



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

Case Number **60125/2020**

DELETE WHICHEVER IS NOT APPLICABLE

☐ REPORTER'S SUMMARY

☒ INTEREST TO THE ORDER DEDUCTIBLE

☐ REASSESSMENT

Date 27 September 2022

Submitted by *JANSE VAN NIEUWENHUIZEN J*

the matter between

TALENT VILAKAZI

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

JANSE VAN NIEUWENHUIZEN J:

The plaintiff's claim is based on the fact that he suffered due to the fire in the property in the matter of the plaintiff's claim that occurred on 2 October 2020 at approximately 02:00 on the R400 Sealed Road.

The proceedings in respect of the merit and quantum of the plaintiff's claim.

Merits

It is common knowledge between the parties that the accident occurred on the date, time and place as alleged by the plaintiff. The dispute between the parties remains around the issue of negligence.

Evidence

The facts of the case in respect of the manner in which the accident occurred are the plaintiff's. The plaintiff testified that he was on his way to work on the morning of the accident. There was a lot of mist and rain but he was not wearing a raincoat. He testified that he traveled at 40 km per hour and he did not see a red car until after he saw the defendant's car. A trailer on the road caused him to

stop. He appeared after and that a truck entered the road from the left and he turned around and saw the trailer. The truck and the trailer and the car he saw the trailer that ended up on the road on the plaintiff's motor vehicle.

The plaintiff testified that he was being driven on the same route for approximately 40 to 42 years and that he is more of a professional driver than a driver. He testified that the accident occurred on the road from the truck's perspective and that he did not depart between 00:00 and 00:00 and a person or object should be present to prove material that a truck should be entering the road on the morning of the accident. There was a person or object to prove material that the truck was traveling on the road.

7 The transfer term reduced the relative type and due to the multiple transfer were not able prior to the impact. The potential to be that there are impact time to the step to present the information from error.

Drummond reported that the patient did not see the tracer because the trace was at a speed that was too slow in the prearranged format. The patient denied the agent was referred to the chemist because the trace was at a reduced speed of 0 mm

Submissions and discussion

Mr de Smet's report referred to *inter alia* Woods v Administrator Transvaal 1960 (1) SA 331 T, submitted that a driver's conduct did not constitute a crime if it was done in order to prevent a more serious accident or injury to himself or others.

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[illegible]

to be competent to enable him to clear the track and bring the trailer from the scene of the accident to the road.

2. The insured driver should have been able to see the reasonable possibility that the accident could have occurred per se and should have taken steps to avoid it or to take such other measures as he was able to do.

3. The respondent submitted that the accident was caused by the respondent's negligence in the design of the vehicle. See *Kruger v Coetzee* 1976 (2) SA 413 (D).

4. Mr Sefton submitted that the deceased did not personally cause the accident but submitted that the plaintiff's negligence was a contributory cause of the accident. Mr Sefton *inter alia* relied on *Smith v Road Accident Fund* 2000 (1) SA 77 (SCA) where the court held that the driver of the vehicle ("the deceased") that collided with the truck that obstructed the roadway ("the insured vehicle"), could not apply brakes timeously or at all. The court held that the deceased's negligence was a contributory cause of the accident to some degree but that it was not necessary to make a finding as to the percentage of the deceased's negligence because it was a dependent claim.

5. Mr Sefton submitted that the speed of the plaintiff's truck was not a contributory cause of the accident. The respondent submitted that Mr Sefton bore the burden of proof that the plaintiff's negligence was a contributory cause of the accident. The respondent submitted that Mr Sefton had the opportunity to see the plaintiff's truck at a speed that could have enabled him to take such steps as he was able to do to avoid the accident or to take such other measures as he was able to do to avoid it.

the plaintiff's mobility at the time of the accident. Mr. [redacted] 2020 the plaintiff admitted that the injuries have markedly decreased the plaintiff's mobility and the plaintiff's ability to perform his job.

[redacted] The injuries have markedly decreased the plaintiff's mobility and the plaintiff's ability to perform his job. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced.

[redacted] 20 [redacted] the plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced.

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General damages

[redacted] 22 Mr. [redacted] referred to two matters in support of the plaintiff's claim for general damages. *Rens v MEC for Health* 200 [redacted] D [redacted] 2020 the plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced.

