



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

- (1) REPORTABLE: YES / NO  
(2) OF INTEREST TO OTHER JUDGES: YES / NO  
(3) REVISED

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DATE

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SIGNATURE

CASE NUMBER: 52681/15

DATE: 6 September 2019

**KGOSIETSILE DANIEL LEKAU**

Plaintiff

V

**ROAD ACCIDENT FUND**

Defendant

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**JUDGMENT**

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MABUSE J

- [1] This is a claim for payment of money in the form of damages arising from a motor vehicle accident which took place on 27 April 2014.
- [2] It is the plaintiff's case that on the said date and at approximately 21h30, along the Lefaragatlha/Buantja Road, Rustenburg, in the Province of North West, a motor collision took place between motor vehicles [...], which was at all material times thereto been driven by a certain Motshwasele, and [...] (hereinafter referred to as the insured motor vehicle), which was at all material times being driven by a certain Jacob Moseneke (hereinafter referred to as the insured driver).
- [3] The said collision, it is so pleaded by the Plaintiff, was caused by the exclusive negligence of the driver of motor vehicle [...] who was negligent in many respects.
- [4] As a consequence of the aforesaid collision the Plaintiff, who was at all material times a passenger in the insured motor vehicle, suffered certain serious bodily injuries namely:
- 4.1 frontal open skull fracture;
  - 4.2 subarachnoid bleeding;
  - 4.3 pneumocephalus.
- [5] As a consequence of the injuries the Plaintiff sustained damages and will continue to sustain further damages.
- [6] At the pre-trial conference that the parties attended on 14 April 2016, the issue regarding the merits was conceded by the Defendant. When the matter came before Court for hearing, the only issue that this Court was requested to adjudicate upon was the extent of the Plaintiff's loss of earnings, both past and future. The Court was informed that the issues regarding general damages and future medical expenses were settled by the parties on 17 October 2018.

[7] In terms of the parties' settlement agreement, which was confirmed by the Court on 17 October 2018, the Defendant agreed, and was ordered by the Court, to pay the Plaintiff a sum of R850,000.00 in respect of general damages. In addition, and still in terms of the said settlement agreement, the Defendant undertook, and was ordered by the Court, to furnish the Plaintiff with an undertaking referred to in s 17(4)(a) of the Road Accident Fund Act No. 56 of 1996 ("the Act") in respect of the Plaintiff's future medical expenses. On the same date, the issue regarding loss of earnings was separated in terms of Rule 33(4) of the Uniform Rules of Court and postponed to 3 December 2018.

[8] At the hearing of the matter on 3 December 2018 the following bundles were marked and placed before the Court by agreement between the parties:

- 8.1 Bundle A consisting of RAF1 claim form, the Plaintiff's clinical records from Shimankana Jobane Hospital;
- 8.2 Bundle B – Defendant's expert reports;
- 8.3 Bundle C – Supplementary index to joint minutes;
- 8.4 Bundle D – Actuarial report by Koch Consulting Actuary CC, presented by agreement between the parties. The calculation in the said actuarial report made provision for the two scenarios as presented by the Industrial Psychologist for the Plaintiff and Defendant respectively. The parties agreed that the methodology and calculations are correct and are only subject to contingencies.

[9] The Plaintiff filed the following expert reports:

- 9.1 Dr LF Segwapa - a neuro-surgeon;
- 9.2 Prof M Tshifularo - ear nose and throat surgeon;
- 9.3 MEC Kalane - clinical psychologist;

- 9.4 Bogone Ngwato - occupational therapist;
- 9.5 WM Khumalo – educational psychologist;
- 9.6 Mirriam Mathabela Magetshi – industrial psychologist; and
- 9.7 Koch actuarial report.

[10] On the other hand, the Defendant filed the following expert reports:

- 10.1 Dr BA Okoli – a neuro-surgeon;
- 10.2 Melloney Smit – occupational therapist;
- 10.3 Andre Kok – industrial psychologist.

[11] Joint minutes were obtained from:

- 11.1 Dr Segwapa and Dr Okoli – neuro-surgeons;
- 11.2 Tom and Smith – occupational therapists;
- 11.3 Mathapelo and Kok – industrial psychologists.

On behalf of the Defendant the reports of Prof M Tshifularo, ear nose and throat surgeon, MEC Kalane, clinical psychologist and WM Khumalo, educational psychologist were conceded unconditionally.

