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

CASE NO: 74533/2015

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED.

12 August 2021 _____

In the matter between:

JACQUES OLIVIER

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

KHWINANA AJ

Introduction

- [1] The plaintiff, Mr Jacques Olivier instituted action proceedings against the defendant for damages suffered as a result of personal injuries in terms of the Road Accident Fund Act 56 of 1996, pursuant to a motor vehicle collision. On 23 September 2020, the issues of liability and quantum were separated and that the defendant was ordered to pay 70 % of the Plaintiff's proven and/or agreed damages. The issue of quantum has been allocated to me to decide.
- [2] The remaining issues relate to plaintiff's claim for loss of earnings or earning capacity and general damages. The plaintiff's counsel has submitted that the plaintiff is not pursuing the claim for past medical expenses as the vouchers are not available. The Defendant has made an election to furnish claimants with an undertaking in terms of section 17(4)(a) of the Act. The undertaking must be limited to 70 % of such costs in accordance with the Court Order on merits.
- [3] The action is properly enrolled for trial and the defendant has been served with a notice of set-down. There is no appearance for the defendant and the matter has been certified trial ready. It has become a trend that RAF will not show despite numerous attempts by the plaintiff's attorney to engage them. This action frustrates litigants and prolongs the finalisation of claims against the defendant. The matter is proceeding unopposed.

Background

- [4] The plaintiff is JACQUES OLIVIER, a major male born on 6 March 1975. His Identity No is: 750306 5240 083.10, who was involved in a motor collision on this the 05th day of December 2016.
- [5] The defendant is the Road Accident Fund a schedule 3A public entity, established in terms of section 2(1) of the Road Accident Fund Act 56 of 1996

with its service office situated at 38 Ida Street Menlo Park Pretoria Gauteng Province.

Injuries and sequelae

- [6] The plaintiff sustained the following injuries as a result of the accident poly-trauma mainly de-gloving injury of his scalp and chest pathology as well as intra-abdominal pathology, and more particularly: head injury with skull laceration; de-gloving injury of the scalp; avulsion of the scalp; blow to the head, with loss of consciousness; severe traumatic brain injury; moderately severe possibly severe traumatic brain injury; blunt chest trauma; blunt abdominal trauma; fractured ribs; multiple fractured ribs on the left hand side; rib fractures 4, 5 and 6 on the left-hand side; pulmonary contusion; (hemo)pneumothorax; laceration of the spleen; left kidney laceration; renal haematoma; insult to both hips; hematomas over his jaw and left posterior-superior forearm; internal bleeding; laceration left arm; injury of the cervical spine and thoracic spine; bilateral hip injuries, with cortical interruption, possible un-displaced fracture of the left femur head and avascular necrosis of both hips; psycho-organic changes and depressive mood.

- [7] Plaintiff once suffered from gastritis and fractured his jaw more than 20 years ago which recovered completely. He was previously in an accident during 1991 whilst at school and suffered an insult to his head for which he was hospitalized and underwent counselling and support. He had diabetes and cholesterol but no relevant medical history and was healthy before the collision.

- [8] The Plaintiff was taken from the scene by ambulance, to the Life Rosepark Hospital, where the Plaintiff was treated from 6 December 2013 until 29 December 2013, both surgically and conservatively. In March 2014 he

underwent decompression surgery to both hips at Faerie Glen Hospital where he was hospitalized for 2 to 3 days. In November 2014 the Plaintiff received a total right hip replacement and in January/February 2015 he had the second hip replaced. He had to have bilateral total hip replacements. The Plaintiff regularly has to resort to over the counter medication which he buys from a local pharmacy. Plaintiff's counsel submits that the plaintiff must be compensated for the medical costs already incurred. Plaintiff was treated in private hospitals. He is on Discovery Medical Aid. The plaintiff is not in possession of accounts pertaining to his past hospital and medical treatment to vouch such considerable expenses. Plaintiff's counsel Mr Geach submits that this head of damages will have to be postponed sine die.

[8] The plaintiff has filed the medico-legal reports by the following experts:- DR KRUGER (Neurosurgeon); ELFRIEDE TROMP (Neuro-Clinical Psychologist); DRS OELOFSE & DEACON (Orthopaedic Surgeons); PREDDY (Orthopaedic Surgeon); C BOTES (Physiotherapist); A GREEFF (Occupational Therapist); K NIEUWOUDT (Occupational Therapist); F VAN DER WESTHUIZEN (Industrial Psychologist) and JOHAN SAUER (Actuary).

