

SOUTH AFRICA / JUDGMENT

Kubheka v Road Accident Fund (2017/497) [2023] ZAGPJHC 1216 (25 October 2023) [2023] ZAGPJHC 1216

COURT

South Gauteng High Court, Johannesburg

BEFORE

Booyesen

CASE / FILE NUMBER

2017/497

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IN

THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL

DIVISION, JOHANNESBURG)

CASE NUMBER: 2017/497

REPORTABLE: NO

OF INTEREST TO OTHER

JUDGES: NO

REVISED: NO

Date: 25 October 2023

In the matter between:-

KUBHEKA

NKOSANA PATRICK

Plaintiff

And

ROAD

ACCIDENT FUND

Defendant

Coram:

Booyesen: Acting Judge of the High
Court of South Africa

Heard

on: Tuesday

24 October 2023

Delivered:	Signed electronically on 25 October 2023. To be emailed to the parties' representatives and uploaded to Caselines.
Summary:	Dedicated Road Accident Fund ("RAF") Default Judgment Court – Defense Struck - Condonation requires an application under oath dealing with the facts, the degree of lateness, the prospect of success, the importance of the case and the explanation of the delay. There is a higher duty on the RAF to respect the law. Section 17(4)(a) Road Accident Fund Act, 56 of 1996 - Once a plaintiff proves its claim, it is entitled to claim an order catering for a direction to the RAF to furnish an undertaking in terms of Section 17(4)(a). A court is entitled to grant such an order when orders by default are sought.

JUDGEMENT

BOOYSEN AJ

INTRODUCTION

- [1] The plaintiff claims damages arising from the motor vehicle collision on 7 July 2015 along Gezani Road, Maponya, Soweto, when an unknown minibuss taxi collided with the rear of the motor vehicle in which the plaintiff was a passenger.
- [2] The defendant conceded the merits 100% in the plaintiff's favour on 17 September 2018, after which the Court struck out the defendant's defence on 27 July 2021.
- [3] The matter was enrolled for hearing on 2 February 2023, where it was postponed; the defendant was to pay the wasted cost occasioned by the postponement.
- [4] At the Dedicated Road Accident Fund ("RAF") Default Judgment Court hearing on Tuesday, 24 October 2023, Mr Ndlovu of the State Attorney's office raised defences to the case's merits and sought another postponement.
- [5] The Court may, upon good shown, condone the defendant's non-compliance with its rules and afford it an indulgence to resurrect and prosecute its defences.
- [6] Good cause requires an explanation for its default, firstly, to enable the Court to understand how it occurred, and secondly, that the reason is bona fide and not patently unfounded.
Vide: -

· Nedcor Investment Bank Ltd v Visser N.O. and Others 2002 (4) SA 588 (T) at 591, held: -

"This gives the Court wide discretion. (Du Plooy v Anwes Motors (Edms) Bpk 1983

- (4) SA 212 (O) at 216H - 217A.) The requirements are, first, that the plaintiff should at least tender an explanation for its default to enable the Court to understand how it occurred. (Silber v Ozen Wholesalers (Pty) Ltd 1954
- (2) SA 345 (A) at 353A.) Secondly, the plaintiff must satisfy the Court that its explanation is bona fide and not patently unfounded. The plaintiff's application was brought within a relatively short period after the ten-day time period had elapsed. There was a delay of about two weeks. The delay was occasioned by counsel having confused two sets of briefs rather than any remissness on the part of the plaintiff or its attorneys."

· Melane v Santam Insurance Co Ltd 1983 (4) SA 212 requires the exercise of discretion upon all the facts, the degree of lateness, the prospect of success, the importance of the case and the explanation of the delay.

- [7] The onus rests on the defendant to show sufficient/good cause, which can only be as defined in Melane v Santam Insurance Co Ltd and explained in Nedcor Investment Bank Ltd v Visser.
- [8] Furthermore, good or sufficient cause must be through an application on notice as held in Du Plooy v Anves Motors (Edms) Bpk (supra). Du Plooy relied upon Dalhouzie v Bruwer 1970 (4) SA 566 (K) at 572C: -

"... that it requires defendant to say on oath that he has a good defence, and requires him further to set out sufficient information to enable the Court to come to the conclusion that the defence is bona fide and not put up merely for the purpose of delaying satisfaction of the plaintiff's claim. .."