### **THE EVIDENCE**

[12] The Plaintiff testified that on the date of the incident he sustained certain bodily injuries arising from a certain motor vehicle accident in which he was involved. According to his testimony as a consequence of the said collision he sustained the following injuries to the:

- 12.1 ears;

12.2 nose;

12.3 right ankle;

12.4 forehead; and

12.5 lost consciousness and only regained it at the hospital. He was unable to tell the Court how and when he regained consciousness.

[13] At the time of the collision he was 24 years of age and had completed his matriculation in 2010. At the time of the motor accident he held two jobs, one at Jet Stores, where he only worked on a temporary basis during the week and the other one at Game Stores where he only worked during weekends. At Jet Stores he would work for three to four days in a week. There he was a stock packer. His working days at Jet Stores depended on how much his services were required.

[14] At Jet Stores his salary was not fixed but depended entirely on the number of days he worked. He would earn, for instance, R170.00 to R180.00 per day. At the time the motor accident took place he was working for Jet Stores. At Game Stores his salary ranged from R250.00 to R260.00 per day. After his discharge from hospital he did not go back to work. He was dizzy and had a limp on his left ankle. He did not know why he left work. Later he found work at Sasol in Rustenburg. It was at a mine equipment manufacturing company. There he worked only night shift. His work there was to load goods on trucks. He earned R1,800.00 or R1,600.00 per week. His work at Sasol was terminated because he could not hear properly. The fact that he could not hear properly was determined by an assessment. After being dismissed at Sasol, he was unable to find any work though he applied. He sent his CV's to places he applied to and there they promised that they would contact him but never did.

[15] The Plaintiff's second witness was Ms Mathabela, a trained industrial psychologist with a master's degree in that field registered with the Health Professions Council of South Africa ("HPCSA"). She had interviewed the Plaintiff. At her disposal at such interview she had the following reports:

- 15.1 a copy of a neuro-surgeon report by Dr LF Segwapa;
- 15.2 a copy of the ear nose and throat report by Prof W Tshifularo;
- 15.3 a copy of the clinical psychologist report by MEC Kalane;
- 15.4 a copy of the occupational therapist report by B Ngwato; and
- 15.5 a copy of the educational psychologist report by WM Khumalo.

[16] She testified that she interviewed the Plaintiff on 21 August 2018. She had obtained collateral information about the Plaintiff. She also called Game Stores and spoke to the floor manager who furnished her with information necessary to enable her to complete her report about the Plaintiff. At the time she compiled the Plaintiff's report, she did not have factual information about his work situation. In other words, she had no documentary proof of the Plaintiff's salary or wages. Her evidence was basically contained in the report that she had compiled. It was accepted unopposed with other expert reports. She denied that if she had been given collateral information, such information would have compelled her to change her report insofar as it related to future loss of earnings of the Plaintiff. In her report she stated that the employability or earning capacity of an individual should be assessed against the criteria impacting on the individual's health performance such as cognitive, emotional and physical variables. The combination of a person's cognitive, emotional and physical strengths and competencies, as well as external factors (the economy, salary, trends, demand for

skills) will determine the employability and earning capacity of an individual. Career development for the majority of people is characterised by the following career stages, normally present at specific stages.

[17] She reported that educationally grade 12 is the highest level of education that the Plaintiff reached. He has no formal or informal vocational training. Also he is not in possession of a driver's licence and has not acquired any computer skills. For a career progression perspective:

17.1 the Plaintiff would still be able to work for approximately 41 years before reaching retirement age of 65;

17.2 in terms of career aspiration the Plaintiff aspired to become an electrician or soccer player. She noted that no tangible efforts were made by the Plaintiff towards achieving his career inspirations since completing grade 12 in 2010;

17.3 she also noted the discrepancies in the educational psychologist report. For instance, page 9 of the report indicates that he was enrolled in grade 12 in 2010 and passed the grade whilst page 10 acknowledged that he was employed as a packer at Game Store. However, page 23 of the report states that *"Kgosietsile passed matric in the year of the accident. He obtained a college entry pass in grade 12. This has denied him the opportunity to fulfil his wish of studying for a degree at the university"*;

17.4 she noted that the Plaintiff was not in matric during the year of the accident and that no tangible efforts towards further education and training were made prior to the accident in question. He concluded that it appeared unlikely that the Plaintiff would have pursued any tertiary studies;

17.5 it is therefore reasonable to assume that the Plaintiff would have sought or remained competitive employment within the non-corporate sector based on his employment profile and level of education.

