

SOUTH AFRICA / JUDGMENT

Yelo v Road Accident Fund (2125/2021)

[2025] ZAFSHC 154 (27 May 2025)

[2025] ZAFSHC 154**COURT**

Free State High Court, Bloemfontein

BEFORE

Deane AJ

CASE / FILE NUMBER

2125/2021

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record**SAFLII****Note: Certain**

personal/private details of parties or witnesses have been redacted from this document in compliance with the law and SAFLII

Policy**IN****THE HIGH COURT OF SOUTH AFRICA****FREE****STATE DIVISION, BLOEMFONTEIN****Reportable/Not****Reportable****Case****no: 2125/2021****In****the matter between:**

SIBUSISO
FREEMAN YELO
PLAINTIFF
And
ROAD
ACCIDENT FUND
DEFENDANT
Neutral
citation: Yelo
v RAF (2125/2021)
[2025]

Coram:

Deane AJ

Heard: 16 May 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 12:45 on 27 May 2025.

Summary:

General Damages: Excessive claims must be tempered by judicial scrutiny, preventing undue inflation of damages. It is not merely the multiplicity of injuries that is decisive, but rather the nature and extent of their sequelae.

ORDER

1.
The Defendant is liable for payment of 100% (HUNDERD PERCENT) of the Plaintiff's proven or agreed damages resulting from a motor vehicle accident that occurred on 30 June 2021.

2.
The Defendant shall provide an undertaking in terms of Section 17(4)(a) of the Road Accident Fund Act 56 of 1996 ("the undertaking"), to compensate the Plaintiff for 100% (HUNDERD PERCENT) of the costs relating to the future accommodation of the claimant in a hospital or nursing home or specialized schooling centre or treatment of or rendering of a service, inclusive of special schooling, or supplying of goods to the Plaintiff, after the costs have been incurred and on proof thereof and rising from the collision which occurred on 30 June 2021.

3.
The Defendant is ordered to pay to the Plaintiff the amount of R R800 000 (eight hundred thousand rands) for the claim for General Damages.

4.
The aforesaid amount is to be

	paid into the following bank
account:	Name
of account holder:	Khaya lethu Nondabula Attorneys Inc Name
of bank:	Nedbank Account
number:	1[...] Branch
code:	132526 Reference
number:	Y03/2021/RAF/KN 5. Should payment as aforesaid not be made within 180 days from the date hereof, the Defendant shall be liable for payment of interest on the aforesaid amount at the prescribed rate, from 15 days after the date of this court order, till date of payment. 6. The Defendant shall pay the Plaintiffs taxed or agreed party and party costs, on High Court scale
to date of this order, which shall include:	6.1 the reasonable qualifying fees (where applicable) of the following

experts:

6.1.1
Dr G. Pirjol
(Orthopaedic Surgeon);
6.1.2
S. Bugwandin
(Urologist);
6.2
the reasonable
reservation
fees for 13 May 2025 of
the following

experts:

6.2.1
Ms. C.
Ndunga (Occupational
Therapist);
6.2.2
A. Chikuya
(Industrial Psychologist);
6.3
the reasonable
traveling
fees for 13 May
2025 of

the following experts:

6.3.1
A. Chikuya
(Industrial Psychologist);
6.4
the reasonable cost
of the interpreter for 13,
14 and 16
May 2025.
7.
The Defendant shall
pay the taxed or agreed fees of Plaintiff's counsel.
8.
The
Plaintiff
shall
allow
the
Defendant
180
(ONE
HUNDRED
AND
EIGHTY) calendar
days to make payment of the taxed or agreed High Court costs.
9.
Should payment as
aforesaid costs not be made within 180 days from the date of

settlement. Upon taxation, the Defendant shall be liable for payment of interest calculated at the prescribed rate, from 15 days after the date of settlement/stamped allocatur, to date of payment.

10.

The loss of earnings is separated in terms of Rule 33(4) of the Uniform Rule of Court is postponed to the pre-trial roll of 28 July 2025.

