanepoel, nor the driver of the truck, were in any way to blame for the collision. It is quite clear that the driver of the truck had managed to stop the truck and bring it to a halt in order to avoid colliding with the offending unidentified taxi, which had encroached upon the truck driver's path of travel.

23. It is equally clear that Swanepoel was able to stop the Kia, without initially colliding with the truck. She only collided with the truck subsequently, as a result of having been hit in the rear by the Plaintiff's vehicle, which pushed the Kia into the back of the truck. I am satisfied that Swanepoel was in no way negligent and was in no way the cause of the collision.

24. It is common cause that the robot was green for all three vehicles, that is to say the truck, the Kia and the Polo which the Plaintiff was driving.

25. On the evidence presented, coupled with the common cause facts, it is clear that but for the encroachment or disturbance by the unidentified taxi, the driver of the truck would not have braked and come to a sudden halt. In turn, but for the truck having come to a sudden halt, Swanepoel would not have braked and brought the Kia to a sudden halt. By logical deduction, but for the Kia having come to a sudden halt, the Plaintiff would not have collided with the Kia.

26. Therefore, I find that the primary cause of the collision was attributable to the negligent driving of the unidentified taxi, who clearly caused the truck driver to come to suddenly brake sharply and to come to a sudden halt in order to avoid colliding with such taxi. But for this occurrence, all three vehicles, that is to say, the truck, the Kia and the VW Polo would have safely crossed the intersection and the collision would not have taken placed.

27. The only aspect left for determination is:

    27.1. whether or not the Plaintiff was negligent in having caused the Polo to collide with the rear of the Kia, pushing the Kia into the rear of the truck; and,

    27.2. if so, whether such negligence was the sole cause of the collision, and, if not, the extent to which such negligence falls to be apportioned between the Plaintiff and that of the unidentified taxi driver.

28. From the evidence presented, the Plaintiff was clearly driving too fast for the conditions, albeit not by much. He was driving within the speed limit, but nevertheless at an excessive speed for the traffic conditions, the peak hour and the density of traffic at the time. In addition, I find that the Plaintiff had failed to observe sufficient a following distance or to have kept a general proper lookout, such so as to have enabled him to bring the Polo to a halt without colliding with the Kia in front of him. In the result, I find

that the Plaintiff too, was negligent in causing the collision.

29. Whilst it is quite clear that the unidentified taxi driver was the predominant and manifest cause of the collision it is incumbent upon a driver of a motor vehicle to at all times maintain a safe and adequate following distance, a safe and adequate speed in the prevailing circumstances, to anticipate driving conditions and the propensity for negligence on the part of other road users which may pose a hazard or obstruction. The Plaintiff failed to drive in a sufficiently anticipatory manner, failed to maintain an adequate following distance, between him and the Kia in front of him and failed to maintain a safe speed in the prevailing circumstances.

30. In closing argument, counsel for the Plaintiff drew my attention to the unreported judgment of *Van der Linde J* in the matter of ***Bainton v The Road Accident Fund,*** High Court, Gauteng Local Division, at Johannesburg, Case Number 4559/2016. Counsel rightfully contended that the facts in Bainton were similar to the case *in casu.* In the Bainton case, and at paragraph 4 of the judgment of *Van der Linde J,* the following was noted:

" As already indicated, the plaintiff testified that he was travelling on a *clear day at around 13h25 in the middle lane in an easterly direction at about 80 kph two and* a *half car lengths behind the vehicle in front of him, when it suddenly swerved out to the right. The stationary Cambi confronted him, but it all happened too quickly for him to take any evasive action; in any event, he could not have swerved to the right, because there were then vehicles in that lane."*

31. *Van der Linde J* went on to elaborate that there were only really two points in issue, the first being whether the driver of the Combi was negligent, and if so, whether the Plaintiff too was negligent. In considering whether or not the Plaintiff was negligent, *van der Linde J* noted that a driver in the position of the Plaintiff was required to maintain such a distance as would enable him to stop, or swerve to avoid colliding with the vehicle in front of

him, were it to suddenly stop. The Plaintiff was following at about two and a half car lengths behind the vehicle, which the parties accepted to be about seven metres. At 80 kilometres per hour (the Plaintiff's speed) at about 22.2 metres per second, even with a reaction time as short as, 5 seconds, *van der Linde J* found that it was understandable that the Plaintiff would not be in a position to avoid the collision. There was simply no space to swerve out and not enough time or space to brake in time.

