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

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

6 October 2021

DATE

SIGNATURE

CASE NO: 70513/2018

In the matter between:

LEBOGANG MIRRIAM TWALA

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

KWHINANA AJIntroduction

- [1] The plaintiff instituted an action against the defendant pursuant to a motor collision.
- [2] The Plaintiff is claiming in her personal capacity. She was 26 years old at the time of the accident and currently she is 27 years old.
- [3] The plaintiff's claim is for Past and future medical expenses at R100 000.00, past loss of earnings at R155 500.00, Future loss of earnings R5 693 400.00 and general damages at R1 500 000.00.
- [4] I have been requested to determine liability and quantum.

Parties

- [5] The plaintiff is an adult female person born on the 20th of February 1992 and residing at [...] Gauteng Province.
- [6] The defendant is the Road Accident Fund, a statutory body established in terms
of section 2 of the Road Accident Fund Act no. 56 of 1996, having its
registered
office and /or principal place of business at 138 Ida Street, Menlo Park,
Pretoria,

Gauteng Province.

Merits

- [7] The plaintiff was involved in a motor collision on the 25th of February 2018 at approximately 24:00 (midnight). The plaintiff was standing outside her yard when the insured vehicle driven by an unknown driver came travelling at a high speed and collided with her.
- [8] The plaintiff was stationary in front of her yard, after opening the gate for her husband. The collision was caused solely by the negligence of the unknown driver and the said vehicle failed to stop after the accident.
- [9] The defendant did not show as usual and there is no version from the defendant. The plaintiff applies that the version submitted be taken as is as it is unrebutted.

Legal principles

A four stage inquiry

- [10] In the matter of ***M S v Road Accident Fund***¹ Fisher J discussed the four stages as follows:-

First: Did the negligence of the third party driver cause the accident? if both plaintiff and the third party driver were negligent blame may be apportioned on the basis of a percentage allocation in terms of the Apportionment of Damages Act. (I shall call this first phase the Merits Inquiry).

Second: Did the plaintiff sustain the pleaded injuries in the accident? (This is the First Causation Inquiry).

Third: How have these proven injuries have affected the plaintiff? (this is the Second Causation Inquiry).

¹ 10133/2018 [2019] ZAGPJHC 84; [2019] 3 All SA 626 (GJ) (25 March 20219)

Fourth: How should the plaintiff be remunerated for the effects of such injuries on the plaintiff. (this is the Quantum Determination stage).

[11] *“It is trite that the plaintiff bears the onus of proving negligence on the part of the insured driver on a balance of probabilities. (See Arthur v Bezuidenhout and Mieny 1962 (2) SA 566 (AD) at 576G (also reported at [1962] 2 All SA 506 (A) – Ed); Sardi & others v Standard and General Insurance Co Ltd 1977 (3) SA 776 (A) at ?BOC - H (also reported at [1977] 4 All SA 233 (A) - Ed] and Madyosi & another v SA Eagle Insurance Co Ltd [1990] ZASCA 65; 1990 (3) SA 442 (E) at 4440 - F (also reported at [1990] 2 All SA 408 (A) - Ed]. The court in deciding whether the plaintiff has succeeded in discharging this onus, has to consider all the evidence led during the trial in toto.”²*

[12] *In casu* the defendant has not conceded neither is there a defence therefore the version of the plaintiff has not been challenged. In considering the version of the plaintiff, her version is uncontested.

[13] I am satisfied that the plaintiff has successfully discharged the required onus on a balance of probabilities and has shown that the insured driver drove the insured vehicle in a negligent manner. It has not been shown that any negligence can be attributed to the plaintiff. The defendant is accordingly liable to compensate the plaintiff fully for all his damages suffered as a result of personal injuries he sustained in the collision that occurred on the 25th of February 2018.

Injuries

[14] The plaintiff sustained the following injuries:-
pelvis fracture, head injury, facial injuries, scalp swelling.

² *Christou v Road Accident Fund* (71566/2012) [2018] ZAGPPHC 464 (18 June 2018)

She had a right periorbital swelling and bruises, right upper quadrant abdomen.

