

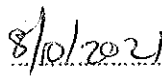
IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NUMBER: 28273/2019

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

  
SIGNATURE

  
DATE

In the matter between:

HEIDI LAWRENCE

PLAINTIFF

and

ROAD ACCIDENT FUND

DEFENDANT

LINK NO: 4608712

CLAIM NO: 560/12758456/316/1

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## JUDGMENT

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**MAKWEYA AJ**

### **INTRODUCTION**

1. The Plaintiff sues the Road Accident Fund for personal injuries sustained in a motor vehicle accident on the 18 July 2018. The accident occurred Jules and Kirk Street, Jeppestown.
2. This matter was set down to proceed on quantum only, the merits having been previously conceded on the basis that the defendant would be liable for 70% of the plaintiff's proved damages. In the absence of any appearance for the defendant, the matter proceeded on an unopposed basis.
3. Having considered counsel's submissions and comprehensive heads of arguments
4. As for general damages, it is trite that in assessing general damages for bodily injuries, the process of comparison with comparable cases does not take the form of a meticulous examination of awards made in other cases, nor should the process be allowed to dominate the enquiry as to become a fetter upon the Court's general discretion. Comparable cases, when available, are to be used to afford general guidance towards assisting the Court in arriving at an award which is not substantially out of general accord with previous awards in broadly similar cases.<sup>1</sup>

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<sup>1</sup> *Protea Insurance Co v Lamb* 1971 (1) SA 530 (A)

5. Having considered Adv. C Nel comprehensive heads of argument in the light of the evidence before me, the Counsel request that an amount R1,200,000.00 was fair and reasonable as general damages. I am satisfied about that.
6. Based on the contents of the expert reports which were confirmed by way of affidavit, and utilising the postulations of the Industrial Psychologist, the plaintiff argued that an amount of R1 430 369.90 was appropriate in respect of loss of earnings, taking into account the suggested contingency deductions. I am satisfied that this is so.
7. On the draft order that was submitted to me on the 11 August 2021, there was no separation of the two heads of quantum that were requested before me and as a result I omitted to add the amount of the general damages even though I was satisfied about the documents submitted and the argument by the Plaintiff's Counsel.
8. In the order that was granted on the 31 August 2021, I omitted the amount for general damages of R840 000.00 and as a result I arrived at the total amount of R1001 258.93 instead of R1 841 258.93. This amount was arrived at as a result of the initial settled merits of 70/30% between the plaintiff and the defendant.
9. The order made by myself on the 31 August 2021 is thereon *mero motu* varied in terms of rule 42(1)(b) to include omitted amount of general damages of R840 000.00 on the said order.

1. I make an order in terms of the draft which appears at page 0080 on Caselines, subject to the inclusion of the following:

2. General damages of R840 000.00;
3. Loss of earnings of R1 001 258.93;

4. The total amount of R1 841 258.93 will be subject to 70/30% deduction in favour of the plaintiff;
5. The defendant is ordered to pay R1 841 258.93 for general damages and loss of earnings to the plaintiff.
6. A copy of the finalised order, initialed by me, will be uploaded onto Caselines and delivered to the parties by email.



T.R MAKWEYA

Acting Judge of the High Court, Pretoria

APPEARANCES:

For the plaintiff: Adv. C NELL

Instructed by: CORNE' NELL INCORPORATED ATTORNEYS

For the defendant: No appearance

Attorneys of record: None

Date of hearing: 11 AUGUST 2021

Date of judgment: 07 October 2021