[9] Defendant produced no medico-legal reports at all, despite the ruling dated 11 November 2019, that the Defendant's reports were to be filed by 30 May 2020. There are no joint reports as a result.

9.1 The Medico-legal report by Christel Botes and Nikki van der Walt – Physiotherapists:

“Mr. Olivier was booked off for 2 months following the accident. He was booked-off again following the hip replacement surgeries in 2014. He was paid sick leave. Following the accident when returning to work Following the accident Mr. Olivier reports difficulty getting to and from work as he was unable to drive. He relied on lifts from colleagues and family. He had difficulty sitting and walking for long periods as it caused buttock pain and made him irritable which progressively worsened until

his hip replacement surgeries. Now he reports working in the same capacity as before the accident. He does report a decrease in working rate and tempo as he cannot walk or work as fast as before the accident. Cognitively - he reports that he struggles to remember, that he makes mathematical errors and is slower to finish his work than before. He plans to work until retirement”.

- 9.2 DR. J.H. KRÜGER - NEUROSURGEON records that “severe traumatic brain injury – possibly severe traumatic brain injury, as evidenced by the fact that the patient lost consciousness after the accident, was alert 2 hours and 5 minutes after the accident and had a Glasgow Coma Scale recorded as 15/15, 2 hours and 5 minutes after the accident, had a dense phase of post-traumatic amnesia of 7 days during which time the patient was treated in the Intensive Care Unit where he received pain medication, sedation, he was medically paralysed, he was intubated and mechanically ventilated. No suspicion of a focal brain injury. Possibility of a secondary brain insult secondary to haemodynamic instability as a result of a chest injury. From a neurosurgery perspective, the accident the patient was involved in, will not influence his life expectancy. From a neurosurgery perspective, the accident the patient was involved in, will not influence his retirement age or his ability to work in the open labour market and to sustain himself financially.”
- 9.3 DR. L.F. OELOFSE recorded that “It is my opinion that the patient **MUST** be accommodated in a light duty/spine friendly/sedentary environment, as determined by an Occupational Therapist. Also, the Occupational Therapist should give clear guidelines regarding an ergonomic environment, conducive to protecting his neck, as well as how his working hours will reduce in future as the spondylosis in his cervical spine progresses. It is also my opinion that the patient should be deferred to a Physiotherapist to assess function and any functional limitations and to comment on functional prognosis of the patient from a physiotherapy perspective, as well as to give an opinion on the patient’s productivity or estimated lack of productivity. The patient has

become an UNFAIR COMPETITOR in the open labour market. Chronic pain: Literature states that with the development of chronic pain, there is a considerable influence on the age of retirement, with the patient having to retire at least 10 (ten) – 15 (fifteen) years earlier. LONGEVITY The accident and accompanying orthopaedic injuries did not have a detrimental effect on his life expectancy. I defer to the opinion of a Neurologist/Neurosurgeon with regards to the influence of his head injury, as well as to the opinion of a Cardio-thoracic Surgeon with regards to the influence of the chest injury, on his life expectancy.

- 9.4 Fridel Van Westhuizen opines that he had pre-existing spondylosis of his neck. According to the patient, he had no problems or pain in his neck prior to the accident. He sustained a definite neck injury and has been suffering from neck pain since the accident. The pain has now established as a chronic pain syndrome and he has developed radicular symptoms. It is my opinion that an apportionment of 50% to pre-existing pathology and 50% to the accident as aggravating factor is applicable normal unemployment contingencies can be considered in cases lacking factors such as cognitive, physical, emotional, social or behavioural problems. Higher than normal unemployment contingencies can be considered in cases in which the claimant has cognitive, physical, emotional, social or behavioural problems. In cases in which a minor has pre-existing problems as noted in the preceding point, a 10% - 20% reduction in stated earnings can be used to account for possible lower educational achievement, delayed employment entry and lower final progression level. Nil unemployment contingencies apply in cases in which the claimants will not be employed Suggestion: Bearing the aforesaid in mind, and the pre accident career path history and career development and progression anticipated, writer suggests that in this matter normal pre- accident contingency deduction should be applied.
- 9.5 Sauer records that *“We apply the value of the RAF cap published just before the date of accident without inflationary increases thereon, to the annualised loss of income in each year, after income tax, mortality,*

