

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

CASE NO: 68585/2019

REPORTABLE: NO
OF INTEREST TO OTHER JUDGES: NO
REVISED.
22 APRIL 2022

In the matter between:

V ROLOMANE

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

DATE OF JUDGMENT: This judgment was handed down electronically by circulation to the parties' representatives by email. The date and time of hand-down is deemed to be 10h00 on **22 APRIL 2022**.

JUDGMENT

KHASHANE MANAMELA, AJ

Introduction

[1] The Plaintiff, Mr Vuyani Rolomane, was injured in a motor vehicle accident on 21 July 2018. He was about 37 years' old at the time. He was born on 9 February 1981. The accident occurred at or near the intersection of Moloto road and

Spioenkop Street, Kameeldrift, Pretoria. His motor vehicle collided with a bus. The registration details of the bus and the driver were unknown to him at the time of issuing summons. He sustained injuries in the accident, including a C4 fracture with post-traumatic spondylolisthesis, cuts and bruises. He blames the negligent driving of the unknown driver (the insured driver) of the bus. He sued the Road Accident Fund (RAF) as the liable entity in terms of the Road Accident Fund Act 56 of 1996 (the RAF Act). He caused summons to be issued against RAF on 12 September 2019 claiming damages he allegedly suffered as a result of the accident under various heads of damages in the amount of R650 000. RAF defended the action, denied liability and pleaded contributory negligence on the part of the Plaintiff, apart from raising special pleas to do with the claim for special damages.

[2] The matter was enrolled for trial and it came before me - through a virtual link - on 26 November 2021. Mr W Botha virtually appeared for the Plaintiff and there was no appearance for RAF. Proof of service of the notice of set down directly on RAF has been filed. RAF appears to be now represented by the State Attorney after parting ways with its earlier appointed attorneys. At the trial, Mr Botha applied that RAF's defence against the claim be struck out due to its failure to comply with the rules and practice of this Court. The order sought was foreshadowed by another order granted by Vuma, J on 29 July 2021 in which the Plaintiff was authorised to apply for the striking out of RAF's defence should RAF persists in its non-compliance. I do not really think that much purpose would be served by such an order at this late stage. Besides the matter was heard on a default judgment basis, due to the non-appearance of RAF at the trial.¹ This judgment was reserved after the Court had listened to brief oral submissions by counsel for the Plaintiff, who has also gratefully filed written argument or submissions.

Evidence and submissions on behalf of the Plaintiff

¹ Uniform Rule 39 reads as follows in the material part: "(1) If, when a trial is called, the plaintiff appears and the defendant does not appear, the plaintiff may prove his claim so far as the burden of proof lies upon him and judgment shall be given accordingly, in so far as he has discharged such burden. Provided that where the claim is for a debt or liquidated demand no evidence shall be necessary unless the court otherwise orders.

(2) When a defendant has by his default been barred from pleading, and the case has been set down for hearing, and the default duly proved, the defendant shall not, save where the court in the interests of justice may otherwise order, be permitted, either personally or by an advocate, to appear at the hearing." [underlining added for emphasis]

General

[3] Counsel for the Plaintiff submitted that the issues for determination was with regard to the merits or liability of RAF and the Plaintiff's loss of earnings or earning capacity. The issues relating to the general damages are to be postponed *sine die*. Further, RAF is to be ordered to furnish the Plaintiff with an undertaking in terms of section 17(4)(a)² of RAF Act regarding the Plaintiff's future medical and hospital care.

Merits or liability

[4] Regarding the merits or liability counsel for the Plaintiff submitted that RAF ought to be held liable for 100% of the proven or agreed damages suffered by the Plaintiff. He quoted from the particulars of claim and the affidavit deposed to by the Plaintiff. Both these documents are to the effect that the collision occurred when a bus (with unknown registration number driven by an unknown driver) tried to overtake the Plaintiff's motor vehicle "from [the] right hand side [of the motor vehicle driven by the Plaintiff] and collided with the right front side of [the Plaintiff's] vehicle", which led to the Plaintiff losing control and his motor vehicle overturning". Counsel further referred to the accident report which stated that "[t]he driver of vehicle A [i.e. the Plaintiff] alleged that he was avoiding to collide with the bus and turned to the east side as the bus hit the right mirror then the vehicle overturned". The sketch plan included seems incomplete as it does not show the vehicles and point of impact. There is also no indication of whether the impugned road had more than one lane towards the same direction. Further, there does not seem to be an indication of the speed at which the Plaintiff's vehicle was travelling. But nothing would turn on these. Considering that no driver or motor vehicle has absolute rights when using our roads and that drivers are urged to exercise reasonable vigilance in their driving, including with regard to speed and unexpected conduct of other drivers,³ I would allow the