- [9] Moreover, the Constitutional Court in MEC for Health, Eastern Cape v Kirland Investments (Pty) Ltd

[2014] ZACC 6; 2014 (3) SA 481 (CC); 2014 (5) BCLR 547 (CC) at para

[82] held: -

"There is a higher duty on the state to respect the law, to fulfil procedural requirements and to tread respectfully when dealing with rights. Government is not an indigent or bewildered litigant, adrift on a sea of litigious uncertainty, to whom the courts must extend a procedure-circumventing lifeline. It is the Constitution's primary agent. It must do right, and it must do it properly."

- [10] Although condonation should be sought on application supported by affidavit, I stood the matter down to allow Mr Ndlovo time to prepare and bring an application from the Bar to persuade me to condone the defendant's inaction to date. Mr Ndlova explained that his instructions were that the investigations to the merits are yet to be finalised and could not explain why it was not concluded. Furthermore, he could not explain why no steps were taken since the defendant conceded the claim's merits as far back as September 2018.
- [11] Consequently, the defendant failed to show sufficient cause to postpone the matter to challenge its concession to the merits and raised no bona fide defence to the quantum.

[12] The plaintiff sought in terms of Rule 38(2) and Section 13 of Act 45 of 1988 for the admission of evidence on affidavit and filed affidavits supporting its expert reports.

[13] Havenga v Parker 1993

(3) SA 724 (T), confirmed by the Supreme Court of Appeal in Madibeng Local Municipality v Public Investment Corporation 2018

(6) SA 55 (SCA), found it is permissible to place expert evidence before the court by way of affidavits in terms of uniform rule 38(2). When exercising its discretion, two essential factors would be the saving of costs and time, especially the time of the court in this

era of congested court rolls and stretched judicial resources. More importantly, the exercise of discretion would be conditional upon whether it was appropriate and suitable in the circumstances to allow a deviation from the norm, which required a consideration of the nature of the proceedings, the nature of the evidence, whether the application for evidence to be adduced by way of affidavit was by agreement, and ultimately, whether, in all the circumstances, it was fair to allow evidence on affidavit.

[14] Although this matter is defended, the defence was struck out, merits conceded, and the plaintiff's expert opinions stand uncontested. Consequently, there will be no cross-examination and no need to waste time and expense in bringing the experts to court.

[15] The purpose of leading evidence on affidavits is to curtail proceedings and save costs. The clinical notes and hospital records are not controversial,

and it serves no purpose to bring the medical doctor to court to confirm that the document is what it purports to be. Similarly, the plaintiff's expert reports contain collateral evidence upon which their opinion is based. It would defeat the purpose of hearing evidence on an affidavit if the collateral witnesses were required to give evidence.

[16] The nature of the proceedings, as well as the nature, purpose and probative value of the evidence (ancillary evidence to an expert report), favour its admission.

[17] The plaintiff, a Security Reaction Officer at the age of 29, suffered a head injury, a hematoma on the scalp and an injury to his right shoulder.

[18] DR Segwapa, the Neurosurgeon, opined that the plaintiff sustained direct trauma to the head. He reports immediate loss of consciousness features of a mild concussive head injury, suffers from post-traumatic epilepsy and has neurocognitive impairments.

[19] Neurologist Dr Rosman opined that, indeed, the plaintiff does have significant neuropsychological problems as a result of the accident.

[20] Dr Fine (Psychiatrist) opined that the plaintiff does not remember things post-accident. He has sustained organic brain damage to which the functional effects can be considered permanent and irreversible and leave him vulnerable to developing an array of organically based psychiatric disorders over his future lifetime.

[21] The Occupational Therapist, Ms Mahlangu, reported that: -

21.1 At the time of the accident, the plaintiff was employed as a Security Guard at Mabotane Security. Post-accident, he is still employed; however, he mentions that his right shoulder locks, feels numb and gets painful, he cannot handle heavy items on request, and he suffers from headaches and is forgetful.

21.2 The plaintiff can lift 4 kilograms, 5 kilograms bilaterally, and only 2 kilograms can occasionally be carried with the right hand.

21.3 The plaintiff can handle weights within the sedentary demands. However, he has adequate mobility and position tolerance for medium demands, with accommodation for limitations in crawling and working with arms elevated to an overhead level.

21.4 From a physical perspective, he retains his capacity to manage working as a security guard doing access control. However, restraining people could be challenging due to the right upper limb pain and weakness.