- [15] She also had a loss of awareness and she recovered on the 3rd day. She was taken to Mamelodi Hospital. The CT scan brain was done at Steve Biko Hospital and it confirmed the right frontal fracture but no intracranial bleeding.

Treatment

- [16] She was treated with analgesics ante-tetanus injection, antibiotics, and neuro-observation offered. She was taken to Steve Biko Hospital for maxilla facial fractures by relevant expert. She was hospitalised and discharged on the 08th of March 2018.

Complaints

- [17] She has the following complaints: headaches, shoulder pain, hand numbness, lower back ache, memory problems and left knee pains. Forgetfulness still feature on her list of main complaints. She became impatient and short tempered. She was not like that before the accident.
- [18] Counsel submits that she suffered a severe traumatic brain injury, as she had a post traumatic amnesia of more than two days. She also had a facial fracture (base of skull fractures). Other injuries were soft tissue, abdominal, shoulder and knee injuries.

Plaintiff experts

- [19] The plaintiff has appointed medical experts and they are:

19.1 Neuro – surgeon;

19.2 Orthopaedic surgeon;

19.3 Clinical psychologist;

19.4 Occupational Therapist;

19.5 Industrial psychologist;

19.6 Actuary.

Education and career:

- [20] She is matriculated however did not obtain any post-matric qualification or vocational skills. Prior to the accident she worked at New Metro Cinema as a cashier as well as Mr Price Clothing Store as a cashier. At the time of the accident she was employed as a caterer assistant wherein she was working as and when she was earning maximum, of R1,000.00 per day.

Orthopaedic surgeon:

- [21] The Orthopaedic surgeon records that from the scene of the accident she was taken to Mamelodi Hospital where she was resuscitated, intubated and admitted for observation. She was managed conservatively for injuries; she was sent for consultation at Steve Biko Academic Hospital. She was also placed in a neck collar for a few days. She was discharged after 2 weeks and 3 days. She had a good concentration and was co-operative during this assessment. She was however tender over the cervical spine especially on her upper cervical spine. She was painful when she was doing lateral rotation.
- [22] There were no deformities of the lumbar spine. She was tender around the thoracolumbar junction. Ms Twala sustained a fracture of the pelvis in this accident. She was treated conservatively with bed-rest. On the day of this evaluation she was experiencing some pain when walking. She reported that the pain was worse when she had been sitting for long time. On examination, the hip joint had a good range of movement and there were no signs of

sacroiliac involvement. The expert is of the opinion that she should be treated conservatively for this injury.

- [23] She sustained maxillofacial injuries in this accident. She was referred to maxillofacial surgeons who treated her conservatively. On the day of this evaluation she was experiencing some episodes of headaches and photophobia, the expert is of the opinion that she should be referred to a neurosurgeon and a neurologist for full evaluation. She may find it difficult to work in a physically demanding environment due to her intermittent pains she is experiencing in her back and leg.

Clinical psychologist

- [24] Her pre-morbid cognitive functioning is speculated to be average, based on her verbal report regarding her academic history. The psychological findings back depression scale indicated moderate depression and anxiety. Neuro psychological test displayed deficit in areas that require attention and concentration, mental control, speed of information processing, obstruction, memory and judgment.
- [25] It appears that there is a significant decline in terms of cognitive functioning. Ms Twala displays a symptom associated with head injury or traumatic brain injury. This typically includes impaired judgment, (Ms Twala's judgment was impaired on assessment). Memory difficulties (Ms Twala has deficit in several aspects of memory). Poor attention capacity (Ms Twala's ability to focus and sustain attention was impaired). Poor obstruction ability was also noted on the assessment. It was further noted that she presents with personality and mood changes. In addition, Ms Twala mentioned that she was unconscious as a result of the impact of the accident (Post Traumatic Amnesia).

- [26] The Neuro-Surgeon's report by Prof. Mokgokong confirms that she sustained severe traumatic brain injury (TBI). The Neuro-Surgeon also added that they were serious neuro-psychological problems on the day of the interview. The Neuropsychological findings confirm deficit in several areas of functioning.