² Section 17(4)(a) of the RAF Act reads as follows: "(4) Where a claim for compensation under subsection (1)(a) includes a claim for the costs of the future accommodation of any person in a hospital or nursing home or treatment of or rendering of a service or supplying of goods to him or her, the Fund or an agent shall be entitled, after furnishing the third party concerned with an undertaking to that effect or a competent court has directed the Fund or the agent to furnish such undertaking, to compensate (i) the third party in respect of the said costs after the costs have been incurred and on proof thereof; or (ii) the provider of such service or treatment directly, notwithstanding section 19 (c) or (d), in accordance with the tariff contemplated in subsection (4B)".

³ See generally, Klopper, HB. *RAF Practitioners Guide*, LexisNexis online version (last updated: September 2021).

Plaintiff to recover 90% of his proven or agreed damages from RAF. This degree of apportionment also seems fair and appropriate considering the circumstances of this matter.

Loss of earnings or earning capacity

[5] The Plaintiff filed reports by the following experts: Dr LF Oelofse and Dr MB Deacon (orthopaedic surgeons); Mr Leon Roper (a clinical psychologist); Dr JA Smuts (a neurologist); Dr JH Kruger (a neurosurgeon); Ms Gerda Cilliers (a physiotherapist); Dr K Roux (a psychiatrist); Ms Susan Verhoef (an occupational therapist); Mr Friedl van der Westhuizen (an industrial and counselling psychologist), and Mr J Sauer (an actuary). The experts had prior to the trial deposed to affidavits in terms of which they confirmed their qualifications and the opinions or contents of their medico-legal reports filed on behalf of the Plaintiff.

Leon Roper (clinical psychologist)

[6] Mr Leon Roper, the clinical psychologist assessed the Plaintiff on 15 January 2020, exactly 2 years after the Plaintiff was involved in the accident on 21 July 2018. Mr Roper had access to clinical and hospital records, as well as the documents lodged with the RAF 1 form. He reported that the Plaintiff was born in Colesberg, Northern Cape, but was raised in Mamelodi, Pretoria. His parents relocated from Northern Cape to Pretoria due to work commitments. He stays in Mamelodi with his live-in partner and their two children and a granddaughter. The Plaintiff commenced schooling at the age of 11 years, due to him having assisted or worked on his maternal grandmother's farm. He left school after failing grade 10 as he felt he was too old.

[7] His occupational or work history was reported as follows by the clinical psychologist. He has been employed since the age of 21 years as a part-time bricklayer and left this position after a year due to poor remuneration. He, thereafter, held other jobs as a mechanic assistant (for about five years); field service mechanic (for about five years); mechanic (for about four years); motor mechanic (at the time when he was involved in the first motor vehicle accident in 2015, was demoted due to experiencing physical pain and lost the job when the contract lapsed after a year). Further, he was employed as a mechanic for about a year as a large machinery

mechanic (when he was involved in the current accident and was absent from work for about two months). When he returned to work he was re-assigned to doing sweeping work and paperwork, but three months later he resumed mechanical work. He left the latter employer in November 2019, due to what he considered to be the employer's lack of understanding of his physical constraints. When he was assessed by Mr Roper the Plaintiff was unemployed and searching for employment.

[8] The Plaintiff has had asthma since the age of 15 years and in 2019 he was diagnosed with tuberculosis and received treatment for a period of six months. As already stated above, the Plaintiff was involved in another motor vehicle accident in April 2015 in terms of which he was taken by ambulance to Montana hospital where he was treated and released the same day. He sustained injuries to his head and right elbow in this 2015 accident.

[9] His complaints included for physical pain to his spine when sleeping, sitting or standing for prolonged periods of time, inability to turn his neck and physical pain to his left leg. Upon enquiry by the clinical psychologist, the Plaintiff complained of the following: pain to his entire back; pain to his neck; decreased rotation to his neck; pain to his left hip; pain and weakness to his left arm; pain to his left hand; itchiness to his left hand and lower left arm; inability to lift heavy objects; decreased ability to sit, stand or walk for prolonged periods of time; difficulty bending over; decreased ability to perform household chores or do gardening; difficulty sleeping; inability to play soccer and unemployment.