32. At paragraph 11 of the Bainton judgment, *van der Linde J* said:

"[11] The conclusion cannot be avoided that on the evidence as *presented the plaintiff* was *following too hot on the heels of the vehicle in front of him, and that he did not leave sufficient berth to deal with a sudden emergency. To that extent, he was causatively negligent in relation to the collision."*

33. *Van der Linde J* went on to add at paragraphs 13 and 14 of the Bainton judgment, the following:

"[13] Both parties' responsible drivers were accordingly negligent. The question of an appropriate apportionment arises. It seems to be me incontestable that the presence of the Cambi on the road was the cause of it all. The Plaintiff could have avoided the collision, but his remissness falls into a very different, and lower, category than that of the driver of the Cambi.

[14] Apportionment is a difficult endeavour, because it is subjective and requires that a percentage must be placed on what is essentially a value judgment of the respective degrees of remissness of two individuals in circumstances where the court itself was not present. Doing the best I can, I believe that 20/80 in favour of the plaintiff is fair.

34. Against the backdrop of Bainton and the 20/80 apportionment held therein

in favour of that Plaintiff, counsel for the Plaintiff contended that were I to apply an apportionment of damages, I ought to follow the rationale of *van der Linde J* in accordance with Bainton, given that the facts relating to that collision were similar to the facts in the case *in casu.*

35. Against this argument, counsel for the Defendant drew my attention to the unreported judgment of *Raulinga J* in this division in the case between ***N Felix v Road Accident Fund,*** Case number 29586/13. In the Felix matter, the Plaintiff was driving a motorcycle at a speed of approximately 60 kilometres per hour on a dry road, in clear weather conditions, with no external obstructions upon the road. It was common cause that the insured driver and the Plaintiff were involved in the collision wherein they were travelling in the same lane (the inner lane) and in the same direction. Both of them were travelling in a westerly direction upon Lynnwood Road. Only the Plaintiff testified at such trial. The Plaintiff's evidence was that he was 4.5 metres away from the insured driver's vehicle when he noticed that it slowing down because the insured driver had applied brakes. In the Plaintiff's mind, he thought that the insured driver was merely reducing speed and would then proceed with his driving. In the light of this, the Plaintiff reduced his speed. When the Plaintiff was 2.5 metres away from the insured driver's vehicle, he realised that it had stopped in the middle of the road without prior warning. The Plaintiff tried to avoid the accident by swerving, but collided with the rear end of the insured driver's vehicle. In paragraph 12 of the Judgment, *Raulinga J* notes that the Plaintiff persisted during cross-examination that he was not driving at a high speed and stood by the point that he made in his evidence in chief that he was driving at plus minus 60 kilometres per hour. At paragraph 14 of the Judgment, it is noted that the Plaintiff conceded that he did not maintain the required safe following distance, which concession was made only after the court had put questions to him, relating to his failure to have observed the safe following distance rule. On the Plaintiff s own version in *Felix,* he was not maintaining the required safe following distance and only applied brakes when he was 2.5 metres away from the insured driver's vehicle, resulting in the collision with its rear end.

36. Relying on the general approach to adopt when dealing with rear end collisions, as set out by ***H B Kloppers*** **in** ***The Law of Collisions in South Africa (7th Edition)*** page 78 which reads:

"A driver who collides with the rear of a *vehicle in front of him is prima facie negligent unless he or she can give an explanation indicating that he or she was not negligent."*

Raulinga J found that Felix could not escape liability based on sudden emergency by the insured driver having applied brakes and creating an untenable situation for Felix to have avoided the collision.