JUDGMENT

Deane AJ Introduction

- [1] The plaintiff, Sibusiso Freeman Yelo, instituted an action against the defendant, the Road Accident Fund (the RAF), claiming damages for injuries sustained in a motor vehicle accident on 14 June 2021, at about 14h30 near the N3 Road Villiers and Warden. The plaintiff was a passenger in the insured vehicle.
- [2] The plaintiff is an adult male person, born on 22 November 1978 and was 42 years old at the time of the accident. The plaintiff is currently 46 (turning 47) years old at the date of the trial.
- [3] When the matter came before me, I was advised by both counsels for the parties that the RAF has conceded the merits of the claim and has agreed to compensate him 100% of his proven damages. Furthermore, the parties, as at the date of trial, agreed to postpone the issue relating to the earning capacity. Parties further agree that the respective counsel will make legal submissions in respect of general damages with the aid of relevant case law for the purpose of determination of the appropriate award. Therefore, the only issue before me was to determine the extent of the general damages that the plaintiff is entitled to.
- [4] The defendant admits the correctness of the contents of the following medico-legal reports and agrees that copies of the same reports may be tendered in evidence without the need to call the relevant expert witnesses to testify:
 - (a) The RAF 4 Form dated 27 June 2022 and completed by Dr Pirjol;
 - (b) an orthopaedic surgeon's report dated 27 June 2022 and completed by Dr Pirjol;
 - (c) a radiologist report dated 27 June 2022 completed by Lake Smith and Partners; and
 - (d) a urologist report dated 26 October 2022 and completed by Dr Bugwandin.
- [5] The plaintiff is claiming an award of R1 800 000 for general damages. In support of this award prayed for, the legal representative submitted that:

'... the plaintiff battles with sustained bilateral fracture of the pelvis (ramni pubic bone). He also sustained urinary bladder injury with suprapubic voiding, one year after the accident. From the accident site he was conveyed by an ambulance to Pelonomi hospital where he was diagnosed with:

- a significant bilateral pelvic injury with major instability;
- a fracture of the acetabular;
- a urinary bladder rupture injury; and
- erectile dysfunction'.^[1]

[6] The defendant disputes that these injuries, as listed in the plaintiffs' heads of argument, correlate with the medico-legal evidence.

Medico-legal evidence

[7] I will limit the consideration of the expert reports only to their findings and opinions as may be relevant for the determination of general damages, and not to reproduce their reports.

The RAF form 4

[8] The RAF Form 4 indicates the following:^[2]

'Medical treatment rendered from date of accident to present:

Bed Rest of Fractured Pelvis, Suprapubic Catheter for Bladder Injury Diagnosis:

Pelvic Injury with Major Instability

Urinary Bladder Injury with Suprapubic Voiding 1 Year After the Accident.'

Lake, Smit and Partners x-ray reports

[9] Regarding the evidence by Lake, Smit and Partners x-ray reports,^[3] it states the following:

- (a) There is overriding of the pubic bones at the pubic symphysis in keeping with prior traumatic diastasis.
- (b) Left pubic ramus bone remodelling in keeping with healed fractures.
- (c) Shenton's lines are well preserved with no feature of acute or prior hip joint fracture or dislocation.
- (d) Normal symmetrical hip joints with no degenerative change or AVN.
- (e) Normal symmetrical SI joints.
- (f) No destructive bony lesion.

The urologists report:

[10] Regarding the urologists report, the following was stated:[4]

- (a) List of Urogenital Tract Injuries (Diagnosis):
- (b) Bladder rupture - Extra pertoneal
- (c) Posterior Urethral Injury with Urethral Stricture
- (d) Erectile Dysfunction/ Impotence (Post traumatic, vasculogenic)
- (e) Other injuries:
- (i) Pelvic Fracture.

[11] The urologists report stated the following:

- (a) It made a recommendation to leave the suprapubic catheter in situ and have it changed every three (3) months. No future plan for further surgery was noted.
- (b) That the claimant has subsequently had his catheter changed every three (3) months and has not been offered any further management of his urological injury.[5]

[12] Furthermore, the report highlights the below:[6]

'Orthopaedic surgeon Dr G Pirjol (29% Bladder contribution)

This can be improved with extensive reconstructive surgery, with the use of a prosthetic urinary sphincter, however this is not available in the state healthcare system. It is therefore assumed that he has reached maximum medical improvement", and that "his main complaints are related to his pain in his pelvic area and his urinary problems. The patient has continuous pain in the anterior and posterior parts of the pelvis would the pain being aggravated for standing and walking even for short periods of time and being partially relieved by rest and analgesia that he buys over the counter."

