

SOUTH AFRICA / JUDGMENT

G.C. obo Minor Child v Mec for Education Gauteng (09548/2016)

[2024] ZAGPJHC 797 (12 August 2024)

[2024] ZAGPJHC 797

COURT

South Gauteng High Court, Johannesburg

BEFORE

Allen

CASE / FILE NUMBER

09548/2016

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Policy

IN THE HIGH COURT OF

SOUTH AFRICA

(GAUTENG LOCAL

DIVISION, JOHANNESBURG)

1.

REPORTABLE:

NO

2.

OF INTEREST TO

OTHER JUDGES: NO

3.

REVISED.

12

August 2024

Case No: 09548/2016

In the matter between:-

G[...]

C[...] obo MINOR CHILD

Plaintiff

and

THE

MEC FOR EDUCATION: GAUTENG

Defendant
Quantum of Damages –
Loss of an eye resulting from an assault in his classroom –
merits conceded – future medical
expenses – loss of
income/earning capacity – contingency allowances –
general damages R 900 000 awarded.

JUDGMENT

ALLEN AJ

INTRODUCTION

- [1] The plaintiff is G[...] S[...], an adult female with full legal capacity who sues herein in her representative capacity as mother and natural guardian of her minor son, KM.
- [2] The defendant is The Member of The Executive Council (MEC) for Education of the Gauteng Provincial Government who is sued herein in a representative capacity as nominal defendant for all claims arising against the minor's Primary School and is the official who in terms of the State Liability Act No 20 of 1957 is responsible in law for any wrong committed by any servant of the State acting in his capacity and within the scope of his authority as such servant in the employ of the Department of Education of the Gauteng Provincial Government and thereby within the jurisdiction of this court.
- [3] In this action plaintiff claims damages from the defendant in her representative capacity arising from injuries suffered by the minor when he was injured on 15 August 2014. He was assaulted in his classroom by an educator and a pencil went into his left eye, penetrating into the brain behind the eye. The plaintiff only claims in her representative capacity on behalf of the minor and not in her personal capacity as well.
- [4] The minor was born on 23 October 2007 and 6 years and 10 months old at the time of the injury. He is now 16 years and 10 months old.
- [5] In a court order dated 15 August 2019 of the Honourable Acting Judge President Sutherland DJP it was ordered:

"1. The defendant is liable for 100% of the plaintiff's proven damages or agreed damages.

2. The issue of quantum is postponed sine die.

3. The defendant shall pay the plaintiff's taxed or agreed party and party costs (the remainder of the order dealt with costs)".
- [6] The actual merits are thereby resolved through a court order. Resulting from the fact that the merits were conceded by order of this court, I have to comply.

- [7] The matter is before me for a determination of the plaintiff's future medical expenses, loss of income/earning capacity and general damages.
- [8] No oral evidence was adduced.
- [9] The plaintiff seeks judgment against the defendant in the accumulated amount of R 9 100 000.00 as a result of the injuries he sustained.
- [10] The parties have agreed the plaintiff's future medical expenses, loss of income/earning capacity and general damages and proposed amounts for each section for me to consider. The defendant also recorded that they did not have instructions for the proposed amounts proffered.
- [11] The plaintiff filed expert reports of the following experts:
- [11.1] Dr T S Mpotoane (Specialist Neurosurgeon)
 - [11.2] Dr H J Edeling (Specialist Neurosurgeon)
 - [11.3] Mr R Macfarlane (Clinical Psychologist)
 - [11.4] Dr W T Mthembu (Specialist Ophthalmologist)
 - [11.5] Dr B van Onselen (Specialist Ophthalmologist)
 - [11.6] Dr M Vorster (Specialist Psychiatrist)
 - [11.7] Ms M Quinn (Specialist Educational Psychologist)
 - [11.8] Ms A Hofmeyer (Educational Psychologist)
 - [11.9] Ms Keyter (Occupational Therapist)
 - [11.10] Mr L Marais (Industrial Psychologist)
 - [11.11] Mr G Whittaker (Actuary)
 - [11.12] Ms M Kok (Clinical Psychologist)
 - [11.13] Dr Mashyamombe (Specialist Psychiatrist)
- [12] The defendant filed expert reports of the following experts:
- [12.1] Dr N L Jilata (Specialist Neurosurgeon)
 - [12.2] Ms Nagel (Clinical Psychologist)
 - [12.3] Dr M Molokomme (Specialist Psychiatrist)
 - [12.4] Dr G Prag (Educational Psychologist)
 - [12.5] Dr K J P Lubuya (Specialist Ophthalmologist)
 - [12.6] Ms Sebapu (Occupational Therapist)