21.5 As noted, he is vulnerable to developing an array of organically based psychiatric disorders if his mental health challenges worsen in the future. He might be at risk of losing his job.

21.6 Before the accident in question, he was employed as a Security Guard earning R2000.00 to R3500.00 per month with benefits of UIF and overtime.

21.7 Post-accident, he experienced headaches, he was diagnosed with a stroke, pain in the right eye, cramps in his right arm, his right arm is weak, right arm experiences fatigue, difficulties performing his household chores, difficulties carrying heavy objects with his right hand, and the pain he experiences worsens in cold weather climate.

21.8 He will likely be disadvantaged in the open labour market due to the injuries sustained in the accident.

21.9 The accident in question has had a negative impact on his occupational functioning.

21.10 He is considered less competitive in the open labour market and will remain unsuited to perform work which places specific physical requirements on him.

21.11 The negative psychological states would further negatively impact work motivation and productivity.

21.12 The occasional difficulties he experiences when performing his work duties may prevent him from effectively performing his duties at his current employer and in the formal labour market.

21.13 In his post-accident state, he would depend on his future employers' sympathy to give him work that would not provoke his symptoms.

21.14 His employment potential is further compromised due to post-traumatic epilepsy and post-accident stroke.

Loss of Earning Capacity

[22] Industrial Psychologists Dr Zurayda Shaik & Partners reported: -

22.1 Based on his earnings, the writer takes note of his average earnings based on the above salary slips received. Thus, his earnings can in all probability be benchmarked at above the median quartiles for semi-skilled labourers. Informal sector earnings for semi-skilled labourers are as follows (according to Robert J Koch, Quantum Yearbook, 2015): Semi-skilled worker: R18 600 - R53 500 - R136 300 per year.

22.2 The writer notes that Mr. Khubeka was 29 years old at the time of the accident and thus in the establishment phases of his career. The writer is of the opinion considering various factors such as his age, level of education and working experience, he is likely to have remained employable in similar categories of employment. The writer notes that Mr. Khubeka was still young occupationally and he could have benefitted from further on-the-job training or training and development. Thus, the writer is of the opinion as he developed further skills and experience, earning progressions were probable. Mr. Khubeka could have learned skills and received promotions within the Security sector, such as a Supervisor, etc. Also noting the Sectorial Denomination for Security Guards in

Table 1, should he have secured alternative employment at an employer that offered more benefits earning increases were probably, He could have seen earning increases, probably at the upper quartiles of semi-skilled labourers by the age of 40-45 with applicable inflationary increases, thereafter.

22.3 The writer is of the opinion that should he have lost his job due to various factors such as retrenchment, he would have been capable of securing alternative employment based on his working experience. Mr. Khubeka would have worked until the normal retirement age of 65 years depending on a variety of factors such as his health status, personal circumstance, and conditions of employment, etc.

22.4 The writer is of the opinion that he is considered less competitive in the open labour market and he will remain unsuited to perform work, which places certain physical requirements on him. In this regard, Dr. Segwapa noted that "Right shoulder pains: These are induced by lifting heavy objects" (Pg. 5). In addition, in his post-accident injured state Mr. Khubeka would also experience difficulties competing against more physically abled candidates in the open labour market. Furthermore, Ms. Mahlangu is of the view that "From a physical perspective, he retains the capacity to manage working as a security guard doing access control

however, restraining people could be a challenge due to the right upper limb pain and weakness" (Pg. 15-16). Thus, Mr. Khubeka has been rendered an unequal competitor in the open labour market when compared to his uninjured peers. Mr. Khubeka relied on his physical ability to generate an income. Considering his work history and occupational limitations, he has been disadvantaged in the open labour market. He would be rendered a vulnerable individual in this regard and may be prone to periods of unemployment should he lose his current job. Thus, Mr. Khubeka's work capacity and efficiency have been compromised by the injuries he sustained in the accident.

22.5 The writer notes that Mr. Khubeka was reportedly able to resume his pre-accident employment, however he reported that he experiences difficulties coping with his work demands. Thus, in his post-accident injured state Mr. Khubeka would be dependent on the sympathy of future employers to give him work that will not provoke his symptoms. Realistically employers would be hesitant to hire an individual with productivity-related problems (with a job loss), also considering his occupational limitations he would be rendered a vulnerable job seeker. Once again, noting the high unemployment rate in South Africa he would experience difficulties competing with individuals who are qualified and physically abled.