.

With regards to the urinary problem, he has a suprapubic catheter that he has to care for and has to be changed at regular intervals. He has not received a clear answer from his treating doctors when the catheter will be removed and what the definitive procedure will be performed in order to re-establish normal urinary tract function.[7]

Occupational therapist's report:[8]

[13] The occupational therapists report noted that the plaintiff complained of low back pain, pelvic pain and urinary problems (uses a urinary catheter). After a physical examination, some of the following findings were made, that the plaintiff:

- (a) struggles to perform tasks which require forward bending, stair climbing, kneeling, repetitive squatting and crouching; and
- (b) is suited for sedentary to light physical demand work.[9]

Summary of evidence and applicable law - general damages:

[14] The assessment of general damages is guided by past cases, but must consider the unique circumstances of each case. In *Minister of Safety and Security v Seymour*,^[10] the court emphasised that prior awards serve only as a reference and not as a strict standard.

[15] I further deem it necessary to reproduce the following paragraphs in the judgment of Navsa JA, in the matter of *Road Accident Fund v Marunga*,^[11] that sums up the principles in the assessment of claims for general damages and earlier authorities on the issue:

'This Court has repeatedly stated that in cases in which the question of general damages comprising pain and suffering, disfigurement,

permanent disability and loss of amenities of life arises a trial court in considering all the facts and circumstances of a case has a wide discretion to award what it considers to be fair and adequate compensation to the injured party. This Court will interfere where there is a striking disparity between what the trial court awarded and what this Court considers ought to have been awarded: See *Protea Insurance Company v Lamb* 1971 (1) SA 530 (A) at 535A-B and the other cases cited there.

At 535B and following of the Protea case Potgieter JA considered what regard should be given to awards in previously decided cases. After considering the dicta in several decisions of this Court the learned judge of appeal stated that there was no hard and fast rule of general application requiring a trial court or a court of appeal to consider past awards. He pointed out that it would be difficult to find a case on all fours with the one being heard but nevertheless concluded that awards in decided cases might be of some use and guidance.

In the Protea case, above, this Court in determining the measure of damages considered all relevant factors and circumstances and derived assistance from the "general pattern of previous awards".

The following case (with synopsis) which was included in the list of cases to which the trial Court was referred for purposes of

comparison, demonstrates the difficulty and (paradoxically) the usefulness of considering awards in previously decided cases:

Wright v Multilateral Vehicle Accident Fund a 1997 decision of the Natal Provincial Division - *Corbett and Honey* Vol 4 E3-31- The plaintiff, a 28-year-old woman, sustained an open comminuted fracture of the right femur with complete division of the quadriceps muscle and loss of substantial quantity of bone which extended into the knee joint. There was an initial surgical procedure to repair the quadriceps mechanism and to apply an external fixator - plaintiff hospitalized for two weeks and discharged on crutches. Readmitted two weeks later for treatment of infection. Later readmitted for a period of one week for further treatment for infection. At the same time the external fixator was removed and replaced with a pin. Traction applied at home for four weeks. The fracture failed to unite, and the plaintiff was again hospitalized for a few

weeks during which an open reduction was carried out for an internal fixation. The plaintiff wore a leg brace with a hinge for several weeks and left with a limitation of flexion in her right knee, bad scarring of the right leg, a shortening of the leg by 32 cm requiring raisers in footwear. She experienced weakness of the leg, residual pain and recurring infections and abscesses, which would in future probably require antibiotic therapy and surgical drainage. Removal of the pin was expected. Plaintiff experienced a great deal of pain, particularly during episodes of infection. She had been an outdoors person but was now permanently unable to run or play sport, kneel or squat. She experienced difficulty in negotiating stairs- awarded R65 000-00 as general damages [value in 2001 (at time of trial in the present case)

- RB 1 000-00].