Occupational therapist

- [27] The Orthopaedic Surgeon's findings indicate that she will find it difficult to cope in open labour market as a result of the injury to the residual back and leg pain. Her future employability will thus be limited to light work.
- [28] Ms Twala also presented with significant cognitive decline since the accident. Her current functioning display pattern of extremely low, border line functioning in most areas.
- [29] Ms Twala reported that she is experiencing anger outbursts and becomes easily irritable. She also noted to be impatient following the accident. She further reported that she is still experiencing travelling anxiety especially as a pedestrian following the accident. She reported that high noise startles her resulting in increased anxiety since the accident. She further reported that she is still experiencing travel anxiety especially when the vehicle suddenly stops. She further indicated anxiety when crossing the road as a pedestrian.
- [30] It is opined that Ms Twala might have difficulties in accepting work far from home or that require regular travelling due to anxiety. This may impact her professional and personal growth. This may render her vulnerable to emotional strain and possible health difficulties if not appropriately addressed. It is noted that Ms Twala has an educational level of Grade 12 and she does not have any occupational experience, this might pose as a barrier in her obtaining occupation and ranging between sedentary to light.

- [31] The residual pain in her current vocational capacity will further pose as a barrier in her competing for a job in open labour market. Should she secure employment, she will benefit from reasonable accommodation. Ms Twala is expected to benefit from the recommended intervention in the form of treatment as recommended by the Orthopaedic Surgeon to improve her quality.

Industrial psychologist report

- [32] Pre-accident scenarios as projected by the Industrial Psychologist. Ms Twala remained unemployed for a few months after completing her matric in December 2009. Ms Twala reported that she initially entered the labour market at unskilled level working as a cashier at Nu Metro in Menlyn. She reportedly worked in this capacity from April 2010 to March 2012, reportedly earning R3,000.00 per month x 12 = R36,000.00 per annum which falls between the medium and the upper quartile of earnings for occupation graded that unskilled level in the non-corporate sector. (21,600.00 – 37,900.00 – 86,000.00 per annum) as recorded in the 2020 Quantum Year Book by Robert J Koch.²².
- [33] According to the collateral telephonic conversation conducted with Ms Nonhlanhla Ndluli (pre-accident employer to Ms Lebogang Twala, she received R500.00 per day depending on the amount. I will safely say she was at least guaranteed 3 days per week in the event we did not get work for a full month. In the event that we got work for a full month she will earn between R3,500.00 to R4,000.00 per month. Considering Ms Twala's level of education, career, interest and aspiration of furthering her studies to obtain an N6 Certificate and have matric endorsement for High Certificate the writer is thus inclined to provide two scenarios.
- [34] Scenario one, Continuity in the informal sector. Ms Twala could have continued working as a caterer's assistant or other jobs with pre-accident job

list. This was in the informal sector where progression is very difficult to judge as such is based on a number of factors including policy framework, personality traits, work ethics, the scope for development and opportunities within the specific industry and prevailing economic conditions.

- [35] The writer notes as employed individual in the informal sector at the age of 26 Ms Twala earned R51,995.00 per annum which falls between the medium and upper curtail for unskilled worker in the non-corporate sector. This equivalent of her income in the informal sector earnings falls between the medium and upper curtail for earnings graded for employed 25-year-old individual (R18,400.00 – R30,400.00 – R57,700.00 per annum) that as recorded in the 2020 Quantum Yearbook by Robert J Koch.

- [36] Considering that she commenced working in this capacity in 2015. Applying a 3 to 5 years' progression period to venture into self-employed her entry into self-employed could have likely fallen in between 2021 and 2023. Considering that after only 1 year she was earning close to R51,966.00 income as employed individual, her age of 26, it is highly likely that her earnings could have progressed to be between the upper end of the suggested scale for employed – 20 – 45-year old individuals (25 years upper end R57,700.00 to 45- year of upper end R101,300.00 per annum by the time she consider venturing into self-employed.

- [37] She could have used the year 2022 and 2023 as the prototype or transitional period into self-employed. (It was reasonable to postulate that her entry earnings as self-employed individual could have been likely above that earned as employed individual and could have been likely between the upper ends of the suggested scale for self-employed 25 – 45-year-old individuals. 25 Year – upper earned R60,700.00 to R45-year upper earned R131,000.00 per annum).