22.6 The writer further notes that his employment potential in the open labour market is further be compromised due to post-traumatic epilepsy and a stroke as noted by the experts. Dr. Segwapa notes that "He suffers from post-traumatic epilepsy" (Pg. 10). Similarly, Ms. Mahlangu notes that "He might have a seizure at work and at that time, put himself and others at risk at work" (Pg. 16). Thus, he faces further employment restrictions and may face the possibilities of sustaining employment in the open labour market.

22.7 However, should he continue to remain within accommodating and sympathetic employment he is likely to earn at similar earning by the age of 40-45 with inflationary increases thereafter. However, he is likely to be prone to unemployment with a job loss. Thus, it is additionally suggested that he be compensated by a substantially higher than normal postmorbidity contingency, as he has been rendered less competitive and a vulnerable individual in the open labour market.

22.8

Conclusion

Mr. Khubeka is a 34-year-old male who was involved in a motor vehicle accident in which he sustained injuries. He has been disadvantaged in the open labour market post-accident based on the overall evaluation by the relevant experts. He would be reliant on the sympathy of his employer to give him work that will not aggravate his symptoms. Thus, should he lose his job, Mr. Khubeka would be prone to higher incidents of unemployment, noting his occupational limitations.

[23] Consequently, I conclude the plaintiff has suffered damages for loss of earning capacity.

- [24] The approach in generally assessing damages for loss of earnings has been stated in the matters of *Goldie v City Council of Johannesburg* 1948 (2) SA 913 (W) (“Goldie”) at 920 and *Southern Insurance Association v Bailie* NO 1984 (1) SA 98 (A) (“Bailie”) at 112E – 114F.
- [25] *Goldie* held it is wrong to calculate damages based on an annuity and that while such an actuarial calculation affords helpful guidance, the proper basis is what the Court considers, under the circumstances of the case, to be a fair and reasonable amount to be awarded the plaintiff as compensation. The Court must try to ascertain the value of what was lost on some logical basis and not on impulse or by guesswork.
- [26] *Bailie* held that any enquiry into damages for loss of earning capacity is speculative because it involves predicting the future without the benefit of crystal balls. All that the Court can do is to make an estimate, which is often very rough. It has opened to two possible approaches. One is for the Judge to make a round estimate of an amount, which seems to be fair and reasonable. That is entirely a matter of guesswork. The other is to assess through mathematical calculations based on assumptions resting on the evidence. The validity of this approach depends, of course, upon the soundness of the premises, which may vary from the strongly probable to the speculative.
- [27] In assessing loss of earnings, a plaintiff must provide a factual basis that allows for an actuarial calculation. A process designed to determine actuarial/mathematical calculations based on the evidence and overall assumptions resting on such evidence (“the actuarial approach”).
- [28] This approach comprises (i) providing a factual basis upon which the loss of earnings is calculated and then (ii) applying appropriate contingency deductions.
- [29] In *Bailie*, the court held that the actuarial approach is preferable where it has before it material on which an actuarial calculation can be made. The actuarial approach has the advantage of an attempt to ascertain the value of a loss on a logical and informed basis as opposed to an educated guess.
- [30] The actuarial calculation approach is more appropriate where career and income details are available. A court must primarily be guided by the actuarial approach (which deals with loss of income/earnings) before applying a mere robust approach (which will instead cater for loss of earning capacity) as the court would want to compensate a plaintiff as closely related to the facts as it can.
- [31] In the present matter, the Court has sufficient evidence on which an actuarial/mathematical determination of the plaintiff’s actual loss can be made without deferring to a robust, unscientific and thumb-suck approach. The plaintiff has established a basis on the available facts and probabilities in demonstrating that an actuarial calculation can be made in this case.