In the Wright case (Corbett and Honey Vol 4 E3-36) Broome DJP stated:

"I consider that when having regard to previous awards one must recognize that there is a tendency for awards now to be higher than they were in the past. I believe this to be a natural reflection of the changes in society, the recognition of greater individual freedom and opportunity, rising standards of living and the recognition that our awards in the past have been significantly lower than those in most other countries."

The Wright case at E3-34 to E3-37 is instructive. The learned trial judge considered all the relevant circumstances and set out in detail the reasoning that motivated the award.'

[16] In the matter of De Jongh v Du Pisanie NO,[12] Brand JA dealt with issues such as fairness in the context of previously decided cases of similar facts. The comparison is not a mechanical process because the court must still exercise its discretion. They only serve as broad guidelines to indicate a pattern of previous awards based on the facts of each case. Indeed, on fairness of the award, Brand JA also cited, with approval, the following passage from the judgment of Holmes J in the matter of Pitt v Economic Insurance Co. Ltd,[13] where he stated the following:

'The courts must take care to see that its award is fair to both sides-it must give just compensation to the plaintiff, but it must not pour out largesse from the horn of plenty at the defendant's expense.'

[17] The approach and process of comparison of previous awards was described as follows in the matter of Protea Assurance Co. Ltd v Lamb:[14]

'It should be emphasized, however, that this process of comparison does not take the form of meticulous examination of awards made in other cases in order to fix the amount of compensation, nor should the process be allowed so to dominate the enquiry as to become a fetter upon the Court's general discretion in such matters.

Comparable cases, when available, should rather be used to afford some guidance, in a general way, towards assisting the Court in arriving at an award which is not substantially out of general accord with previous awards in broadly similar cases, regard being had to all the factors which

are considered to be relevant in the assessment of general damages. At the same time, it may be permissible in an appropriate case to test any assessment arrived upon this basis by reference to general pattern of previous awards in cases where the injuries and their sequelae may have been either more serious or less than those in the case under consideration.'

[18] Counsel for both parties referred me to several judgments on the correct approach to determine general damages.

[19] In his written heads of arguments, counsel for the plaintiff referred me to, *inter alia*, *Chauke v Road Accident Fund (Chauke)*,^[15] wherein the plaintiff sustained the following injuries in the accident:

- (a) pelvis fracture involving both acetabula;
- (b) lumbar spine injury with disc lesion; and
- (c) rib fractures with the need for a thoracotomy.

[20] Counsel in *casu* submits that the plaintiff in the *Chauke* matter sustained a pelvic fracture, lumbar spine injury, and rib fracture. The sequelae arising from these orthopaedic injuries are largely comparable to those suffered by the plaintiff in the present matter, with the exception of the bladder rupture necessitating catheter use and the resultant erectile dysfunction, which were not present in *Chauke* but are relevant in *Mr Yelo's* case. Furthermore, in *Chauke*, general damages were awarded in the amount of R700 000, which, adjusted for present-day value, equates to R924 000.

[21] The defendant disputed this present-day value and handed up to the court the 2023 Index Value based on the Consumer Price Index, which would put the present-day value at R774 705.42.

[22] The defendant further submits that the injuries sustained by the plaintiff in the present matter are not comparable to those in *Chauke*. It was contended that the injuries in *Chauke* were of such severity that the plaintiff required a bilateral total hip replacement due to the pelvic injury. In contrast, the plaintiff in the present matter did not undergo surgical intervention of the same nature or extent.

[23] Counsel for the plaintiff has also referred this court to the *Masemola v RAF (Masemola)*.^[16] After outlining the injuries sustained by the plaintiff in that matter, counsel contends that the injuries in the present case are more severe. In *Masemola*, the court awarded general damages in the sum of R850 000 in 2017, which, when adjusted for present-day value, amounts to R1 216 338.03.

[24] In her response, the defendant submitted a copy of the *Masemola* case, emphasising that, unlike the present matter, the plaintiff in *Masemola* had a clinical diagnosis of severe depression. Furthermore, the sequelae of the injuries sustained in *Masemola* were more severe.