discounting and general contingency deductions. This is in line with the RAF Amendment Act (Act 19 of 2005) and the precedent set in Sweatman v RAF (WCC) (unreported 17258/11, 2013/12/03) subsequently confirmed by the SCA. We also calculated the remainder of the claim to be claimed from the wrongdoer if such a claim is legally possible. Contingent Deductions 5% total deduction for past losses (pre-morbid). 5% total deduction for past losses (post-morbid). 10% total deduction for future losses (pre-morbid), per instruction. 40% total deduction for future losses (post-morbid), per instruction. 70% Merit Apportionment (30% fault deduction), per instruction. We illustrate a higher future post-morbid contingency deduction to allow for increased employment vulnerability, labour incapacity, uncertainty, possible long periods of unemployment and early retirement.”

Discussion

Future and medical expenses

- [10] Plaintiff's counsel submits that Plaintiff should be compensated for future accident related treatment and expenses. The Act provides for an undertaking certificate to be issued in terms of section 17(4) of the Road Accident Fund Act.

Loss of earnings

- [11] Mr Geach further submits that as a result of the abovementioned injuries, the Plaintiff has in the past and will continue in the future to suffer a loss of income. Post-collision the Plaintiff was on fully paid sick leave until end January 2014. At the time of the collision, Plaintiff was employed by SHOPRITE CHECKERS (PTY) LTD (Properties) as a Senior Property Manager. His salary is vouched by his payslips. Although still accommodated in his previous employment, he endures difficulties post-collision, due to the impairments caused by the injuries and the Plaintiff will now have to take early retirement at the age of 57.5 years which was not the case pre-collision and

has therefore suffered a truncation of his working-life which would otherwise have extended until age 65 years.

[12] It is submitted that the plaintiff's injuries have had an impact on his productivity and working ability. Taking into account the views of the other experts, the Industrial Psychologist did assess the pre-accident potential of the Plaintiff as well as his post-accident potential, postulated career and earnings scenario's for Plaintiff both but for the accident and having regard to the accident. It is further submitted that in the event he was to lose his present employment, his sequelae will leave him seriously compromised for alternative employment.

[13] Plaintiff's Industrial Psychologist has formulated a reasonable basis for the quantification of Plaintiff's loss of earnings, in accordance with the views of the other experts. The quantification exercise has been performed by the actuary JOHAN SAUER, determined, Plaintiff's loss of earnings, which is affected to the extent of R 1 409 382 by the applicable statutory cap, as follows:

	But for the accident	After the accident	Loss
Past earnings	R 4 880 265	R 4 631 174	
Contingencies	5%	5%	R 236 636
Future Earnings	R 4 636 252	R 7 375 177	
Contingencies	10%	40%	R 5 222 382
Total			<u>R 5 459 018</u>

- [14] The claim of loss of earnings or earning capacity, must be proven and that the physical disabilities resulted in the loss of earnings or earning capacity and also actual patrimonial loss.¹ The nature of work that is done by the claimant informs the patrimonial loss as well as the work that he would have been doing but had it not been for the accident.²
- [15] Contingencies are influenced by the plaintiff's income that may have been earned over a period of time. The period within which the income has been earned and the consistency thereof informs the higher the contingencies that have to be applied.³
- [16] In **Goodall supra**, Koch argued that as a general guideline, a sliding scale of 0.5 % per year over which the applicable income has to be calculated, can be applied. In Quantum Yearbook⁴, the author states that there are no fixed rules as regards general contingencies. Guideline is *"Sliding scale Yz% per year to retirement age, ie 25% for a child, 20% for a youth and 10% in the middle age ... Normal contingencies: The RAF usually agrees to deductions of 5% for past loss and 15% for the future loss, the so-called normal contingencies"*.
- [17] In the **Southern Insurance Association Ltd v Bailey**⁵
- "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, augurs and oracles. All that the Court can do is to make an estimate, which is often a very rough estimate, of the present value of the loss. It has open to it two possible*

¹ Rudman v Road Accident Fund 2003(SA 234) (SCA)

² Union and National Insurance Co Ltd v Coetzee 1970 (1) SA 295 (A) at 300A.