[18] Having regard to the foregoing she postulated that had the accident not happened in 2014:

18.1 the Plaintiff would likely have continued casual employment as a packer at Game, earning approximately R700.00 per week;

18.2 he may have continued in that capacity receiving inflationary increases until securing better employment opportunities in the next 1 to 2 years period;

18.3 when considering his grade 12 level of education, she noted that the Plaintiff may have been able to secure semi-skilled employment;

18.4 the Plaintiff's remuneration would likely fall within the lower quartile to median earnings of the semi-skilled worker in the non-corporate sector. This assumption is based on the Kock's estimates;

18.5 she noted further that the Plaintiff was 24 years old at the time of the accident with approximately 21 to 26 years until reaching career ceiling;

18.6 career progression would emanate from internal training; skills development opportunities as well as internal or promotional opportunities;

18.7 the Plaintiff may have been able to increase his earnings to the upper quartile earnings of the semi-skilled worker in the non-corporate sector by career ceiling;

18.8 thereafter his earnings would increase at the annual inflationary demand up until he reached retirement age of 65, depending of course on his health status or employ-retirement policy.



[19] Ms Mathabela stated that with regard to loss of employment and earning capacity it can be accepted that an individual with impairment or disability will be disadvantaged in the open labour market, to a lesser or greater extent, in respect of competitiveness with the uninjured counterparts; efficiency; effectiveness and productivity; lack of motivation and drive to succeed in business or careful career functioning; emotional functioning; absence from work and decrease in occupational choices. She stated that it is also prudent to consider the open labour market where the Plaintiff would be competing for employment. According to the Statistics South Africa Quarter Labour Force Survey, Quarter 2 2018 the official employment rate is 27.2%. Thus in saturated highly competitive open labour market it can be accepted that he may experience longer than uninjured counterparts to secure employment. Having regard to the above the Plaintiff is currently suffering from post-accident injuries which have resulted in post-morbid deficits. She therefore postulated that the Plaintiff has experienced a decrease in work capacity as a result of the post-morbid injuries.

[20] With regard to future loss of earnings she reported that the Plaintiff informed her that he never returned to his pre-morbid occupation. This point is supported by the evidence of the Plaintiff himself. The Plaintiff remained unemployed until he secured contract employment at Sasol from August 2017 to November 2017. He elaborated that he occupied the position of a plant operator, in terms of which his duties involved loading and offloading. Regarding remuneration, he received R1600.00 per week. As indicated earlier there had been no documentary proof of such earnings. He ceased employment when his contract ended and remained unemployed to date. When considering the Plaintiff's post-morbid impairments as documented by the respective experts, coupled

with variable work experience, lower level of education and the South African Labour Market unemployment rate the Plaintiff would likely experience difficulty competing for employment within the labour market when compared to uninjured counterparts. As such it is probable that he would likely struggle to attain full-time or part-time employment. Of note Ms Mathabela conceded residual work capacity impairments in cognitive functioning. She accepted that the aforementioned deficits which would likely negatively impact his deficiency, effectiveness and work rate in a workplace may become more error prone. Furthermore, she noted that the Plaintiff was, at the time of the assessment, 20 years old. He may be subjected to intermitting employment earning within the lower quartile to median quartile earnings of the unskilled worker in the non-corporate sector. He may follow this trend until retirement of 65. Also he would likely require time away from work in order to undergo the proposed treatment as per the neuro-surgeon's report. And lastly a higher than normal post-accident contingency deduction is proposed as the Plaintiff is an unequal competitor within the open labour market when compared to uninjured counterparts. Ms Mathabela recommended that allowance should be made for his treatments to allow the Plaintiff optimal recovery. In the absence of this current accident the Plaintiff would have relied on his physical strength for such earnings of employment. He would likely have continued employment until normal retirement age. This accident in question left the Plaintiff with post-accident deficiencies which have compromised his employability. He is considered an unequal competitor in the open labour market when compared to uninjured counterparts.

[21] In the joint minutes the two industrial psychologists, in other words, Ms Mathabela and Dr AF Kok agreed that the Plaintiff retained is physical perspective and had the physical abilities to work in any of his pre-accident capacities. However, they note that the

impairment in cognitive functioning as per the clinical and educational psychologist opinions would likely negatively impact his efficiency and effectiveness and work rate in the workplace as he may become more error prone.