[25] The plaintiff also referred to the case of Kgopyane v Road Accident Fund (Kgopyane),^[17] arguing that the plaintiffs in both matters sustained broadly similar injuries. However, in Kgopyane, it is submitted that the plaintiff did not suffer a ruptured bladder but rather experienced involuntary bladder constrictions, resulting in urine leakage when the bladder filled. While her bladder remained functional, it presented ongoing medical challenges. Furthermore, although the plaintiff in Kgopyane experienced discomfort during sexual intercourse, she remained sexually active post-accident and was able to conceive and give birth. In contrast, in the present matter, it is submitted that Mr Yelo, at the age of 42, faces significantly

more severe sequelae, impacting his overall quality of life. Accordingly, his injuries carry greater long-term consequences than those in Kgopyane.

[26] The defendant, however, submits that, in Kgopyane, the plaintiff suffered from involuntary bladder dysfunction, whereas, in the present matter, the plaintiff's catheter only leaks when full, and he is able to empty it himself when necessary. Additionally, in Kgopyane, the plaintiff's bladder condition resulted in continuous leakage, affecting her fluid intake and causing urine leakage during sexual

intercourse. In that case, the court awarded the plaintiff R600 000 in general damages, which, when adjusted for present-day value,

amounts to R918 000.

[27] Counsel for the plaintiff contends that the cited cases substantiate the plaintiff's claim for general damages in the amount of R1 800 000. The defendant, on the other hand, contends that the case law cited by the plaintiff does not substantiate the claimed amount within the context of the present matter.

Analysis

of the submissions with regard to comparable awards

[28] In Chauke, the court awarded the plaintiff general damages for injuries sustained in a motor vehicle accident, but it is crucial to note that the injuries sustained by the plaintiff in this case. Those injuries are severe and resulted in long-term functional impairment, including substantial chronic pain, limited mobility, and the need for extensive medical treatment, including surgery. The impact on the plaintiff's mobility was substantial, and the injuries caused significant disruption to their ability to perform daily activities and engage in gainful employment.

[29] While mindful of the principle that the process of comparison should not amount to a rigid examination of prior awards to determine compensation, nor should it unduly constrain the court's discretion in such matters, it remains a useful tool in contextualising the present claim.

- [30] In assessing the plaintiffs injuries in this matter, bladder rupture, urethral injury with stricture, and erectile dysfunction, it is evident that, although serious, they do not result in the same degree of physical debilitation as the injuries sustained in Chauke. The plaintiff in Chauke suffered pelvic fractures, lumbar spine injuries, and rib fractures, which severely impacted mobility, ability to work, and overall physical function. Furthermore, the rib fractures necessitated life-saving surgical intervention. On the other hand, while the bladder rupture and urethral injury in this matter are serious, they do not result in the same level of disability or permanent functional impairment to the same extent as those in Chauke.
- [31] The general damages awarded in Chauke were justified in the context of the severe and disabling injuries suffered, but I am of the opinion that it should not be used as a basis for determining compensation for bladder and urethral injuries which, while impactful, typically do not result in the same level of permanent disability or suffering for everyone in all circumstances.
- [32] Similarly, in Masemola, the court was confronted with injuries that led to substantial loss of quality of life, accompanied by ongoing medical complications. While the injuries sustained by the plaintiff in this matter are serious, they do not, in my opinion,
- reach the same degree of long-term impairment and medical complexity as those referenced cases.
- [33] Accordingly, as established in previous authorities, it is rarely, if ever, possible to identify a case where the injuries and their sequelae are identical to those under consideration. This inherent difficulty arises from the fact that individuals respond differently to what may, at first glance, appear: to be similar injuries. Importantly, it is not merely the multiplicity of injuries that is decisive, but rather the nature and extent of their sequelae.
- [34] The principle of fairness and reasonableness dictates that an award for general damages must adequately reflect the complainant's particular and actual hardship and suffering endured, rather than serve as an arbitrary figure disconnected from precedent. The defendant correctly submits that 'the court must take care to see that its award is fair to both sides-it must give just compensation to the plaintiff, but it must not pour largesse from the horn of plenty at the defendant's expense'.^[18] This is an approach with which I concur.
- [35] In line with the principles articulated in *Du Pisanie*, the exercise of comparison requires careful consideration of the plaintiffs personal circumstances before and after the accident, the nature of the injuries, and their sequelae. These must then be weighed against prior judicial determinations. While past cases serve as useful guidelines, they do not create fixed benchmarks but rather establish a pattern of awards that provides insight into fair and reasonable compensation.