[12.7] Ms N Kotze (Industrial Psychologist)

[13] The following joint minutes were filed:

[13.1] The joint minutes of Drs Jilata and Edeling - Specialist Neurosurgeons

[13.2] The joint minutes of Drs Mthembu and Lubuya-Specialist Ophthalmologists

[13.3] The joint minutes of Drs van Onselen and Lubuya- Specialist Ophthalmologists

[13.4] The joint minutes of Drs Vorster and Molokomme- Specialist Psychiatrists

[13.5] The joint minutes of Mrs Nagel and Mr MacFarlane - Specialist Clinical Psychologists

[13.6] The joint minutes of Ms Quinn and Dr Prag- Educational Psychologists

[13.7] The joint minutes of Ms Hofmeyr and Dr Prag- Educational Psychologists

[13.8] The joint minutes of Ms Keyter and Ms Vercueil - Occupational Therapists

[13.9] The joint minutes and addendum of Ms Keyter and Mr Sebapu - Occupational Therapists

[13.10] The joint minutes and two addendums of Mr Marais and Ms Kotze- Industrial Psychologists

THE ISSUES

[14] The issues which require determination are the quantum of the plaintiff's claim for future medical expenses, loss of income/earning capacity, general damages and the contingency deduction applicable. Notwithstanding the fact that the parties agreed on the general damages, future medical expenses and loss of income/earning capacity and also proposed amounts (albeit that defendant did not have instructions for the proposed amounts) for each respectively, it remains within the discretion of this court to allow.

THE EVIDENCE

[15] The parties are in agreement that the minor suffered a severe injury to his left eye, rendering him completely blind in the relevant eye. He also suffers a moderate brain injury due to the fact that the pencil which penetrated his eye, went into the brain causing an abscess/periosteal collection. He also suffers psychological injuries as a consequence of the event in addition to the physical injuries he suffered.

[16] The parties' expert witnesses filed reports and also filed joint minutes with their counterparts setting out the issues. The parties conceded all expert witnesses as being qualified as experts in their respective fields of expertise and accepted the reports and joint minutes presented. No oral evidence was adduced.

[17] The joint minutes of Drs Jilata and Edeling - Specialist Neurosurgeons:

[17.1] They have found no evidence of any pre-existing neurological pathological condition or disability. They agreed that the minor's life expectancy was probably not affected by the injuries. In relation to the eye injury and psychological trauma they deferred respectively to the ophthalmologists and psychiatrists. The injury to the minor's brain resulted in a post-traumatic organic neuropsychological disorder. Provision should be made for his headaches. The sequelae of his injuries resulted in permanent losses of learning capacity, employment capacity, independence, amenities and enjoyment of life.

[17.2] Dr Jilata opined that the minor suffered a mild traumatic brain injury as evidenced by the initial GCS of 15/15 that later deteriorated to 14/15 with no future risk of epilepsy.

[17.3] Dr Edeling concluded the traumatic brain injury as moderate with the resultant permanent cerebral neurological impairments significant, but of relatively mild degree. He also foresees an increased risk of late post-traumatic epilepsy estimated at a 5% to 10% lifetime risk.

[18] The joint minutes of Drs Mthembu and Lubuya-Specialist Ophthalmologists:

[18.1] They have both consulted the minor and agreed he was injured in the left eye on 15 August 2014 that rendered him totally blind in the relevant eye. They also agreed he has a lid scar, amaurotic pupil and optic atrophy in the left eye.

[19] The joint minutes of Drs van Onselen and Lubuya- Specialist Ophthalmologists:

[19.1] They agreed on the eye injury with no perception of light in the left eye with no recovery of vision possible. His whole person impairment (WPI) is 16%. He has loss of binocular vision and depth perception which will negatively influence his employability.

[20] The joint minutes of Drs Vorster and Molokomme- Specialist Psychiatrists:

[20.1] They agreed the minor suffered a traumatic experience that also affected his family. He sustained physical and psychological sequelae of this injury. He has a poor self-esteem. He has a depressive disorder that is currently in remission. He requires ongoing intermittent counselling to deal with the issues caused by his blindness in the left eye. His employment options have become limited. He is a vulnerable individual and any funds awarded should be protected by way of a trust.