[10] Mr Roper concluded that the Plaintiff has been rendered psychologically more vulnerable as a result of his involvement in the accident. The accident has resulted in a deterioration of the Plaintiff's psychological function, due to psychological response to the trauma of the accident and his reported on-going experiences of pain and associated unemployment. The Plaintiff psychological symptoms indicated that he was suffering from symptoms of a post-traumatic stress disorder and symptoms of a major depressive disorder. Mr Roper recommended, among others, psychotherapy.

Dr LF Oelofse and Dr MB Deacon (orthopaedic surgeons)

[11] Dr LF Oelofse and Dr MB Deacon, orthopaedic surgeons, examined the Plaintiff on 27 February 2020. They significantly recorded the same complaints as those reported by the Plaintiff to Mr Roper, the clinical psychologist.

[12] They also reported that the Plaintiff was transported from the scene of the accident to the Tshwane district hospital and immediately transferred to Steve Biko academic hospital. Upon arrival at the hospital his Glasgow Coma Scale or GCS was scored at 15/15. Upon examination by the orthopaedic surgeons the following was recorded: decreased power in both upper limbs (grade 3/5); decreased upper limbs reflexes, and hyperaesthesia over the C6-T1 dermatomes. Further, the x-rays taken revealed the following: anterolisthesis; C4 lamina fracture; C5 superior facet fracture, and narrowed C4-5. A magnetic resonance scan (MRI) was also conducted and the following was revealed: C4/5 bifacet fracture dislocation; posterior ligament disruption, and disc herniation and oedema.

[13] The orthopaedic surgeons opined that the Plaintiff has a high probability to have chronic neck pain for the rest of his life. Also, that he has high possibility/even probability for adjacent level surgery.

[14] Further, Drs Oelofse and Deacon opined that the Plaintiff ought to be accommodated in a permanent labour duty and neck friendly working environment in any future employment, as determined by the Plaintiff or a therapist. Also, that regardless of the treatment rendered the Plaintiff would always have a permanent deficit. This makes him an unfair competitor in the open labour market. The Plaintiff must not be allowed to do physical labour, they also concluded.

Dr JA Smuts (neurologist)

[15] Dr JA Smuts, a neurologist, examined the Plaintiff on 25 March 2020. The Plaintiff repeated almost the same complaints as with the other experts, above. Dr Smuts opined that the Plaintiff “possibly sustained no or at most mild concussive head injury”. He further opined regarding loss of income that the Plaintiff has significant physical, but also emotional problems for which he deferred to the opinion of a psychologist and occupational therapist.

Dr JH Kruger (neurosurgeon)

[16] Dr JH Kruger, a neurosurgeon, examined the Plaintiff on 6 March 2020. Dr Kruger observed that the Plaintiff walked with a slight limp on the left-hand side. He further noted the following complaints from the Plaintiff: neck pain and cervicogenic headaches; pain in the left anterior superior iliac crest area, and psychological/psychiatric complaints. Upon enquiry, Dr Kruger was advised by the Plaintiff that he had not been involved in a prior motor vehicle accident. The neurosurgeon observed a 10 cm surgical scar left anterior, superior iliac crest, and 5 cm surgical scar right anterior triangle of the neck. Under future medical costs, Dr Kruger stated that the Plaintiff has a 30% chance of future cervical spine surgery to the adjacent levels, due to the previous neck injury sustained in the accident.

[17] The outcomes of the neurosurgical diagnosis are reported, among others, by Dr Kruger as follows: chronic neck pain associated with neck muscle spasm, cervicogenic headaches, and weakness in the left arm; symptoms of post-traumatic stress disorder/symptoms of depression/symptoms of travel anxiety related to the injuries sustained in the accident, the chronic pain and the fact that the Plaintiff is currently unable to work, and altered ability to work in the open labour market. The neurosurgeon rated the whole person impairment or WPI regarding the cervical spine neck injury at 30% and the upper extremity central nervous system dysfunction at 5%. He further stated that the accident was a watershed event in the life of the Plaintiff. Further, that the Plaintiff has struggled with psychological/psychiatric complaints, physical complaints, social complaints and occupational complaints due to the injuries he sustained in the accident. The accident had a severe impact on many aspects of the life of the Plaintiff. Dr Kruger provided an *addendum* report in which he appears to have remained steadfast in his opinions expressed earlier in the main report.