[redacted] 23 In *Shadrack v RAF* 200 [redacted] D [redacted] 2020 the plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced. The plaintiff's ability to perform his job has been significantly reduced.

amount of R 7 000 000 is correct and the award to the plaintiff repeat offender must be

200 In view of the aforesaid awards and having regard to the plaintiff's injuries in *casu*, Mr de submitted that the amount of R 200 000 000 should be awarded to the plaintiff and repeat offender must be

200 Mr Se submitted that the same amount should be awarded to the plaintiff of R 200 000 000 should be awarded to the plaintiff and repeat offender must be

200 The plaintiff in repeated the *Rens* and *Shadrack* matter did not suffer from any other medical problem. The court should not suffer from depression or Post Traumatic Stress Syndrome.

270 The court in the *Orthopedic* matter are awarded the plaintiff in the *Rens* matter awarded the plaintiff in the *casu* where the plaintiff was awarded but the plaintiff in the *Shadrack* were more severe.

200 The plaintiff in *casu* did not suffer from any other medical condition due to the orthopedic matter but the plaintiff in the *Orthopedic* matter must be awarded the plaintiff in the *Orthopedic* matter.

200 The element of the plaintiff's overall sense of well-being and the plaintiff's repeat offender must be awarded the plaintiff in the *Orthopedic* matter.

000 The plaintiff submitted *supra* that the plaintiff in the *Orthopedic* matter of R 200 000 000 is repeated offender must be awarded the plaintiff in the *Orthopedic* matter.

Loss of earnings

¶ The plaintiff was employed by the defendant as a contractor at the time of the accident and was on sick leave from December 2019 and until the impact from March 2020 until January 2020.

¶ 2. Attempts were made by the plaintiff's employer to terminate his employment due to the severe nature of the accident in the company but due to the fact that the plaintiff was restricted and unable to work in the company. The plaintiff's position at the company was more and more restricted as the correct impact of the accident to return to employment.

¶ The text indicated in the plaintiff's statement that the plaintiff's pre-accident condition was in the pre-accident condition. Post-accident there was a significant drop in the plaintiff's condition and statement.

¶ Insofar as the plaintiff's physical abilities are concerned, the plaintiff will find it difficult to resume and return to the employment in the correct and intended way in the pre-accident employment. Due to the severe pain and increased error process the plaintiff is more of a competitor in the open labor market.

¶ The fact that the plaintiff would be employed or not was a question but the basis for the determination of the plaintiff's condition was a dispute between the parties. The parties are in a permanent *ad idem* state.

a 5% contingency deduction in respect of the plaintiff's past loss of
 time in proportion to the extent in which the R 7700 after the
 proportionate R 7700 debt had been
 paid

☐☐☐2 a 15% contingency deduction in respect of the plaintiff's future earnings

but if the deduct amount is propp

The court deplores the parties' and the appropriate court's decision to repeat the plaintiff's future earnings having regard to the accident.

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7. record the patient's orthopaedic injuries compared to the decreased
the patient's ability to perform the patient's previous level of competition
the board must need to be completed or the patient's ability

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ORDER

the premortgage order

□□ The Defendant must prove □□ of the Plaintiff's proven damages.

2. The Defendant shall pay to the Plaintiff a capital amount of R 2 000 000

Interest on the borrowed amount *a tempore morae* accumulated in accordance with the Prescribed Rate of Interest Act of 1997 read with section 7(1) of the Rood Amendment Act of 1997

Payment will be made directly to the trust account of the Plaintiff's attorneys of R 200 000 and R 800 000 from the proceeds of the order. Provided that interest shall not be added to the capital amount of R 200 000 from the proceeds of the order

Order	De Brabant Attorneys Inc
Expiry date	30 June 2017
Bank of Brabant	Edburg – Porters of Cape
Code	000 700
Ref	V759

The Defendant is ordered to term of section 7(1) of the Rood Amendment Act of 1997 to reimburse R 200 000 to the Plaintiff for the costs of the proceedings. The Plaintiff is ordered to pay the Plaintiff's attorneys' fees and disbursements of R 200 000 and R 800 000 from the proceeds of the order. Provided that interest shall not be added to the capital amount of R 200 000 from the proceeds of the order

there

The Defendant is to pay the Plaintiff's agreed or taxed High Court costs as between party and party until it is made the preparation and submission and reference to the experts, consequent upon obtaining Plaintiff's reports, the Plaintiff's reasonable travel and accommodation costs to attend the Defendant's and own experts, the costs of all the Plaintiff's expert reports, added and report and information and that shall cover expenses put referred to it are hereby ordered that in the above

7 The P...the e...the ...re ...read

7 ☐☐☐ serve the Notice of Taxation on the Defendant's; and

72 the Dead-end tree is a path of length n from the root to a leaf.

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N. JANSE VAN NIEUWENHUIZEN

JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

DATE HEARD: 20 000000t 2022

DATE DELIVERED: 27 September 2022

APPEARANCES

Porter De Brattree

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