- [32] A trial Court has wide discretion to award what it, in the particular circumstances, considers to be a fair and adequate compensation to the injured party for his bodily injuries and their sequelae. Vide AA Mutual Insurance Association Ltd v Maqula 1978 (1) SA 805 (A) E te 809B – C.
- [33] Mr B. Harris, the plaintiff's Actuary, compiled a report calculating the extent of the plaintiff's loss of earning capacity. The total calculation of loss amounts is R1 725 601.00, taking the contingency deductions of 15% and 30% into account.
- [34] Contingency deductions allow for the possibility that the plaintiff may have less than "normal" expectations of life and may experience periods of unemployment because of incapacity due to illness, accident or, labour unrest or general economic conditions. Vide Van der Plaats v Southern African Mutual Fire & General Insurance Co 1980 (3) SA 105 (A) at 114 – 115.
- [35] The underlying rationale is that contingencies allow for general hazards of life, for example, periods of general unemployment, possible loss of earnings due to illness, risk of future retrenchment, and general vicissitudes of life.
- [36] Both favourable and adverse contingencies must be considered, as stated in Bailie at 117C-D: "The generalisation that there must be a 'scaling down' for contingencies seems mistaken. All 'contingencies' are not adverse, and all 'vicissitudes' are not harmful. A particular plaintiff might have had prospects or chances of advancement and increasingly remunerative employment. Why count the possible buffets, and, ignore the rewards of fortune."
- [37] Miss Molohe-Madondo, appearing for the plaintiff, supported the 30% contingency on the premise of the plaintiff's job as a reaction officer and the real possibility that he couldn't continue in this position, given his post-traumatic epilepsy and physical challenges. Mr Ndlovo, for the defendant, agreed with the 15% contingency and suggested a 25%, which will reduce the claim for Future Loss of income from R1 621 309 to R1 551 828.50 and the loss of income claim to R1 656 120.50.
- [38] The SCA in Road Accident Fund v Guedes 2006 (5) SA 583 (SCA) at para [9] dealt with contingencies as follows: -

"The author Koch describes his work as 'a publication of financial and statistical information relevant to the assessment of damages for personal injury or death'. The page in question is headed 'General contingencies'. It states that when

'assessing damages for loss of earnings or support, it is usual for a deduction to be made for general contingencies for which no explicit allowance has been made in the actuarial calculation. The deduction is the prerogative of the Court. ... There are no fixed rules as regards general contingencies. The following guidelines can be helpful.'

Then follows what is termed a 'sliding scale' and the following is stated:

'Sliding Scale: % for year to retirement age, ie 25% for a child, 20% for a youth and 10% in middle age (see *Goodall v President Insurance Co Ltd* 1978 (1) SA 389 (W). ...'

In the *Goodall* case, which is relied upon by Koch for a suggested deduction of 10%, the plaintiff was aged 45, whereas the plaintiff in this matter was only 26 at the relevant time. An application of the author's sliding scale to this matter would have led to a contingency deduction of 19,5%. It is true that immediately after referring to the passage in Koch, Boruchowitz J said:

'Having regard to the relevant facts, the plaintiff's age and station in life, I am of the view that, in the "but for" scenario, a contingency deduction of 10% would be fair and reasonable.'

[39] I agree with the plaintiff and Mr B. Harris' contingency deductions in light of the authorities and the fact that the plaintiff had the benefit of stable employment before the accident and now suffered both physically and mentally because of it and faces the real possibility of it interfering with the prospect of steady (secure) employment.

General Damages

[40] The plaintiff further seeks General Damages of R600 000. The Full Court in *K obo M v RAF* 2023 (3) SA 125 (GP) ("*K obo M v RAF*") dealt with default judgment against the RAF and Sections 17(1) and 17(4)(1)(a) of the Road Accident Fund Act 56 of 1996.

[41] Apropos Section 17(1) *K obo M v RAF* at paras [28] to [35] confirmed the RAF is only obliged to compensate for non-pecuniary loss if: -

(i) the claim is supported by a serious injury assessment report submitted in terms of the RAF Act and regulations; and

(ii) the RAF is satisfied that the injury has been correctly assessed as serious in terms of the method provided for in the regulations.

[42] Miss Molope-Madondo referred me to the defendant's medico-legal report of its orthopaedic surgeon, Dr Solani S. Makunsi, which had attached the RAF4, Serious Injury Assessment Report, signed by Dr Makunsi, confirming the injury being serious according to the narrative test as: "Serious long-term impairment or loss of body function."

[43] Consequently, the defendant is obliged to compensate the plaintiff for his non-pecuniary loss.

[44] Miss Molope-Madondo's heads of argument relied upon *Legodi v RAF* (50948/17) [2021] ZAGPPHC 566 in which the plaintiff sustained a head injury with skull and facial injuries including a fracture of the frontal bone extending into the frontal sinuses, brain injury with resultant permanent, irreversible organic brain syndrome and neuropsychological deficits, neck injury, lower back injury, multiple lacerations and serious permanent scars including facial lacerations. The plaintiff was awarded R500 000.00 in respect of general damages.