Gerda Cilliers (Physiotherapist)

[18] Ms Gerda Cilliers, a physiotherapist, assessed the Plaintiff on 26 February 2020. Ms Cilliers reported that according to the Plaintiff he sustained bruises over his frontal skull and right wrist in the previous motor vehicle accident in 2015, but did not experience any discomfort to his right wrist after the accident in 2015. Ms Cilliers opined that the Plaintiff is unsuited for employment as a mechanic and suggested

that the Plaintiff seeks employment in the sedentary work demands level. Also, that the Plaintiff does not meet the demands for walking and standing within the life and work demands levels.

Dr K Roux (psychiatrist)

[19] Dr K Roux, a psychiatrist, examined the Plaintiff on 28 July 2020. Dr Roux noted the complaints of the Plaintiff as significantly appearing above under the other expert witnesses. He opined that the Plaintiff needs urgent psychiatric treatment for major depression and on-going psychiatry and psychotherapy treatment.

Ms Susan Verhoef (occupational therapist)

[20] Ms Susan Verhoef, an occupational therapist, evaluated the Plaintiff on 19 February 2020. She noted largely the same complaints as those reported by the other expert witnesses above. Also, that the Plaintiff mentioned that the pain in the left hip interferes with his sleep as he cannot sleep on the left side.

[21] Ms Verhoef was told by the Plaintiff that he is also able to drive a TLB, operate an excavator and drive a forklift, but he does not have the necessary licences to drive any of these vehicles.

[22] She opined that post-accident the Plaintiff was accommodated in the work setting with less physical demands, but still required work that fell in the light and medium category with an occasional need to do heavy work. This work continued to require work on different levels and different postures.

[23] Ms Verhoef concluded that the objective evaluation has indicated that the Plaintiff does not have the physical capacity to return to his pre-accident or similar work nor to work similar to his post-accident accommodated position. Overall, she opined that the Plaintiff is now best suited for work setting sedentary and low physical demands with limited requirements of postural endurance and taking in different postures. He is however not qualified for such work nor does he have any work experience in such a direction, Ms Verhoef concluded.

Friedl van der Westhuizen (industrial and counselling psychologist)

[24] Mr Friedl van der Westhuizen, an industrial and counselling psychologist, assessed the Plaintiff on 5 March 2020 with regard to the effects of the accident and its *sequelae* on the Plaintiff's employability and earning capacity. He reported that the Plaintiff was admitted at Steve Biko Academic Hospital from 21 July 2018 and discharged on 30 July 2018.

[25] The Plaintiff reported to Mr Van der Westhuizen the same complaints as he did with the other expert witnesses. Mr Van der Westhuizen obtained collateral information from the Plaintiff's last employer, Mr Charl. Mr Charl stated, among others, the following: that there were a few problems with the Plaintiff with regard to his work prior to the accident; that the dismissal of the Plaintiff in November 2019 was due to reasons unrelated to the accident; that the Plaintiff was dismissed due to poor performance and not as a result of the accident; that the Plaintiff's performance was more or less the same pre-and post-accident, and that the Plaintiff would have remained a mechanic assistant as he does not have the necessary qualifications to be promoted.

[26] Mr Van der Westhuizen opined as follows regarding the Plaintiff's loss of earnings. The Plaintiff, but for the accident, would probably have been able to continue working in the open labour market as a mechanic assistant or unqualified field service mechanic and should he, for any reason, had lost his work it is likely that he would have had no difficulty in securing similar or alternative work considering his extensive experience, earning in line with his pre-accident position and with annual inflation increases until the normal retirement age of 65. The industrial psychologist had considered all available information, including the Plaintiff's grade 9 level of education, employment history and his age when he met the accident (i.e. 37 years).

[27] Post accident the industrial psychologist opined that from a practical occupational application point of view, the Plaintiff has been rendered functionally unemployable in the open labour market with a subsequent full future loss of earnings from the time of his dismissal until the time and age of 65.