³ Goodall v President Insurance Co Ltd 1978 (1) SA 389 (W) 392H – 393G

⁴ Robert Koch 2017 Edition p126

⁵ 1984 (1) SA 98 (A)

approaches. One is for the Judge to make a round estimate of 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 to make an assessment, by way of mathematical calculations, on the basis of assumptions resting on the evidence. The validity of this approach depends 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."

- [18] It is evident upon reading the different expert reports that they are speculating with the provided information. However, as rightly pointed out in the judgment *supra* courts cannot adopt a *non possumus* attitude and make no award.
- [19] In the case of **Road Accident Fund v Guedes**⁶ the court referred with approval to *The Quantum Yearbook*, by R Koch under the heading "General contingencies", where it states that when: "*assessing damages for loss of earnings or support, it is usual for a deduction to be made for general contingencies for which no explicit allowance has been made in the actuarial calculation. The deduction is the prerogative of the Court.*" (I concur)
- [20] The Industrial Psychologist recommends a normal contingency Deduction for pre-morbid. A substantially higher post-collision contingency is justified by the Industrial Psychologist. It allows for Plaintiff's increased employment vulnerability, labour incapacity, uncertainty, possible long periods of unemployment and early retirement.
- [21] As positive an influence as the plaintiff's pre-morbid attributes has on the application of contingencies, the exact opposite is true of his attributes and

⁶ 2006 (5) SA 583 (SCA) at paragraph [9]

circumstances in the post-morbid scenario. The plaintiff's position is extremely vulnerable, exacerbated by his post-morbid emotional condition. His mental status may prevent him from performing his job to the best of his abilities. Prior to the accident the plaintiff had vast experience in doing medium to heavy work. He has no experience in sedentary administrative work. Post-morbidly, sedentary administrative work seems to be the only work he is suited for.

[22] The percentage of the contingency deduction depends upon a number of factors and ranges between 5 % and 50 %, depending upon the facts of the case.⁷ Contingencies are the hazards of life that normally beset lives and circumstances of ordinary people and should therefore, by its nature, be process of subjective impression or estimation rather than objective calculation⁸. Contingencies for which allowance should be made, would usually include the following: (a) the possibility of illness which would have occurred in any event; (b) inflation or deflation of the value of money in future; and (c) other risks of life such as accidents or even death, which would have become a reality, sooner or later, in any event.⁹

[23] Counsel for the plaintiff submits that this approach is only a guideline as contingencies by their very nature are subjective. The plaintiff was 38 years as at the time of the collision and now he is 43. He had planned to retire at 65 years but now he might retire early. The period of risk can be calculated from the 22 years. The Industrial Psychologist the life expectancy of the plaintiff will not be influenced by the collision. It is safe to note that he is not competitive to his peers and his productivity has been affected.

⁷ *AA Mutual Association Ltd v Maqula* 1978(1) SA 805 (A) at 812; *De Jongh v Gunther and Another* 1975 (4) SA 78 (W) at 81, 83, 84D; *Goodall v President Insurance Co Ltd* 1978 (1) SA 389 (W) at 393; *Van der Plaats v South African Mutual Fire and General Insurance Co Ltd* 1980 (3) SA 105 (A) at 114-115A-D.

⁸ *Shield Insurance Co Ltd v Booysen* 1979 (3) SA 953 (A)

⁹ *The Quantum of Damages* Vol 1 p51

GENERAL DAMAGES Serious injury

[24] Counsel submits that the Plaintiff qualifies for general damages on the basis of a WPI of 38 %, which has not been rejected by the Defendant. As a result of the abovementioned injuries the Plaintiff: suffered permanent loss of enjoyment of amenities of life and will continue to suffer permanent loss of enjoyment of amenities of life; had permanent pain, suffering and discomfort of which permanent pain, suffering and discomfort will continue in future and suffers permanent serious disfigurement. The Plaintiff continues to suffer from the sequelae of his injuries. The determination of such non-patrimonial general damages falls accordingly within the discretion of the Trial Court.

