

SOUTH AFRICA / JUDGMENT

Shomoleile v Road Accident Fund (25656/2012) [2021] ZAGPPHC 875 (5 November 2021) [2021] ZAGPPHC 875

COURT

North Gauteng High Court, Pretoria

BEFORE

Mbongwe

CASE / FILE NUMBER

25656/2012

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case num: 25656/2012

5 NOVEMBER 2021

Electronically via Video-conferencing. Order granted electronically in accordance with the Directives regarding special arrangements during the National State of Disaster (Covid-19) held:

Before the Honorable Justice

MBONGWEJ

in the matter between:

BG SHOMOLEILE

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

This Order is made an Order of Court by the Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically to the Parties/their legal representatives by email. This Order is further uploaded to the electronic file of this matter on Case Lines by the Judge or his/her secretary. The date of this Order is deemed to be 5 NOVEMBER 2021

ORDER

Having read the documents filed on record and after hearing Counsel for the parties, an order is hereby granted in the following terms:

1. The Defendant is ordered to pay the Plaintiff the amount of R2 686 701.20 (TWO MILLION SIX HUNDRED AND EIGHTY-SIX THOUSAND SEVEND HUNDRED AND ONE RAND AND TWENTY CENTS) in respect of loss of earnings and in full and final settlement.
2. The aforementioned total sum, in paragraph 2 shall be payable by direct transfer into the trust account of VZLR INC., details of which are as follows:

ACCOUNT HOLDER: VZLR INC

BRANCH:

ABSA BUSINESS BANK HILLCREST

BRANCH CODE: 632005

TYPE OF ACCOUNT: TRUST ACCOUNT

ACCOUNT NUMBER: [...]

REFERENCE:

MAT4383

,

3. In the event of default on the above payment, interest shall accrue

on outstanding amount per annum, (at the temporeae mora of 3.5% above the repo rate on the date on this order, as per the Prescribed Rate of Interest Act, 55 of 1975, as amended) calculated from the date of this order, as per the Road Accident Fund Act, until the date of payment. It is further agreed between the parties that the capital will be paid within 180 days.

4. The Defendant shall make payment of the Plaintiff's taxed or agreed party and party costs on the High Court scale, up to and including 5 November 2021, including costs of the instructing attorneys, which costs shall include but not limited to the following:

4.1. The costs of the trial date of 28 November 2018, which were reserved, are hereby un-reserved and payable;

4.2. The fees of Senior counsel, inclusive of but not limited to counsel's full, reasonable day fee for the trial dates of 28 November 2018, 3 November 2021, and 5 November 2021, as well as fees for preparation and drafting of heads of argument;

4.3. The reasonable taxable costs of obtaining all medico legal/experts, actuarial reports and any other report of an expert nature from the Plaintiff's experts, of whom notice had been given, including but not limited to the reports which were furnished to the Defendant and/or its experts;

4.4. The cost of obtaining documentation/ evidence, scans, considered by the expert(s) to finalise their reports;

4.5. The reasonable preparation, qualification, reservation and attendance fees, if any, of all the Plaintiff's experts of whose reports had been furnished to the Defendant and / or its experts, in specific the reservation fees of the following experts for 28 November 2018, 3 November 2021 and 5 November 2021:

1) ORTHOPAEDIC

DR OELOFSE

SURGEON

2) OCCUPATIONAL

RITA VAN BILJOB

THERAPIST

3) NEUROSURGEON

DR MUTYABA

4) EDUCATIONAL

LIDA ROOS

5) INDUSTRIAL

A STRTYDOM

PSYCHOLOGIST

6) NEUROSURGEON

DR JJ DU PLESSIS

7) NEURO-

L GROOTBOOM

8) ACTUARY

JOHAN SAUER

9) PLASTIC SURGEON

DR ERLANK

5.6 The reasonable taxable accommodation and transportation (including toll and e-toll charges) incurred on behalf of or by the Plaintiff (including one person having to accompany her) in attending medico legal consultations with all experts, consultations with the legal representatives;

5.7 The reasonable cost for an interpreter's attendance at the medico legal appointments for translation of information;

5.8 The above-mentioned payment with regard to costs shall be subject to the following conditions

5.8.1 The Plaintiff shall, in the event that costs are not agreed, serve the notice of taxation on the Defendant and the Defendant's attorney of record; and

5.8.2 The Plaintiff shall allow the Defendant 180 (One hundred and eighty) calendar days to make payment of the taxed costs;

5.8.3 In the event of default on the above payment, interest shall accrue on such outstanding amount at the tempore mora rate of 3.5% above the repo rate on the date of taxation / settlement of the bill of cost, as per the Prescribed Rate of Interest Act, 55 of 1975, as amended, per annum, calculated the 15th (fifteenth) calendar day after the date of settlement and taxation of the bill of cost, until the date of payment.

5.9 The above costs will also be paid into the aforementioned trust account.

6 A Contingency Fee Agreement exists between the Plaintiff and Plaintiff's attorneys in terms of the Contingency Fee Act, the agreement is valid and compliant.

For the Plaintiff: VZLR Inc. - 012 435 9444

Adv N Diedericks - 083 520 1001 nante.diedericks@gmail.com

For the Defendant: Handler: Rhulani Makondo (rhulanim@raf.co.za / Boitumeloma@raf.co.za)

VZLR Reference: A JANSE VAN VUUREN/ MAT4383

RAF Reference: 509/1866026/14/0 (Link: 3104343)

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CASE PAGE <https://chat.esheria.ai/case-law/south-africa/shomoleile-v-road-unknown-topic-agpphc-2021>

Prepared on 29 October 2026 · Esheria