Mr Johan Sauer (actuary)

[28] Mr Johan Sauer, an actuary, was retained to provide an actuary calculations regarding the plaintiff's loss of earnings or any capacity. Mr Sauer provided the following calculations:

[28.1] past earnings:

- had the accident not occurred:
R369 167 (past loss of earnings)
- R 18 458 (less 5% contingency deduction)

= R350 709 (total loss of earnings)

- now that the accident has happened:
R222 222 (past loss of earnings)
- R 11 111 (less 5% contingency deduction)

R211 111.00

= R139,598 (total loss of past earnings)

[28.2] future earnings:

- had the accident not occurred:
R3 150 405 (future earnings)
- R315 041 (less 10% contingency deduction)

= R2 835 365 (total loss of future earnings)

- now that the accident has happened:
R0 (future loss of earnings)
- R0 (less 0% contingency deduction)

= R2 835 365 (total loss of future earnings)

[28.3] R 2 974 963 (R139,598 (total loss of past earnings))
R2 835 365 (total loss of future earnings)

Submissions on behalf of the Plaintiff

[29] Counsel for the Plaintiff made submissions with regard to the evidence of the expert witnesses appearing above. Therefore, under this part only some of the submissions by counsel will be referred to in order to avoid unnecessary repetition.

[30] Counsel submitted that the Plaintiff was dismissed in November 2019 following a disciplinary hearing by his last employer. But counsel, relying on the views expressed by the industrial psychologist, submitted that in practice most employees are reluctant and many times afraid to openly complain about their pain and discomfort due to physical and psychological limitations after an accident or operative or medical procedures or illness and would rather suffer in silence to avoid employer bias and possibly disciplinary action and eventual retrenchment or termination of service, as well as having to have a job to at least secure the financial gain in their households. Counsel further points out (still relying on the industrial psychologist and the other experts) that it is expected and accepted that the Plaintiff would probably never be able to return to his pre-accident or similar work, nor be able to work in a position similar to his reported post-accident accommodative position. Also, that from a practical occupational application point of view, the Plaintiff has been rendered “functionally unemployable” in the open labour market with a subsequent full further loss of earnings from the time of his dismissal until the retirement age of 65 years, as concluded by the industrial psychologist concludes.

[31] Regarding the application of contingency deductions counsel’s submissions included the following. Counsel referred the Court to the decision in *Gwaxula v Road Accident Fund*⁴ in which it was held that: “[i]t is now well-settled that contingencies, whether negative or positive, are an important control mechanism to adjust the loss suffered to the circumstances of the individual case in order to achieve equity and fairness to the parties [and further that] [t]here is no hard and fast rule regarding contingency allowances”.⁵ Further, that according to the learned author Koch stated that “[g]eneral contingencies cover a wide range of considerations which may vary from case to case and may include: taxation, early death, saved travel costs, loss of

⁴ *Gwaxula v Road Accident Fund* (09/41896) [2013] ZAGPJHC240 (25 September 2013).

⁵ *Gwaxula v Road Accident Fund* at par 25.

*employment, promotion prospects, divorce, etc. There are no fixed rules as regards general contingencies.”*⁶

[32] Counsel has urged the Court, as I understood his submissions, to apply to the Plaintiff’s postulated future earnings (had the accident not occurred) in the amount of R3 150 405, a slightly higher contingency of 15% in the amount of R472 560.75 instead of the 10% applied in terms of the actuarial calculation in the amount of R315 041. The result is a total future loss of earnings in the amount of R2 677 844.25.

Conclusion

[33] I note with the views expressed by the expert witnesses, prominently so by the industrial psychologist, that due to the accident the Plaintiff has been rendered “functionally unemployable” in the open labour market and therefore has suffered a full future loss of earnings from the time of his dismissal until the age of 65. However, I think postulating a zero income in respect of the Plaintiff’s future prospects now that the accident has happened seems inequitable. There is a slight possibility that the Plaintiff may use his driver’s licence amidst his lack of academic qualifications to earn a living. Even if he cannot do that his lack of prospects may not be completely attributed to the accident. The Plaintiff lost his last employment, according to his employer and the Plaintiff himself, after a disciplinary process. The impact, if any, of the injuries suffered by the Plaintiff in the 2015 accident, has not been fully investigated beyond the Plaintiff’s say so. These issues are not insignificant. I would, therefore, apply a slightly higher contingency to the future loss of earnings, even more than the 15% suggested by counsel, being 20%. This would amount to R2 520 324 (being R3 150 405 less R630 081 (i.e. 20% contingency)). This amount will be further reduced by the 10% contributory negligence in the cause of the accident I attributed to the Plaintiff’s driving to the amount of R2 268 291.60.

[34] Therefore, I will award to the Plaintiff the total amount of R2 407 889.60 in respect of both past loss of earnings (in the amount of R139 598) and future loss of

⁶ Koch, *The Quantum Yearbook* (2011) at 104, as quoted in *Gwaxula v Road Accident Fund* at par 25.

earnings in the amount of R2 268 291.60. Costs will follow this outcome as fully set out below.