- [38] Business normally stabilises after 2 to 3-year period and meanwhile striving for business establishment and stabilisation, she could have continued self-employed until completing the higher certificate. The writer notes that thereafter completing her certificate, her earnings stakes as an intern or in service trainee would have been significantly higher than what she was earning as a self-employed caterer and thus it is unlikely that she would have opted to continue working in the informal sector knowing that earnings as semi-skilled professional and potential progression into skilled categories would have been significantly higher than the income she generated in her informal activities.
- [39] Scenario 2: Obtaining higher certificate. Considering our Government affords to broaden access to institution of higher or further education and training, we benefit from such policies to pursue open distance learning or part-time certificate courses in line with career of choice should have attained higher certificate she could have been eligible for placement at relevant and adequate work experience as well as development of marketable skills she could have progressed towards earning graded artisan C1, C2 levels by age 45. Thereafter she could continue working and benefitting from inflation increase until retirement. Ms Twala could have been able to work and retire at the normal retirement age of 65.
- [40] Post accident scenario is postulated as follows by the Industrial Psychologist: Ms Twala has compromised overall functioning ability to reach the pre-accident physical functioning and she has been placed at the disadvantaged position in the open labour market due to physical limitation and emotional and psychological circular imposed by the accident-related injuries. The writer opines considering the above-mentioned challenges, it is reasonable to postulate that Ms Twala will likely remain unemployed with a very limited chance of securing a job. It has already been 2 years and 6 months that she has been continued being unemployed solely and dependent on her husband and her children's grant her sons receive.

Actuary calculation of loss of earnings:

- [41] Scenario 1 Higher certificate. The information provided indicates that the claimant's career and earnings would have progressed as follows had the accident not occurred (2020 terms, before tax, unless stated otherwise). • Date of accident – R1,000.00 per week (2018 terms), 2 February 2022 – employed age 25 to age 45, Upper at R79,500.00 per year. • February 2023 – self-employed age 25 to age 45, Upper at R97,500.00 per year • 4 August 2025 – partisan B3 at R266,000.00 per year, • 5 March 2037 age 45 – partisan's C1 C2 at R462,000.00 per year.
- [42] The information provided indicates that the claimant's career and earnings have and will progress as follows now that that accident has occurred: (2020 terms, before tax, unless stated otherwise) • Date of accident – no earnings • Date of calculation – unskilled at R37,900.00 per year with retirement on both earnings at age 65.33 Capital value of loss of earnings Uninjured Injured Earnings Loss of 33 Actuary, Earnings Past R155 500 Less contingencies 5% R7775 R147 725 Future R 6 572 500 R879 100 R 5 693 400 Less contingencies 20%/25% R 1 314 500 R 219 775 R 1 094 725 R 5 258 000 R 659 325 R 4 598 675 TOTAL R 4 746 400.
- [43] Remain self-employed. The information provided indicates that the claimant's clear and earnings would have progressed as follows had the accident not occurred. (2020 terms, before tax, unless stated otherwise) • Date of accident R1,000.00 per week (2018 terms), per at R79,500.00 per year • February 2023 – self-employed age 35 to 45 Upper at R97,500.00 per year • Retirement at age 65 injured earnings. The information provided indicates that the claimant's career and earning has and will progress as follows now that the accident has occurred (2020 terms, before tax, unless stated otherwise) • Date of accident – no earnings • Date of calculation unskilled at R37,900.00 per year • Retirement at age 65.