[21] The joint minutes of Mrs Nagel and Mr MacFarlane - Specialist Clinical Psychologists:

[21.1] They agreed that the minor's test performances were suggestive of cognitive weaknesses. The injury resulted in reduced self-confidence, an increased sense of vulnerability and possibly mild mood disturbance. The minor's psychological effects probably undermined his educational performance, his occupational potential, social engagement and quality of life.

[22] The joint minutes of Ms Quinn and Dr Prag- Educational Psychologists:

[22.1] They agreed that their opinion on his pre-morbid cognitive potential and functioning was based on limited information. It was noted he was not performing on par with his age-related peers, but did not receive any intervention. They opined that with intervention to address

existing academic gaps he would probably pass Grade 12/NQF Level 4 with at least a certificate and thereafter to obtain a NQF 5, but for the incident. No academic reports were made available for Grades 3, 4 and 5 and therefore a better-informed decision could not be made. The minor will benefit from intervention/academic support or needs placement in a remedial school.

[23] The joint minutes of Ms Hofmeyr and Dr Prag- Educational Psychologists:

[23.1] Dr Prag noted from the post-incident re-assessment that on the Senior South African Intelligence Scale the minor's IQ fell in the average range 101, GIQ in the average range 102 and NIQ in the average range

99. Ms Hofmeyer assessed his IQ as between 70-79. (Mrs Nagel assessed his IQ as 92). Ms Hofmeyer opined that the minor's emotional and academic issues be appropriately addressed.

[24] The joint minutes of Ms Keyter and Ms Vercueil - Occupational Therapists:

[24.1] They agreed that the minor scored below average for general visual perception and visual-motor integration. The minor never received occupational therapy and they agreed that the delays and difficulties in their respective assessments should improve or partly improve with the correct therapy and treatment and before he reaches adulthood. They agreed that he is a vulnerable individual after the incident. His work will depend on his progress at school as well as, as per Ms Keyter, his ability to master academic and/or practical skills. He will benefit from occupational therapy as soon as possible. They agreed on assistive devices and maintenance assistance which were included in the future medical expenses.

[25] The joint minutes and addendum of Ms Keyter and Mr Sebapu - Occupational Therapists:

[25.1] They recommended the minor be sent for aptitude testing and career guidance by educational psychologists. His work will depend on his progress at school. He would be able to manage most occupations (sedentary, light, medium, heavy or very heavy) with the limitations pertaining to his left eye injury. He would benefit from occupational therapy.

[26] The joint minutes and two addendums of Mr Marais and Ms Kotze- Industrial Psychologists:

[26.1] They agreed that the minor requires treatment and intervention. His career choices are limited as a result of the incident. They disagreed in their opinion that an appropriately higher post-morbid contingency deduction be applied.

[27] In the matter of *Bee v Road Accident Fund*[1] it was held: 'The joint report of experts is a document which encapsulates the opinions of the experts and it does not lose the characteristic of expert opinion. The joint report must therefore be treated as expert opinion. The fact that it is signed by two or more experts does not alter its characteristic of expert opinion. The principles applicable to expert evidence or reports are also applicable to a joint report. The joint report before the court is consequently part of evidential material which the court must consider in order to arrive at a just decision'.

[28] In paragraph 29 of the same matter[2] the court quoted from S v Thomas[3] wherein the mental condition of the accused, which was in question, was enquired into by two psychiatrists and they produced reports. In respect of the experts' reports, the court said: 'When dealing with expert evidence the court is guided by the expert witness when deciding issues falling outside the knowledge of the court but within the expert's field of expertise; information the court otherwise does not have access to. It is however of great importance that the value of the expert opinion should be capable of being tested. This would only be possible when the grounds on which the opinion is based is stated. It ultimately remains the decision of the court and, although it would pay high regard to the views and opinion of the expert, the court must, by considering all the evidence and circumstances in the particular case, still decide whether the expert opinion is correct and reliable.'

[29] Plaintiff filed heads of argument whilst the defendant did not file heads.

[30] Against this background I now turn to deal with the quantum under separate headings.

FUTURE MEDICAL EXPENCES

[31] The plaintiff's expected future medical expenses are fully dealt with in the expert reports, joint minutes and the further actuarial report filed.