- [36] The defendant has also referred to the case of *Dlamini v Road Accident Fund (Dlamini)*,^[19] submitting that the younger the plaintiff, the longer the injured state will be that the plaintiff suffers and that injury, at a young age, will influence and determine the plaintiff's career and development. In *casu*, it was submitted that Mr Yelo was already 42 years old at the time of the accident and had already established his career and potential.
- [37] While age plays a determinative role in assessing damages, the court must be cautious not to overemphasise it at the expense of the broader inquiry into the totality of circumstances. Therefore, while age is a relevant factor, it should not be regarded as the sole criterion in evaluating the extent of damages suffered. The principle established in *Dlamini* underscores that age must be weighed alongside other relevant considerations, including the availability of medical interventions, and the broader consequences of his injuries on his daily life.
- [38] Furthermore, in evaluating the consequences of the plaintiff's injuries, it is essential to consider both the medical expert opinions and the availability of appropriate treatment. The orthopaedic surgeon has indicated that, while the plaintiff's
- bladder-related impairment contributes 29% toward his overall disability, the condition can be significantly improved with extensive reconstructive surgery, including the use of a prosthetic urinary sphincter. However, such intervention is not currently available in the state healthcare system.
- [39] Despite this limitation, the settlement for future medical expenses already agreed upon with the RAF will ensure that the plaintiff will have the necessary financial resources to access private medical care and obtain the required surgical intervention. The availability of medical advancements in bladder function restoration, coupled with the plaintiff's secured funding for private treatment, mitigates the long-term consequences of his injuries.
- [40] Furthermore, the principle of fairness and proportionality in awarding general damages requires that the severity of an injury be assessed not solely on its initial impact but also on the possibility of effective treatment and recovery. Unlike cases where no meaningful medical intervention is available, the plaintiff has a pathway to significant improvement through reconstructive surgery, which must be taken into account when determining the appropriate quantum for general damages.
- [41] Therefore, while the plaintiff's injuries are serious, the court must balance its assessment with the recognition that effective private medical care, facilitated by the RAF's settlement, substantially reduces the long-term functional impairment and hardship. Accordingly, the requested general damages should reflect the actual impact of the injury post-treatment, rather than an assumption of lifelong
- disability without medical intervention.
- [42] Taking into account all relevant factors, including comparable awards under similar yet not identical circumstances, the precedents set in *Chauke*, *Kgopyane*, and *Masemola* illustrate the range within which damages are typically assessed. It is noted that an award must be

determined with a balanced approach, ensuring that no single aspect is unduly overemphasised at the expense of others. However, the fundamental principle remains that damages must be fair, proportionate, and commensurate with the actual impact of the injuries sustained.

[43] In addition, case law establishes that excessive claims must be tempered by judicial scrutiny, preventing undue inflation of damages. The plaintiff's reliance on past awards in the current context fails to justify the quantum sought. The claim of R1 800 000 is disproportionate when viewed in the context of prior awards for similar or even more serious injuries.

[44] Having regard to the matters referred to, as well as the principles applied that the plaintiff's individual circumstances dictate this court's discretion, I find that an amount of R800 000 is a just and reasonable amount of compensation for general damages.

[45] Accordingly, I make the following order:

ORDER:

1. The Defendant is liable for payment of 100% (HUNDERD PERCENT) of the Plaintiff's proven or agreed damages resulting from a motor vehicle accident that occurred on 30 June 2021.
2. The Defendant shall provide an undertaking in terms of Section 17(4)(a) of the Road Accident Fund Act 56 of 1996 ("the undertaking"), to compensate the Plaintiff for 100% (HUNDERD PERCENT) of the costs relating to the future accommodation of the claimant in a hospital or nursing home or specialized schooling centre or treatment of or rendering of a service, inclusive of special schooling, or supplying of goods to the Plaintiff, after the costs have been incurred and on proof thereof and rising from the collision which occurred on 30 June 2021.
3. The Defendant is ordered to pay to the Plaintiff the amount of R 800 000 (eight hundred thousand rands) for the claim for General Damages.
4. The aforesaid amount is to be paid into the following bank account:

Name of account holder: Khayalethu Nondabula Attorneys Inc

Name of bank: Nedbank

Account number: 1[...]