[22] In the joint minutes that she and Ms M Smit, the Defendant's occupational therapist compiled, she agreed with Ms Smit's cognitive assessment of the Plaintiff that the Plaintiff can do practical work and basic clerical work; that the Plaintiff showed potential to learn new tasks; that the Plaintiff should therefore be able to do any of his pre- and post-accident jobs, and finally, that an indepth neuro-psychological assessment was recommended to establish whether there has been any change in the level of work of the Plaintiff and to establish the kind of work that the Plaintiff would be able to do after the accident.

[23] Tom gave evidence on behalf of the Plaintiff in the capacity as an occupational therapist. That she was an expert in that field and had the relevant qualification was not in dispute. She also told the Court that she prepared a written report after seeing the Plaintiff and in the compilation of the said report she had the reports set out in paragraph a. At the time she compiled the joint minutes her colleague had in addition a medico-legal report by Dr Okoli.

[24] Her report was handed in as Exhibit C. She was adamant that there was nothing in the report she wished to change. She stood by it. She referred to Bundle C, page 8, paragraph 10.2 and testified that it was a mistake. She testified that according to the information at hand the Plaintiff was employed as a casual worker. According to her, the injuries sustained by the Plaintiff were not severe.

[25] She conceded that the neuro-surgeon's and clinical psychologist's reports indicated that the Plaintiff would have post-traumatic stress. See paragraphs 10.7, 10.8, and 10.9.

There is no guarantee that if the Plaintiff was employed he would be so permanently employed. Under cross-examination she testified that the contents of Exhibit D are not correct. She explained the reason for its incorrectness as being the fact that it was prepared on the basis that the Plaintiff was not skilled. What is common cause between the two experts is that the Plaintiff is semi-skilled. Exhibit 'D' was a report by Koch Consulting Actuaries. It was prepared on 4 December 2018.

[26] The Defendant tendered the evidence of two witnesses who are themselves experts in their own field. The first witness whose evidence Mr De Kock, counsel for the defendant, led was a Dr Andre Francois Kok ("Kok"), a registered industrial psychologist since 2006. He testified that he interviewed the Plaintiff in 2012. The Plaintiff told him that since 2012 he was earning R500.00 per week at Jet Stores. He was fired at Jet Stores after they discovered that he was working also for Game Stores. The Plaintiff could not furnish him with a salary slip for which he asked him to. When he could not get a salary slip from the Plaintiff he resorted to an agent to furnish him with collateral information. The agent told him that they were unable to obtain from the Plaintiff any proof that he earned R354.00 per week. He testified that at the time of the accident the Plaintiff was unemployed.

[27] He stood by his report and saw no reason why he should change anything in it. The Plaintiff's pre-accident scenario did not differ materially from his post accident scenario.

[28] The second and last witness Mr de Kock called was one, Melloney Smit, a qualified and registered occupational therapist. She too had consulted with the Plaintiff. During such consultation the Plaintiff informed her that he was unemployed. She would speak to the collateral source if they suspected that a person had suffered head injuries, they speak

to a family member to obtain the relevant information. And in particular to find out from such family member if there is any noticeable change in the behaviour of the Plaintiff.

[29] A person may have cognitive impairment but still be able to perform physically. Neither of them found any physical impairment on the Plaintiff. The Plaintiff did not have any physical disability that prevented him from performing any physical work. Confirmation of damage to the brain can be found in the fact that the frontal lobe of the Plaintiff has been damaged. This damage can be assessed by performing certain tests. Ms Smit stated in her report that during the occupational therapy assessment the Plaintiff did not present any physical limitations nor did he report any muscular-skeleton pain. The Plaintiff should be able to do any type of physical work. He therefore has the physical abilities to work in any of his pre-accident capacities and to work in his carwash business. She stated that cognitive assessment during the occupational therapy evaluation indicated that the Plaintiff do practical work and basic clerical work. The Plaintiff also showed the potential to learn new tasks. He should therefore be able to do any office pre-and post-accident jobs. She recommended an indepth neuro-psychological assessment of the Plaintiff to establish whether there has been any change in the level of work that he was suitable for as a result of the accident under review.