- [44] Capital value of loss of earnings Uninjured Earnings Injured Earnings Loss of Earnings Past R155 500 R155 500 Less contingencies 5% R7775 R7775 R147 725 R147 725 Future R 2 160 500 R879 100 R 5 693 400 Less contingencies 20%/25% R 432 100 R 219 775 R 651 875 R 1 728 400 R 659 325 R 1 069 075 TOTAL R 1 216 800 10.4 The industrial psychologist has postulated two scenarios as calculated above and it is a very difficult task to choose one as the most probable.
- [45] Counsel submitted that I *take the average between the two scenarios. Which will be calculated as follows $R\ 4\ 746\ 400 + R\ 1\ 216\ 800 = R\ 5\ 963\ 200 / 2 = R\ 2\ 981\ 600$. He submitted that the court should award the plaintiff an amount of R 2 981 600 as past and future loss of earnings.*
- [46] The court has a wide discretion as to the assessment of loss. This task is judicial and is founded to a large extent on experience, intuition, and general right-thinking.³
- [47] The *locus classicus* as to the value of actuarial expert opinion in assessing damages is ***Southern Insurance Association Ltd v Bailey NO⁴*** where Nicholas JA said the following :
- “Where the method of actuarial computation is adopted in assessing damages for loss of earning capacity, it does not mean that the trial Judge is ‘tied down by inexorable actuarial calculations’. He has ‘a large discretion to award what he considers right’. One of the elements in exercising that discretion is the making of a discount for ‘contingencies’ or differently put the ‘vicissitudes of life’. These include such matters as the possibility that the plaintiff may in the result have less than a ‘normal’ expectation of life; and that he may experience*

³ *M S v Road Accident Fund* (10133/2018) [2019] ZAGPJHC 84; [2019] 3 All SA 626 (GJ) (25 March 2019)

⁴ 1984 (1) SA 98 (A)

periods of unemployment by reason of incapacity due to illness or accident, or to labour unrest or general economic conditions. The amount of any discount may vary, depending upon the circumstances of the case”.

- [48] Zulman JA, with reference to various authorities including ***Southern Assurance*** said as follows in ***Road Accident Fund v Guedes***:

*"The calculation of the quantum of a future amount, such as loss of earning capacity, is not, as I have already indicated, a matter of exact mathematical calculation. By its nature such an enquiry is speculative and a court can therefore only make an estimate of the present value of the loss that is often a very rough estimate (see for example Southern Insurance Association Ltd v Bailey NO) ... Courts have adopted the approach that in order to assist in such a calculation, an actuarial computation is a useful basis for establishing the quantum of damages."*⁵

- [49] It is evident that the plaintiff has been unable to secure employment since the accident however it is imperative to note that there might be other factors that have led to unemployment. I am inclined to agree with Zulman JA that quantum for future amount is not an exact mathematical calculation as it is speculative. The income for the plaintiff is speculative for the future considering the type of work that she was doing. The expert also speculated that she would want to be self-employed in future. I am satisfied that the second scenario is fair and reasonable. I believe that it might be possible to attain the said scenario taking into account the circumstances of the plaintiff. The sum of R 900 000.00 for Past and Future loss of earnings is the fair and reasonable amount.

Past and future medical expenses

⁵2006 (5) SA 583 (SCA) at 586H-587B

[50] The plaintiff has claimed the sum of R 100 000.00 in respect of the above heads of damages. There are no vouchers submitted in relation to the past medical expenses claim and therefore I am unable to determine same. In relation to future medical expenses it is trite law that an undertaking is furnished in terms of section 17(4) of the Road Accident Fund Act. I am therefore unable to order that an amount be paid to the plaintiff in relation thereto and therefore I order that an undertaking be furnished in terms of section 17(4) of the Road Accident Fund Act.

General damages

[51] General damages are decided upon by the tribunal which decision is governed by PAJA.⁶ In ***Road Accident Fund v Duma and Three Similar Cases 2013 (6) SA 9 (SCA)*** at paragraph 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.** Appreciation of this basic principle, I think, leads one to the following conclusions:*

- (a) *Since the Fund is an organ of state as defined in s 239 of the Constitution and is performing a public function in terms of legislation, its decision in terms of regs 3(3)(c) and 3(3)(d), whether or not the RAF 4 form correctly assessed the claimant’s injury as ‘serious’ constitutes ‘administrative action’ as contemplated by the Promotion of Administrative Justice Act 3 of 2000 (PAJA). (A ‘decision’ is defined in PAJA to include the*

⁶ *Mphahla v Road Accident Fund* (698/16) [2017] ZASCA 76 (1 June 2017) Mathopo JA writing on behalf of the majority stated at paragraph 11: “If the Fund is not satisfied that the injury is serious, the plaintiff cannot continue with its claim for general damages in court. The court simply has no jurisdiction to entertain the claim. The plaintiff’s remedy is to take the rejection on appeal in terms of regulation 3(4).”

making of a determination.) The position is therefore governed by the provisions of PAJA.