Branch code:

132526

Reference number: Y03/2021/RAF/KN

5. Should payment as aforesaid not be made within 180 days from the date hereof, the Defendant shall be liable for payment of interest on the aforesaid amount at the prescribed rate, from 15 days after the date of this court order, till date of payment.

6. The Defendant shall pay the Plaintiff's taxed or agreed party and party costs, on High Court scale to date of this order, which shall include:
 - 6.1 the reasonable qualifying fees (where applicable) of the following experts:
 - 6.1.1 Dr G. Pirjol (Orthopaedic Surgeon);
 - 6.1.2 S. Bugwandin (Urologist);
 - 6.2 the reasonable reservation fees for 13 May 2025 of the following experts:
 - 6.2.1 Ms. C. Ndunga (Occupational Therapist);
 - 6.3 the reasonable traveling fees for 13 May 2025 of the following experts:
 - 6.3.1 A. Chikuya (Industrial Psychologist);
 - 6.4 The reasonable cost of the interpreter for 13, 14 and 16 May 2025.
7. The Defendant shall pay the taxed or agreed fees of Plaintiff's counsel.
8. The Plaintiff shall allow the Defendant 180 (ONE HUNDRED AND EIGHTY) calendar days to make payment of the taxed or agreed High Court costs.
9. Should payment as aforesaid costs not be made within 180 days from the date of settlement/taxation, the Defendant shall be liable for payment of interest calculated at the prescribed rate, from 15 days after the date of settlement/stamped allocatur, to date of payment.
10. The loss of earnings is separated in terms of Rule 33(4) of the Uniform Rule of Court is postponed to the pre-trial roll of 28 July 2025.

DEANE AJ

Appearances For the plaintiff: Adv.D Skoti Instructed by: Khaya lethu Nondabula Attorneys, Kokstad c/o Webbers Attorneys, Bloemfontein For the defendant: Ms. C Bornman Instructed by: State Attorney, Bloemfontein.

- [1] Plaintiff Heads of Argument, para 3.
- [2] Record, pp. 37-38.
- [3] Record,
p. 41.
- [4] Record, pp. 46 - 58.
- [5] Record,
p. 48.
- [6] Record, p. 54.

- [7] Record,
p. 28.
- [8] Record, pp. 62 - 87.
- [9] Record
p. 72.
- [10] Minister of Safety and Security v Seymour (2006] ZASCA 71; (2007) 1 All SA 558 (SCA); 2006 (6) SA 320 (SCA) para 17.
- [11] Road Accident Fund v Marunga [2003] ZASCA 19;
[2003] 2 All SA 148 (SCA); 2003 (5) SA 164 (SCA) para 23-28.
- [12] De Jongh v Du Pisanie (2004] ZASCA 43; 2004 (2) ALL SA 565 (SCA); 2005 (5) SA 457 (SCA) (Du Pisanie).
- [13] Pitt v Economic Insurance Co Ltd 1957
(3) SA 284 (D) at 287E-F.
- [14] Protea Assurance Co. Ltd v Lamb 1971 (1) SA 530 (A) at 535H-536B.
- [15] Chauke v Road Accident Fund [2023] ZAGPPHC 372 para 5.
- [16] Masemola v RAF [2017] ZAGPPHC 1202.
- [17] Kgopyane v Road Accident Fund [2016] ZAGPPHC 872.
- [18] Du Pisanie para 60.
- [19] Dlamini v Road Accident Fund [2023] ZAKZPHC 29.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAFSHC/2025/154.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/yelo-v-road-unknown-topic-afshc-2025--6a3ea50e3b1caa91298070e8>

Prepared on 13 October 2026 · Esheria