[25] All the various factors pertinent to such damages are canvassed in the available reports: pain, suffering and discomfort; loss of amenities; disfigurement: scarring; disability: (a) Physical difficulties; (b) Neuropsychological difficulties; (c) Neuro-cognitive deficits. deformity: disrupted gait, leg-shortening; psychological problems. In addition to Comparable awards: Brain injury.¹⁰

[26] In addition to his brain injury, the Plaintiff suffered a multitude of other injuries and underwent extensive treatment, including bilateral hip replacements. It is difficult to find a comparable precedent. The Plaintiff has a 38 % WPI computed as follows:

Right Lower extremity impairment evaluation: 10 %

Left Lower extremity impairment evaluation: 10 %

¹⁰ *Torres v Road Accident Fund* (C & H Vol VI at A 4-1) R 1 288 000 *Raupert v Road Accident Fund* (2153/2008) [2011] ZAECPHC (1 February 2011); (C & H Vol 7 VI at A 4-52) R 1 230 000 *Smit v Road Accident Fund* (24883/2008) [2012] ZAGPPHC 294 (16 November 2012); (C & H Vol VI at A 4-188) R 1 009 000 *Potgieter v Road Accident Fund* (2416/05) [2012] ZAECPHC 99 (18 December 2012) (C & H Vol VI at A 4-195) R 1 009 000 *Tromp N.O obo Weyers Road Accident Fund* (19018/2015) [2018] ZAGPPHC 642 (2 March 2018) R 1 200 000

Spine and pelvis impairment evaluation: 6 % Other:

Head: 10 %

Cardiovascular and pulmonary systems: 10 %.

- [27] The counsel for the plaintiff has referred me to a plethora of case law which I will take into account in my decision. In **Coetzee N.O. obo Komane v Road Accident Fund¹¹** the court awarded R 1 600 000, and in **Smith and Ngobeni v Road Accident Fund¹²** the court awarded R 1 640 710.

- [28] Counsel submitted that this Honourable Court should grant judgment against the Defendant in favour of the Plaintiff accordingly.

Past Medical and hospital costs: be postponed sine die. Future medical and hospital costs: sec 17(4)(a) undertaking but limited to 70 % Loss of earnings: R5 459 018.00 General damages: R 1 500 000.00 Less 30 % Total (net): R 4 871 312.60. It is appropriate that the Defendant should be ordered to pay the Plaintiff's costs of suit.

ANALYSIS

- [29] I have considered the opinions of the medical practitioners filed and alluded by the plaintiff. The industrial psychologist opines that the plaintiff might retire at the age of 57.5 years is indicative of the fact that the difference is 7.5. if the retirement age is 65 years. The plaintiff continues to work and has been paid whilst he was away from work.
- [30] I am satisfied that the loss must be calculated on the period the plaintiff is likely to retire at. I will also not hesitate to mention that it is guesswork as no

¹¹ [2020] ZAGPPHC 295 (26 June 2020)

¹² (47697/2009) Johannesburg High Court (29 April 2011)

one is certain what the future holds. The loss of earnings should be considered in relation to the period of 7,5 years at the statutory limit. It is so that the vicissitudes must be considered.

- [31] The past and future loss of earnings amounts to R 372 190.00 x 7.5 less 30 % = R 1 953 572. 25.
- [32] The DR. J.H. KRÜGER - NEUROSURGEON states that *“No suspicion of a focal brain injury. Possibility of a secondary brain insult secondary to haemodynamic instability as a result of a chest injury. From a neurosurgery perspective, the accident the patient was involved in, will not influence his life expectancy. From a neurosurgery perspective, the accident the patient was involved in, will not influence his retirement age or his ability to work in the open labour market and to sustain himself financially.”*
- [33] ***Nepgen v Road Accident Fund 2012 (6A4) QOD 129 (ECP)*** is comparable in several material respects. The plaintiff in ***Nepgen*** suffered a severe brain injury, and fractures of the right tibia and fibula and left clavicle. He was left with cortical blindness and intellectual compromise, pain and backache. In 2017 terms, the value of the award equates to R1 193 000,00.
- [34] *In casu* the plaintiff's WPI is 38 % and gluscoma is 15/15. The gluscoma of the plaintiff seems to be normal however the WOI says otherwise. The court does not have the authority to determine the general damages. Having considered all the case law referred to and the injuries sustained the issue of general damages must be referred in terms of Regulation 3(4) of the Road Accident Fund¹³.