37. At paragraph 27 of the Felix judgment, *Raulinga J* did say:
"I agree with the submissions of the Plaintiff that in certain circumstances, his explanation may offset his failure to keep the required following distance."

However, *Raulinga J* went on to add at paragraph 28 of the judgment:

"I have already intimated in this judgment above that the Plaintiff bears the onus to prove on a *balance of probabilities that the insured driver was negligent and that the negligence was the cause of the collision from which he sustained the bodily injuries. There is no onus on the Defendant to prove anything. Even in the instance where the Defendant has not tendered evidence to rebut the evidentiary burden of the prima facie case presented by the plaintiff in this case, the plaintiff may not succeed with his claim depending on the nature and weight of the evidence so tendered."*

38. *Raulinga J* went on to add at paragraphs 29 to 33 of his judgment, the following:

"[29] Moreover, even in the absence of the defendant's evidence it can clearly be inferred from the evidence of the plaintiff that he was the sole cause of the accident through his negligence in that he failed to

keep a proper lookout.

[30] I agree with the defendant in his submissions that it is the duty of every driver, in this case the plaintiff to keep proper lookout at all material times, i.e. a continuous scanning of the road ahead, from side to side for obstruction or potential obstruction. See Jenneker v Martine and Trade 1978 (2) SA 145 (SE) at 149H.

[31] The issue of sudden emergency raised by the plaintiff is rejected on the basis that the plaintiff failed to keep a proper lookout, did not travel at a reasonable speed in the circumstances of this case, and did not maintain the required following distance and was consequently negligent.

[32] It is the version of the plaintiff that the road was busy with traffic flowing from both directions. This is borne out by the fact that when he was about 2.5 metres from the insured driver's vehicle he could not veer off to the side of the oncoming traffic because there were vehicles on the two opposite lanes. Nor could he swerve to the left lane because there were vehicles on that lane.

*[33] Moreover, when he was about 4.*5 *metres from the insured driver's vehicle he was travelling at* a *speed of 60km when he reduced speed. He only realised that the vehicle in front of him had suddenly stopped when he was. only 2.*5 *metres from it. He then had no choice but to swerve to the right thereby colliding with the insured driver's vehicle on its rear end. This simply means that the plaintiff drove his motorcycle negligently and is the sole cause of the accident."*

39. The distinguishing characteristics between the *Felix* case and the case *in casu* lies in the facts that, in the case *in casu:*

39.1. the truck, the Kia and the Polo were approaching a robot controlled intersection, where the robot was green in their favour;

39.2. Swanepoel testified that *"the robot was green so we all accelerated as it was our time to go";*

39.3. there was the presence of the offending unidentified taxi which "disturbed" the driver of the truck causing him to bring the truck to screeching halt.

40. Counsel for the Defendant submitted that even if I were to find that the driver of the unidentified taxi was negligent, there was insufficient a nexus between such negligence and the negligence of the Plaintiff in his failure to have brought the Polo to a stop without colliding with the Kia. Such argument was predicated upon the driver of the truck having been able to stop without colliding with the offending taxi, and, Swanepoel having been able to bring the Kia to a stop without having collided with the truck. Against this background, Defendant's counsel submitted that the only reason for the Plaintiffs Polo having collided with the Kia, arose out of his negligence, which, similarly to that of *Felix,* was three tiered, embracing:

40.1. a failure to have maintained a safe following distance;

40.2. a failure to have maintained a safe speed; and

40.3. a failure to have maintained a proper lookout.

41. Arising out of these submissions, the Defendant's counsel urged me to find that there is no basis for an apportionment of damages and to hold the Plaintiff fully accountable for the collision. In the alternative to this argument, counsel for the Defendant suggested that were I to nevertheless find that the damages ought to be apportioned between the Plaintiff and the unidentified taxi driver, then, such apportionment ought to be at 90% against the Plaintiff and 10% in favour of the insured driver.