[32] The awards are summarized as follows in plaintiff's heads:

Corrective surgery of the estropia of the eye, calculated at
present day value

R 65 754.00

Neurological consultations and medication

R 111 076.00

Chance of epilepsy

R 55 538.00

Counselling Psychiatrists

R 56 876.00

Occupational Therapy, devices and maintenance assistance R 189 399.00

Total

R 478 643.00

[33] The defendant's counsel in argument, although they did not have instructions, confirmed that they are in agreement with the future medical expenses in the reports and as summarized. The parties further agreed on a 12,5% contingency to be applied which is the midway point between defendant's proposed 15% and plaintiff's 10%. I have considered all

the future medical expenses proposed in the reports as well as the reduced amount summarized with a 12,5% contingency. I determine that the amount for future medical expenses as summarized is allowed and a 12,5% contingency is applied, totalling

R 418 812.62.

LOSS OF INCOME/EARNING CAPACITY

- [34] I have considered the recommendations of Ms Quinn and Dr Prag, Educational Psychologists. They opined that with intervention to address existing academic gaps the minor would probably pass Grade 12/NQF Level 4 with at least a certificate and thereafter to obtain a NQF 5, but for the incident.
- [35] I have also considered Ms Hofmeyer, Educational Psychologist's addendum medico-legal report wherein she did not agree with the recommendations of Ms Quinn and Dr Prag as she had access to the minor's school reports and pre-incident information on his development (which they did not have). In her assessment, should his scholastic performance continue to be limited, his chances of obtaining Grade 12 post incident are slight and he may be able to attain Grade 9.
- [36] Ms Quinn and Dr Prag agreed with her findings that there were indeed pre-existing deficits that will have impacted on the minor's educational performance.
- [37] Mr Marais and Ms Kotze, Industrial Psychologists, also agreed that the minor requires treatment and intervention and that his career choices are limited as a result of the incident. They disagreed in their opinion that an appropriately higher post-morbid contingency deduction be applied.
- [38] In *RAF v Guedes*[4] it was stated: "It is trite that a person is entitled to be compensated to the extent that the person's patrimony has been diminished in consequence of another's negligence. Such damages include loss of future earning capacity (see for example *President Insurance Co Ltd v Mathews*)[5]. 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 I 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*[6]). The court necessarily exercises a wide discretion when it assesses the quantum of damages due to loss of earning capacity and has a large discretion to award what it considers right. 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".

- [39] In the leading case of *Southern Insurance Association Ltd v Bailey*[7] the Court stated: "Any enquiry into damages for loss of earning capacity is of its nature speculative... All that the Court can do is to make an estimate, which is often a very rough estimate, of the present value of the loss. It has open to it two possible approaches. One is for the Judge to make a

round estimate of an amount which seems to him to be fair and reasonable. That is entirely a matter of guesswork, a blind plunge into the unknown. The other is to try to make an assessment, by way of mathematical calculations, on the basis of assumptions resting on the evidence. The validity of this approach depends of course upon the soundness of the assumptions, and these may vary from the strongly probable to the speculative. It is manifest that either approach involves guesswork to a greater or lesser extent. But the Court cannot for this reason adopt a non possumus attitude and make no award.”

- [40] It is trite that the percentage of the contingency deduction depends upon a number of factors and ranges between 5% and 100%, depending upon the facts of the case.
- [41] The Court has a wide discretion that must, however, be based upon a consideration of all the relevant facts and circumstances. Justice and fairness to the parties is served by contingencies to be applied on the proven facts of the case. The discretion of the Court may not be usurped by the evidence of the experts such as the actuary. The actuary’s evidence only serves as a useful basis for establishing the quantum of damages.
- [42] In order to determine a plaintiff’s claim for future loss of income or earning capacity, it becomes necessary to compare what the minor would have earned “but for” the incident with what he would likely have earned after the incident. The future loss represents the difference between the pre-morbid and post-morbid figures after the application of the appropriate contingencies.
- [43] Mr G Whittaker, the Actuary, filed a second report based on the joint minutes of the experts. The actuary presented in his report 4 (four) scenarios with 8 (eight) amounts and applied contingencies to all the scenarios.
- [44] I am of the view, after having considered all the evidence, that the average of Basis IIB and Basis IIIB of the actuary’s report is best suited to the minor’s circumstances with a contingency of 24.00% pre- and 44.00% post-morbid to be applied to both scenarios. Basis IIB presented a pre- and post-morbid with a total of R 583 715.00 after applying the contingencies. Basis IIIB presented a pre- and post-morbid with a total of R 1 490 728.00 after applying the contingencies. The average amount, after applying the contingencies, is therefore R 1 037 221.50 for loss of income/earning capacity for the minor.