- (b) *If the Fund should fail to take a decision within reasonable time, the plaintiff's remedy is under PAJA.*
- (c) *If the Fund should take a decision against the plaintiff, that decision cannot be ignored simply because it was not taken within a reasonable time or because no legal or medical basis is provided for the decision, or because the court does not agree with the reasons given.*
- (d) *A decision by the Fund is subject to an internal administrative appeal to an appeal tribunal.*
- (e) *Neither the decision of the Fund nor the decision of the appeal tribunal is subject to an appeal to the court. The court's control over these decisions is by means of the review proceedings under PAJA."*

[52] Counsel referred to numerous caselaw for comparison and guidance for an appropriate award for general damages. He submitted that an amount of R1 000 000.00 will be fair and reasonable for general damages.

[53] I am inclined to agree with Mathopo JA that the plaintiff must appeal in terms of Regulation 3(4).⁷ 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.**

Conclusion

⁷ *Mphahla v Road Accident Fund* (698/16) [2017] ZASCA 76 (1 June 2017)

[54] In the result I make the following order that: The Defendant is liable to pay 100 % **(ONE HUNDRED PERCENT)** of the proven or agreed damages of the Plaintiff with regards to the merits, The Defendant shall furnish the Plaintiff with an undertaking in terms of Section 17(4)(a) of Act 56 of 1996, for the injuries sustained by the Plaintiff in the motor vehicle accident that occurred on 12 February 2019. The aforesaid undertaking is limited to 100 %, Past and Future loss of earnings at R 900.000.00 and general damages are postponed *sine die*. Costs at party and party High Court scale.

[55] The following order is made:

The draft order marked "X" is made an order of Court.

E.N.B. KHWINANA

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

CASE NUMBER: 70513/2018

HEARD ON: 1 June 2021

ON BEHALF OF THE PLAINTIFF: ADV. A.K. MALULEKA

INSTRUCTED BY: KS Dinaka Attorneys

ON BEHALF OF THE DEFENDANT: NO APPEARANCE

DATE OF JUDGMENT: 6 October 2021

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

Case No.: 70513/2018

On 6 October 2021

Before the Honourable Justice Khwinana AJ

Electronically via Video-conferencing (MS Teams)

Order granted electronically in accordance with the Directives regarding special arrangements during the National State of Disaster (Covid-19)

In the matter between:

LEBOGANG MIRRIAM TWALA

PLAINTIFF

and

ROAD ACCIDENT FUND

DEFENDANT

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 6 October 2021.

DRAFT ORDER

AFTER READING THE PAPERS AND HEARING COUNSEL THE FOLLOWING ORDER IS MADE:

1. The Defendant is liable to pay 100 % **(ONE HUNDRED PERCENT)** of the proven or agreed damages of the Plaintiff with regards to the merits of the matter.
2. The Defendant is ordered to pay the plaintiff an amount of **R900 000.00 (NINE HUNDRED THOUSAND RAND)** for past and future loss of earnings as a full and final settlement on the plaintiff's claim within 180 (one hundred and eighty) days and no interest will be charged unless payment has not been effected within 180 (one hundred and eighty) days.
3. The Defendant shall furnish the Plaintiff with an undertaking in terms of Section 17(4)(a) of Act 56 of 1996, for the injuries sustained by the Plaintiff in the motor vehicle accident that occurred on 25th of February 2018. The aforesaid undertaking is limited to 100 %.
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 Defendant's attorneys on record.

- 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 % 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 and 4 above will be paid to the Plaintiff's attorneys, **KS DINAKA Attorneys**, by direct transfer into their trust account, the details of which are as follows:

Account holder: KS DINAKA ATTORNEYS

Bank: FNB

Branch Code: 250-655

Account no: [....]

Ref: DINAKA/OI/MVA0084

6. 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. General Damages are postponed *sine die*.

BY ORDER OF THE COURT:

REGISTRAR

Counsel for the Plaintiff: Adv AK Maluleka 0731571622

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Attorney for the Plaintiff: Mr KS Dinaka 0645169381

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Counsel for the Defendant: No appearance