42. Having considered all of the above factors in the context of the applicable facts applied to relevant facts and cases mentioned above, I consider an apportionment of negligence as to 60% to the Plaintiff, and 40% to the

unidentified taxi driver, to be a fair and reasonable apportionment of contributory negligence between the two of them in the case *in casu.* In making this finding, I have given due consideration to the sentiment expressed by Van Der Linde J, in Bainton *supra,* where he held that apportionment is a difficult endeavour, is subjective, and essentially calls for a value judgment of the respective degrees of remissness. I have considered this and believe that a 60/40 apportionment against the Plaintiff represents a correct assessment of the value judgment required.

43. Accordingly, I make the following Order:

43.1. The Defendant is liable to compensate the Plaintiff for 40% of the proven or agreed damages resulting from the injuries that he sustained in the collision which occurred on 10 May 2017;

43.2. Merits and quantum are separated in terms of the provisions of Rule 33(4) of the Uniform Rules of Court with quantum postponed *sine die;*

43.3. The Defendant shall furnish the Plaintiff with an undertaking in terms of Section 17(4)(a) in respect of 40% of the costs of the future accommodation of the Plaintiff in a hospital or nursing home or treatment of or rendering of a service or supplying of goods to him, after the costs have been incurred and on proof thereof, resulting from the accident that occurred on 10 May 2017.

43.4. Inasmuch as it was confirmed that Plaintiff's attorneys do not act in accordance with a contingency fee agreement, the Defendant must make payment of the Plaintiff's taxed or agreed party and party costs on the High Court scale, which costs shall include, but not be limited to the following:

43.4.1. The fees of Senior-Junior Counsel on the High Court Scale inclusive of the counsel's full reasonable day fee for 15 May 2019 and 16 May 2019, the reasonable costs in respect of the preparation of the Heads of Argument.

43.4.2. The costs of the Plaintiff's expert's fees in regard to the preparation and attendance at court are awarded on a

party and party scale against the Defendant on the following basis:

43.4.2.1. The costs (fees and disbursements) of all consultations (inclusive of telephone consultations) with counsel and/or the Plaintiff's attorney;

43.4.2.2. The costs (fees and disbursements) of attending accident site inspections;

43.4.2.3. The costs of expert meetings;

43.4.2.4. The allowances payable to witnesses in civil cases as published in Government Gazette Number 30953 (No. R394) dated 11 April 2008 and specifically section 4 thereof is not applicable and the Defendant must make payment of the full day fees in respect of the reservation to testify and attendance at court (if applicable) on 15 May 2019 in respect of Professor Gerald Lemmer (Accident and Reconstruction Specialist);

43.4.3. The costs of all consultations between the Plaintiff and his attorney, and/or Counsel, and/or experts and/or with in preparation for hearing of this action.

43.5. The above costs will be paid into the trust account of Adams & Adams, details of which are as follows:

Account holder:	**Adams & Adams Trust Account**
Bank:	**Nedbank**
Branch:	**Pretoria**
Branch code:	**198765**
Account number:	**[….]**
Reference:	**AMP/JJF/P3029**

43.6. The following provisions will apply with regards to the determination of the aforementioned taxed or agreed costs:-

43.6.1. The Plaintiff shall serve the notice of taxation on the Defendant's attorneys of record;

43.6.2. The Plaintiff shall allow the Defendant 7 (seven) court days to make payment of the taxed costs from date of settlement or taxation thereof;

43.6.3. Should payment not be affected timeously, the Plaintiff will be entitled to recover interest at 10.25% on the taxed or agreed costs from date of allocatur to date of final payment.

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NOCHUMSOHN, G

ACTING JUDGE OF THE HIGH COURT

On behalf of Plaintiff	Advocate Johan van den Berg - 082 466 4588
Instructed by:	Adams & Adams
On behalf of the Defendant:	Advocate Sibara - 082 511 6219
Instructed by:	The State Attorney
Date of Hearing:	15 and 16 May 2019
Date of Judgment:	23May 2019