GENERAL DAMAGES

- [45] The claim for general damages consists of the loss of an eye, disfigurement, a moderate brain injury, neurocognitive and neuropsychological damage, headaches and the risk of epilepsy at a very young age. The parties respectively proposed an amount of R 1 000 000.00 in total as a fair award.
- [46] I considered the following cases as per The Quantum Yearbook, 2024 Edition by Robert J Koch:
- [46.1] For the loss of an eye:

[46.1.1] The case of Mthembu v Minister of Law and Order 1991 QOD I3-1 (D) wherein the present-day award is the amount of R 413 000.00.

[46.1.2] In the case of Botha en 'n Ander v Santam Beperk 1997 QOD 5 B4-39 (T) wherein the present-day award is the amount of R 544 000.00.

[46.1.3] Counsel for plaintiff also referred me to the case of Maboya v Minister of Police (89111/2015) [2023] ZAGPPHC wherein R 550 000.00 was awarded.

[46.2] For the moderate brain injury:

[46.2.1] In the case of Mautla v Road Accident Fund 2001 5 QOD B3-1 (T) wherein the present-day award of R 313 000.00 was awarded to a 4 year old child who suffered a mild brain injury.

[46.2.2] In the case of Matthews v Road Accident Fund 2003 5 QOD B4-173 (AF) a 14 year old girl suffered a mild brain injury sustained in a motor accident in 1996 who was awarded R 301 000.00 in present day value.

[47] Each case must be decided on its own merits. It is trite that previous awards in comparable matters are intended to serve only as a guide. Having considered the facts of this matter and the authorities I have referred to, in my view an award of R 550 000.00 for the loss of an eye and disfigurement and R 350 000.00 for the moderate brain injury sustained, neurocognitive and neuropsychological damage, headaches and the risk of epilepsy would be fair and just in the circumstances of this case. An amount of R 900 000.00 for general damages is therefore awarded.

PROTECTION OF FUNDS FOR LIFE

[48] Plaintiff in argument initially submitted that the funds to be awarded be protected until the minor reaches the age of majority. I am of the view that it is in the interests of the minor and in the interests of justice that the funds be protected by means of a trust for life. I am further of the view that a trust be created within 60 days of this order by plaintiff's attorneys and this court be approached to amend this order to confirm the trust and trustee(s) to be appointed. The monies to be paid out has to be paid directly into the trust. The parties, for this purpose, agreed to a percentage of 7,5% of the total claim. I am also in agreement with this percentage and the amount allowed for this purpose is therefore R 176 702.56.

COSTS

[49] There are no extraordinary circumstances that may dictate that this court consider a different costs order than the normal one, which is, that costs should follow the result.

ORDER

In the result I make the following order:

1. The defendant is to pay the plaintiff, in her representative capacity on behalf of and for the benefit of the minor a capital amount of R 2 532 736.68 (two million five hundred and thirty two thousand, seven hundred and thirty six rand and sixty eight cents) calculated as follows:

1.1 Future medical expenses

R 418 812.62

1.2 Loss of earnings/income capacity

R1 037 221.50

1.3 General damages

R 900 000,00

1.4 Trust costs for the minor

R 176 702.56

TOTAL

R 2 532 736.68

2. The attorneys for the plaintiff, JERRY NKELI ATTORNEYS, are ordered to cause a trust document to be created in accordance with the provisions of the Trust Property Control Act, 57 of 1988 within 60 days of this order and this court be approached to amend this order to confirm the trust and trustee(s) to be appointed.

3. The trust instrument contemplated above shall make provision for the following:

3.1 That the minor is the sole beneficiary of the trust;

3.2 That the first trustee(s) to be appointed shall be acceptable to this court;

3.3 That the trustee(s) are to provide security to the satisfaction of the Master;

3.4 The duty of the trustee(s) to disclose any personal interest in any transaction involving the trust property;

3.5 That the ownership of the trust property vests in the trustee(s) of the trust in their capacity as trustees;

3.6 Procedures to resolve any potential disputes, subject to the review of any decision made in accordance therewith by this Court;

3.7 That the amendment of the trust instrument be subject to the leave of this Court;

3.8 The termination of the trust upon the death of the minor, in which event the trust assets shall pass to the estate of the minor;