[30] Dr Segwapa assessed the pre-accident status of the Plaintiff as having a healthy physical life. According to his assessment of the accident related injuries the Plaintiff sustained direct trauma to the head causing depressed skull fracture and subarachnoid haemorrhage. This was followed by loss of consciousness from which he recovered in hospital the same day. His GCS on arrival to hospital was 15/15. The fact that he has

CSF rhinorrhea implies that there was causal base of skull fracture. These are features of a mild traumatic brain injury.

[31] According to the reports the Plaintiff suffered the following recorded accident and related injuries:

31.1 reported loss of consciousness;

31.2 deep laceration of the forehead;

31.3 CT scan results revealed open frontal skull fracture, pneumocephalus and subarachnoid bleeding;

31.4 injury to forehead resulted in a severe disfiguring frontal bone depression;

31.5 peri-orbital oedema and swelling;

31.6 laceration of the upper lip;

31.7 reported sprained right ankle;

31.8 chronic cerebral-spinal fluid leakage suggestive of base of skull fracture;

31.9 amnesia loss of smell sensation.

[32] According to the joint minutes of neuro-surgeons agreed as follows:

32.1 the Plaintiff sustained a head injury with moderate brain injury;

32.2 post-accident status;

32.3 irreversible anosmia;

32.4 disfiguring frontal bone depression;

32.5 chronic heavy headaches and increased risk of developing late onset post-traumatic epilepsy.

According to the report by Dr Segwapa the Plaintiff presented with chronic cerebral-spinal fluid leakage which would require repair of anterior-cranial fossa. This

observation by Dr Segwapa was not disputed by Dr Okoli. Dr Okoli further recorded, on behalf of the Defendant, and this opinion was undisputed by the Plaintiff, that the Plaintiff has significant neuro-psychological disorder characterised by short tempered, rage and uncontrolled violence.

[33] The uncontested evidence of the clinical psychologist Kalane is that:

- 33.1 the disfigurement on the Plaintiff's forehead has affected his self-esteem negatively; neuro-psychological testing indicating factual and simple attention and concentration; working memory and double tracking abilities; vulnerable psychomotor and slow mental response speed; overall learning abilities fell below the expected norms; fluctuating immediate memory was demonstrated; and poor visual memory;
- 33.2 verbal functioning, social reasoning and judgment abilities are below the expected range;
- 33.3 executive dysfunction included poor monitoring, poor cognitive flexibility, difficulty with verbal fluency and fluctuation in working memory;
- 33.4 moderate depression and moderate anxiety symptoms;
- 33.5 Kalane concluded that the Plaintiff sustained a head injury in the accident which possibly was of such magnitude as to alter his cognitive profile;
- 33.6 the impairments suffered are causally related to the sequelae of the head injury along with psychological distress and premorbid factors;
- 33.7 the Plaintiff has been rendered cognitively, emotionally and psychologically vulnerable as a result of the accident;

33.8 occupational functioning the current severe headaches may impede on his overall functioning in the network context.

[34] According to Kalane's report it can be accepted as common cause that from a neuropsychological point of view the following accident related factors are considered to have the potential to impact negatively on his functioning and these difficulties may affect his occupational progression and may limit him from occupational opportunities:

34.1 poor overall learning abilities, which would impede on his ability to learn new skills and meet requirements in a new working environment;

34.2 his vulnerable visio- moto- and processing speed might interfere with his ability to meet deadlines at work;

34.3 the fluctuations in attention and concentration as well as poor self-monitoring may render him prone to error or negligent mistakes;

34.4 the executive functioning difficulties would make self-saving decisions, make careless mistakes, exhibit ineffective planning and he would find it difficult to shift his attention to various environmental cues;

34.5 his emotional distress suggests that he may lack the motivation to excel and he may not have the drive to perform to his utmost abilities;

34.6 the Plaintiff has become an equal competitor in the open labour market.

[35] The following observations by Prof M Tshifularo, the expert on Ear Nose and Throat surgeon are uncontested:

35.1 the disfigurement on the Plaintiff's forehead is substantial and severe as indicated in the photograph;



35.2 he diagnosed trismus (mild limited mouth opening);

35.3 he recorded prognosis as being “poor” on confidence, headache, hearing loss and anosmia;

35.4 he concluded that the Plaintiff displayed features in keeping with severe head injury (frontal face/head, sinus fracture open depressed);

35.5 the Plaintiff suffered damages and pain with sequelae of anosmia, rhinitis, nasal blockage, poor cosmetic skull and depression.