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General damages are decided upon by the tribunal which decision is governed by PAJA.¹³ In ***Road Accident Fund v Duma and Three Similar Cases 2013 (6) SA 9 (SCA)*** at paragraph [19] the Supreme Court of Appeal decided: “... Stated somewhat differently, in order for the court to consider a claim for general damages, **the third party must satisfy the Fund, not the court, that his or her injury was serious.**”

[35] In result I award the sum of R 1953 572.25 as fair and reasonable damages for loss of earnings and an undertaking in terms of section 17(4) Certificate. Past medical expenses and General Damages are postponed sine die. Costs to be paid on party and party by the defendant.

[32] Counsel for the plaintiff has submitted a draft order which I have amended and marked "X" as an order of court.

E.N.B. KHWINANA

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

HEARD ON: 02 June 2021

FOR THE PLAINTIFF: ADV. B.P. Geach

INSTRUCTED BY: Van Niekerk Attorneys

DATE OF JUDGMENT: 12 August 2021

IN THE HIGH COURT OF SOUTH AFRICA**GAUTENG DIVISION, PRETORIA****BEFORE THE HONOURABLE JUSTICE KHIWINANA, AJ****12 AUGUST 2021**

This Order is made an Order of Court by the Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically to the Parties/their legal representatives by email. This Order is further uploaded to the electronic file of this matter on Case Lines by the Judge or his/her Secretary. The date of this Order is deemed to be 12 AUGUST 2021

Case number: 74533/2015

In the matter between:

J OLIVIER**Plaintiff****and****ROAD ACCIDENT FUND****Defendant**

Claim number: 509/12242929/13/1

Link number: 3627823

DRAFT ORDER

AFTER HAVING HEARD ARGUMENT BY PLAINTIFF'S COUNSEL, THE COURT ORDERS THAT:

1. The Defendant was previously ordered to pay **70%** of the Plaintiff's proven or agreed damages.

2. The Defendant shall pay to the Plaintiff the sum R 1 953 572.25

(ONE MILLION NINE HUNDRED AND FIFTY THREE AND FIVE HUNDRED AND SEVENTY TWO AND TWENTY FIVE CENTS.) in respect of loss of

earnings payable within 180 days from the date of this order failing which interest will be charged from date of this order;

3. The Defendant shall within 15 calendar days furnish the Plaintiff with an undertaking in terms of Section 17(4)(a) of Act 56 of 1996, for payment 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/her resulting the injuries sustained by the Plaintiff in the motor vehicle accident that occurred on **5 December 2013**, to compensate the Plaintiff in respect of the said costs after the costs have been incurred and upon proof thereof limited to 70%.

4. The Defendant shall pay the Plaintiff's taxed or agreed party and party costs on the High Court scale.:

4.1 In the event that the costs are not agreed:

4.1.1 the Plaintiff shall serve a notice of taxation on the

4.1.2 the Plaintiff shall allow the Defendant 14 (fourteen) Court days from date of allocatur to make payment of the taxed costs.

4.1.3 should payment not be effected timeously, the Plaintiff will be entitled to recover interest at the rate of 7.00% per annum on the taxed or agreed costs from date of allocatur to date of final payment.

5. The amounts referred to in paragraphs 2 – 4 will be paid to the Plaintiff's

attorneys, Van Niekerk Attorneys, by direct transfer into their trust account, details of which are the following:

Name:	Van Niekerk Attorneys
Bank:	First National Bank
Account number:	[...]
Branch code:	25-37-42
Ref:	FN1146

6. It is recorded that there is a valid contingency fee agreement applicable in this matter. The contingency fee agreement entered into between the Plaintiff and the attorney complies with Contingency Fee Agreement Act. It is recorded that the total fees are inclusive of VAT recoverable in terms of the "CFA" Act and shall not exceed 25% of the total capital amount set out in paragraph 2 supra.

7. The issue of past medical expenses and general damages is hereby postponed *sine die*.

BY ORDER OF THE COURT

OBO PLAINTIFF: ADV BP GEACH
OBO DEFENDANT: NO APPEARANCE

TEL: 083 680 6578