3.9 That the trust property and the administration thereof be subject to an annual audit.

4. The defendant is ordered to make payment of the capital amount directly into the to be created Trust.
5. The capital amount shall be paid into the trust to be created within 60 (SIXTY) calendar days of the date of amendment of this order to incorporate the trust, failing which the plaintiff shall be entitled to recover interest at the applicable rate of interest on the capital sum from the date of the amendment of this order to final payment.
6. The defendant is ordered to pay the plaintiff's taxed or agreed party and party costs, on the High Court scale C which shall include, but not be limited to the following:
 - 6.1 The fees of senior-junior counsel on the High Court Scale C, inclusive of, but not limited to counsel's full day fee for 23 July 2024 and the costs of preparation of heads of argument;
 - 6.2 The reasonable, taxable costs of obtaining all expert medico-legal and addendum reports and preparation of joint minutes, of the plaintiff's experts,
 - 6.2.1 Dr Mpotoane, eurosurgeon;
 - 6.2.2 Dr Edeling, Neurosurgeon;
 - 6.2.3 Ms M Kok, Clinical Psychologist;
 - 6.2.4 Mr R MacFarlane, Psychologist;
 - 6.2.5 Dr W T Mthembu, Ophthalmologist;
 - 6.2.6 Dr B van Onselen, Ophthalmologist;
 - 6.2.7 Dr L L Mashayamombe, Psychiatrist;
 - 6.2.8 Ms M Quinn, Psychologist;
 - 6.2.9 Ms C Keyter, Occupational Therapist;
 - 6.2.10 Ms A Hofmeyer, Educational Psychologist;
 - 6.2.11 Mr L Marais, Industrial Psychologist;
 - 6.2.12 Mr G Whittaker, Actuary.
 - 6.3 The reasonable taxable preparation, qualification, travelling and reservation fees and attendance for 23 July 2024, of the following experts:
 - 6.3.1 Dr H Edeling, Neurosurgeon;
 - 6.3.2 Ms Keyter, Occupational Therapist.
 - 6.4 The reasonable costs of all consultations between the plaintiff, and/or her attorneys, and/or their counsel and/or the witnesses, and/or the experts in preparation for the hearing;

6.5 The reasonable taxable costs of accommodation and transportation costs (including Toll and E-Toll charges) incurred by or on behalf of the plaintiff and/or the minor, in attending all medico-legal consultations with the parties' experts, all consultations with legal representatives and the court proceedings, subject to the discretion of the Taxing Master;

6.6 The aforementioned costs shall be payable by direct transfer into the trust account of plaintiff's attorneys.

7. The following provisions shall apply with regards to the determination of the aforementioned taxed or agreed costs:

7.1 The plaintiff shall serve the notice of taxation on the defendant's attorney of record;

7.2 The plaintiff shall allow the defendant 60 (SIXTY) calendar days to make payment of the taxed or agreed costs from date of settlement or taxation thereof;

7.3 Should payment not be affected timeously, the plaintiff shall be entitled to recover interest at the applicable rate of interest on the taxed or agreed costs from date of the allocator to date of final payment;

7.4 The taxed costs are to be paid into the plaintiff's attorneys trust account.

8. There is no contingency fees agreement applicable. The plaintiff's attorney shall only be entitled to recover from plaintiff such fees as are taxed or assessed on a part and party scale. The fees recoverable as aforesaid are not to exceed 25% of the amount awarded to or recoverable by the plaintiff.

ACTING JUDGE OF THE HIGH COURT

This judgment was prepared by Acting Judge Allen. It is handed down electronically by circulation to the parties or their legal

representatives by email, by uploading to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 12 August 2024.

HEARD ON: 23 July 2024 DECIDED ON: 12 August 2024 For the Plaintiff: Adv W Munro Instructed by Jerry Nkeli and Associates Inc For the Defendant: Adv N Gama Instructed by The State Attorney

[1] 2018

(4) SA 366(SCA) par 30

[2] Bee v Road Accident Fund 2018 (4) SA 366(SCA)

[3] 2016

(4) NR 1154 (HC) ([2016] NAHCMD 320)

[4] 2006

(5) SA 583 (SCA) at para 8

[5] 1992

(1) SA 1 (A) at 5C - E.

[6] 1984

(1) SA 98 (A)

[7] 1984

(1) SA 98 (A) 113H-114E

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Prepared on 10 October 2026 · Esheria