[36] Prof Tshifularo further qualified the Plaintiff for compensation for general damages.

[37] A determination of the amount that should be awarded to the Plaintiff following the said motor accident was, as if usual in such matters, left to the actuaries, in this case, Koch Consulting Actuaries CC. A copy of their report constituted part of the Plaintiff's expert bundle that was handed to the Court at the commencement of the trial. An amended one prepared on 4 December 2018 handed in on 4 December 2018. It is clear that the determination of the amount, the actuaries who did the assessment on 5 December 2018, were armed only with the report by Ms Mathabela, the industrial psychologist and also the Joint Minutes of Mathabela and Kok. It is also clear that they took no contingencies into account. Counsel for the Plaintiff did not refer this Court to any contingencies.

[38] A third party claiming damages is entitled to claim not only actual past loss but also prospective or future loss caused by the delict. Future or prospective loss will, invariably, include the loss of opportunity of increasing the value of the estate. In terms of our principles a third party is entitled to claim loss of income caused by the fact that due to his injuries he was unable to earn any income.

[39] A third party who claims prospective loss of income has a duty to prove, on the balance of probabilities, that he will suffer such damages. It is trite that in determining the probabilities, the Courts will usually take into account contingencies by deducting a certain percentage from the amount determined. In a case like the current, the contingency is that the damage may have in any case occurred irrespective of the accident caused by the wrongful and negligent driving of a motor vehicle. In **Blyth v Van den Heever 1980 (1) AD p 191 at 225** the Court stated the following:

*“The practice of our Courts in assessing damages in a situation such as this was well stated by Colman J in **Burger v Union National South British Insurance Company 1975 (4) SA 72 W at 75 D-G** as follows:*

*“A related aspect of the technique of assessing damages is this one; it is recognised as proper, in an appropriate case, to have regard to relevant events which may occur, or relevant conditions which may arise in the future. Even when it cannot be said on a preponderance of probability that they will occur or arise, justice may require that what is called a contingency allowable be made for a possibility of that kind. If, for example, there is acceptable evidence that there is a 30% chance that an injury to a leg will lead to amputation, that possibility is not ignored because 30% is less than 50% and there is therefore no proved preponderance or probability that there will be an amputation. The contingencies allowed for by including in the damages a figure representing a percentage of that which would have been included if amputation had been a certainty. There is not a very certain way of dealing with such difficulties but no better way exists under our procedure. I would refer in regard to this aspect of the matter, to remarks of*

*Wessels JA in Van Oudshoorn v Northern Insurance Company Ltd 1963 (2) SA 602 (A) at 650 to 651.”*

- [40] It was only in the Plaintiff's counsel's heads of argument that the contingencies were taken into account by agreement between the parties. According to the said heads of argument, the parties have agreed that the actuarial calculation contained in Exhibit 'D' duly represented the views of the industrial psychologists, Ms Mathabela and Mr Kok. The amount attributed to Ms Mathabela was R1,492,222 while the amount attributed to Mr Kok was R119,623. To the said amounts general contingencies still have to be applied.
- [41] It was proposed and admitted on behalf of the Plaintiff that the generally accepted contingencies in respect of the pre-morbid scenario (but for the accident) be applied, 5% on past income and 15% per annum for an adult. With regards to the post-morbid (now that the accident has taken place) it was proposed and submitted on behalf of the Plaintiff that over and above the general contingencies of 15%, a further higher than normal component be applied to provide for the extensive additional factors identified by Ms Mathabela and also with particular reference to the other experts' reports. It was submitted, in that regard, that the contingencies of 50% were justifiable to provide for the normal and extensive additional risk factors. The application of all the aforementioned contingencies would result in a total amount of R1,647,340.00. It was accordingly submitted that a sum of R1,647,340.00 in respect of the Plaintiff's past and future loss of earnings with costs should be awarded.

Accordingly, the following order is made:

The terms of the amended draft order marked “PPP” are hereby made an order of this Court.

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PM MABUSE  
JUDGE OF THE HIGH COURT

Appearances:

Counsel for the Plaintiff:	Adv JHP Hattingh
Instructed by:	Chueu Inc.
Counsel for the Defendant:	Adv DA de Kock
Instructed by:	Diale Mogashoa Inc.
Dates heard:	4 December 2018
Date of Judgment:	6 September 2019