Order

[35] In the premises, I make the order, that:

- a) the Defendant is ordered to pay 90% of the Plaintiff's proven or agreed damages;
- b) the Defendant shall pay to the Plaintiff the sum of R2 407 889.60 (two million four hundred and seven thousand eight hundred and eighty nine rand and sixty cents) in respect of the Plaintiff's loss of earnings or earning capacity;
- c) in the event of either of the amount in b), e) and h) hereof not being paid timeously, the Defendant shall be liable for interest on the amount at the rate, as prescribed by the government gazette, calculated from 180 calendar days after the date of the order or the date of *allocator* or agreement, whichever is applicable, to date of payment;
- d) the Defendant is ordered to pay the Plaintiff's taxed or agreed party and party costs at the High Court scale, subject to the discretion of the taxing master, which costs will include, but will not be limited to the following:
 - i) costs for 17 August 2021 and 26 November 2021;
 - ii) the reasonable costs of counsel, including counsel's charges in respect of 17 August 2021 and 26 November 2021, as well as for preparation and drafting of heads of argument;
 - iii) the costs of the attorney which shall include preparation for trial and previously reserved costs and costs of travelling and time spent in relation to inspections held;
 - iv) the costs of all medico-legal, actuarial, RAF4's and addendum

reports obtained by the Plaintiff, as well as all expert reports furnished to the Defendant and/or to the knowledge of the Defendant and/or its attorneys, as well as all reports in their possession and all reports contained in the Plaintiff's bundles, irrespective of the time elapsed between any report by an expert;

v) the reasonable and taxable preparation, qualifying and reservation fees, in such amount as allowed by the taxing master, of the experts retained by the Plaintiff including the following experts and their damages affidavits, the drawing, commissioning, and copies of their reports annexed to the affidavit:

- 1) Dr LF Oelofse and Dr MB Deacon (orthopaedic surgeons);
- 2) Mr Leon Roper (a clinical psychologist);
- 3) Dr JA Smuts (a neurologist);
- 4) Dr JH Kruger (a neurosurgeon);
- 5) Ms Gerda Cilliers (a physiotherapist);
- 6) Dr K Roux (a psychiatrist);
- 7) Ms Susan Verhoef (an occupational therapist);
- 8) Mr Friedl van der Westhuizen (an industrial and counselling psychologist), and
- 9) Mr J Sauer (an actuary.

vi) the costs and expenses incurred of transporting the Plaintiff to and from the medico-legal examinations;

vii) the costs consequent to the Plaintiff's trial bundles and witness bundles, including the costs of copies thereof, including the costs to upload the bundles on CaseLines;

viii) the costs of holding all pre-trial conferences, judicial management meetings and preparation thereto, as well as round table meetings between the legal representatives for both the Plaintiff and

the Defendant, including counsel's charges in respect thereof where justified;

ix) the costs of and consequent to compiling all minutes in respect of pre-trial conferences, including counsel's charges where justified;

x) the costs involved in attending judicial court meetings, as well as preparation and costs of and consequent to compiling all minutes in respect thereof, including counsel's charges where justified;

xi) the reasonable costs of an interpreter;

xii) cost and expenses of the Plaintiff who is hereby declared a necessary witness.

e) the Defendant is ordered to pay the Plaintiff's taxed and/or agreed party and party costs within 14 days from the date upon which the accounts are taxed by the taxing master and/or agreed between the parties;

f) The amounts referred to in b), c) and d) hereof shall 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	:	FN2146

g) it is recorded that there is a contingency fee agreement applicable in this matter.

h) the Defendant shall furnish the Plaintiff with an undertaking in terms of section 17(4)(a) of the Road Accident Act 56 of 1996, limited to 90% in

respect of the costs of the future accommodation of the Plaintiff in a hospital or nursing home, or treatment of or rendering of service or supplying of goods to the Plaintiff, after the costs have been incurred and on submission of proof thereof resulting from the injuries sustained by the Plaintiff during and as a result of the accident that occurred on 21 July 2018;

i) the issues relating to general damages are postponed *sine die*.

Khashane La M. Manamela
Acting Judge of the High Court

Date of Hearing : 26 November 2021

Date of Judgment : 22 April 2022

Appearances:

For the Plaintiff : Mr W Botha

Instructed by : Van Niekerk Attorneys Inc,
c/o Nel Attorneys, Pretoria

For the Defendant : No appearance