[45] *Legodi v RAF* confirmed:

(i) General damages include a person's physical integrity, pain and suffering, emotional shock, disfigurement, a reduced life expectancy, and loss of life amenities.

(ii) The nature of the general damages makes quantifying it complex because of the personal, non-pecuniary, and subjective nature of these interests, which makes it difficult to quantify but remains recoverable. Relying on *Hendricks v President Insurance* 1993 (3) SA 158 (C) & *Visser & Potgieter Skadevergoedingsreg* (2003) 101105.

(iii) Each case must be adjudicated upon its own merits, and no one case is factually the same as another. Previous awards only offer guidance in the assessment of general damages.

[46] After considering the previous awards granted in the comparable cases, were the sequelae related to brain injuries resulting in discomfort, pain, and suffering caused to the plaintiff, the Court, per Bhoola AJ, determined a reasonable amount to be R500 000.

[47] Although the plaintiff in this matter does not suffer from facial scarring, he, apart from his physical suffering, also has post-traumatic epilepsy and suffered a post-accident stroke, similar to Legodi's organic brain syndrome and neuropsychological deficits. Legodi further sustained a neck injury, lower back injury, multiple lacerations and permanent severe scars. I consider the plaintiff's consequences slightly less severe than Legodi's.

[48] Legodi's judgment was in September

2021. I am not making an inflationary adjustment to the amount to account for the difference in severity.

[49] I conclude that R500 000.00 is a reasonable compensation for the plaintiff's non-pecuniary loss.

Section 17(4)(a) Undertaking

[50] The plaintiff also seeks an undertaking in terms of section 17(4)(a) of the RAF Act. *K obo M v RAF* at paras 16 to [26] held that: -

(i) Once a plaintiff proves its claim as contemplated in section 17(4)(a), it is entitled to claim an order catering for a direction to the RAF to furnish such an undertaking.

(ii) A court is entitled to grant such an order, which applies when orders by default are sought.

(iii) At [25]: "Clearly alive to this dispute and in response to the directive of the Acting Judge President of this division in referring this issue to this full court, the CEO of the Fund, in the affidavit filed in the joint hearing of these matters, reiterated the fact that the Fund has indeed now made a 'blanket election' to furnish an undertaking to every claimant who is entitled to a claim for payment of future medical and ancillary expenses in terms of s 17(4)(a). The CEO undertook to have included in the Fund's 'first letter' issued to a claimant upon receipt of a newly lodged claim and allocation of a claim number —

'a reiteration of its blanket election by expressly stating that a claimant will only be entitled to an undertaking in respect of any proven claim for the costs of the future accommodation of the claimant in a hospital or nursing home or treatment of or rendering of a service or supplying of goods to him or her'.

The Fund has further undertaken to publish via a notice through the Legal Practice Council and its internal database of attorneys a statement reaffirming its blanket election.”

[51] Consequently, I make the following order:

[1] The defendant is ordered to pay the plaintiff R2 225 601.00 made up of: -

1.1 R1 725 601.00 for loss of earning potential.

1.2 R500 000.00 for the plaintiff’s non-pecuniary loss.

[2] The defendant shall furnish the plaintiff with an undertaking in terms of Section 17(4) (a) of Act 56 of 1996 for payment of 100% of the costs of future accommodation of the plaintiff in a hospital or nursing home or treatment of or rendering of a service or supplying of goods to the plaintiff resulting from the motor vehicle accident on 7 July 2015, to compensate the plaintiff in respect of the said costs after the costs have been incurred and upon proof thereof.

[3] The defendant shall pay the plaintiff's taxed or agreed party and party costs on the High Court scale in respect of both the merits and quantum. Such costs shall include, as allowed by the Taxing Master,: -

3.1 The costs incurred in obtaining payment of the amount mentioned in paragraph 1 above.

3.2 The plaintiff’s costs of suit, including the reasonable costs of all medico-legal reports obtained by the plaintiff and the preparation and qualifying fees of the plaintiff's expert witnesses.

[4] In the event of any amounts due in terms of this order not being paid on 180 days from the date of this order and/or taxation, the defendant shall be liable for interest on the amount at the prevailing interest rate, calculated from the 181st calendar day after the date of this order and/or taxation to date of payment in line with prevailing legislation.

AJR Booysen

Acting Judge

25 October 2023

FOR THE PLAINTIFF

LR Molohe-Madondo (076 184 8957)

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