

THE REPUBLIC OF SOUTH AFRICA



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

Case no: 67254/2021

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED. [REDACTED]
03 OCTOBER 2024	
DATE	SIGNATURE [REDACTED]

In the matter between:

DERCKSEN C J

Plaintiff

And

ROAD ACCIDENT FUND

Defendant

J U D G M E N T

MAKHOB A, J

- [1] The plaintiff instituted an action against the defendant for damages suffered as a result of injuries sustained in a motor vehicle accident that occurred on 9 January 2019.
- [2] The only issue before court is merits. The issue of quantum is to be postponed *sine die*.
- [3] On the date of trial the defendant was not represented and an attempt to settle the matter did not yield any results. Counsel addressed the court, and the court asked him to file heads.
- [4] During submissions by counsel he handed an affidavit by the plaintiff (CaseLines 05-3) setting out under oath how the accident happened.
- [5] It is trite that the onus rests on the plaintiff to prove his case on balance of probabilities see *Pillay v Krishna*, 1946 SA 946.
- [6] In his affidavit, plaintiff says the following "I cannot remember how the accident happened and or the mechanisms surrounding the accident. I also cannot remember whether or not I was a driver or passenger at the time of accident".
- [7] The plaintiff's affidavit is the only evidence under oath in respect of merits.
- [8] Counsel for the plaintiff contradicted the above affidavit in his heads of argument. He submits as follows (CaseLines 19-3) " 2.5 From the available evidence, it is clear that no negligence can be attributed to the Plaintiff as the Plaintiff was a passenger in the vehicle when the accident occurred between the first and second insured drivers.."
- [9] In my view the submissions by counsel for the plaintiff are not supported by available evidence uploaded on CaseLines.