

SOUTH AFRICA / JUDGMENT

Zvidhembo v Road Accident Fund (1824/2017) [2020] ZAGPPHC 395 (7 August 2020) [2020] ZAGPPHC 395

COURT

North Gauteng High Court, Pretoria

BEFORE

Van der Westhuizen

CASE / FILE NUMBER

1824/2017

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IN THE HIGH
COURT OF SOUTH AFRICA
GAUTENG
DIVISION, PRETORIA
CASE NO.:
1824/2017
In the matter

between:

TALENT
ZVHIDHEMBO
Plaintiff
and
THE
ROAD ACCIDENT FUND
Defendant

JUDGMENT

VAN DER WESTHUIZEN, J

[1] The plaintiff instituted a claim against the defendant for damages suffered as a result of injuries sustained by the plaintiff due to a collision that occurred on 16 May 2016. At the time of the collision, the plaintiff was a passenger on a bicycle that was knocked down by an unidentified motor vehicle.

[2] The defendant defended the action and pleadings were exchanged. The matter became trial ready and was enrolled for hearing on 4 August 2020. In view of the dispute that arose between the defendant and certain firms of attorneys that served on the defendant's panel, the attorneys instructed by the defendant received no further instructions on trial and apparently withdrew as attorneys of record for the defendant. The defendant consequently was directly involved in the finalisation of this action.

[3] When the matter was allocated to me for adjudication on 6 August 2020, there was no representation on behalf of the defendant. I requested counsel appearing for the plaintiff to obtain an affidavit from his instructing attorney in respect of the attempts to finalise the action with the relevant personnel of the defendant who were tasked

to oversee the matter. The matter stood down for the drafting of such affidavit. Counsel for the plaintiff was further provided with a contact number at the defendant's offices that may be able to assist in finalising the matter.

[4] It is clear from the affidavit prepared and filed by the plaintiff's attorney, that much effort was undertaken to acquire the defendant's co-operation to finalise the matter. Despite attempting to contact

the further person at the defendant details of whom were provided as recorded earlier, no assistance from the defendant was forthcoming.

The matter is accordingly to proceed on a default basis.

[5] The issues in dispute are the aspect of liability of the defendant to recompense the plaintiff for the damages suffered, future hospital and medical expenses, past loss of earnings, future loss of earnings and general damages.

[6] It is not clear why the issue of liability could not have been conceded by the defendant. An affidavit by the plaintiff on the details of the collision was previously served and filed. It is clear from that affidavit that the plaintiff was not negligent in any manner and did not contribute any negligence to the cause of the collision. The plaintiff is accordingly entitled to compensation for the damages suffered as a result of the collision and in that regard the defendant is 100% liable for any damages proven or agreed upon.

[7] The defendant, as recorded earlier, has not offered any amount in respect of the damages suffered on the rubrics of damages enumerated earlier. In that regard, the plaintiff has filed reports by various experts

relating to their specific areas of expertise that were confirmed under oath. An actuarial report was also prepared and filed on behalf of the plaintiff.

[8] I am satisfied that the plaintiff has indeed suffered the injuries and consequent sequelae dealt with in the various expert reports as a direct result of the said collision.

- [9] Counsel for the plaintiff prepared and filed heads of argument on the issues of liabilities and the quantum of the various claims. Counsel is lauded for his efforts in assisting the court in that regard.
- [10] In respect of the issue of general damages, Counsel for the plaintiff relied on the following comparable authorities:
- (a) SC Morris v Road Accident Fund (Gauteng Division, Pretoria, case no: 99303/2015) where an amount of R675 000,00 was awarded translating in an amount of R740 341,00 in 2020 value;
 - (b) Marunga v Road Accident Fund 2003(5) C&B E3-1 (SCA) where an amount of R492 000,00 was awarded in 2019;
 - (c) Venter v Road Accident Fund 2011 (6E3) QOD 7 (GNP) where an amount of R457 000,00 was awarded in 2019

Counsel submitted that considering the foregoing awards, an amount of R500 000,00 would be justifiable in the present matter. I agree.

- [11] I am satisfied that the plaintiff has duly proven the following amounts in respect of damages under the following rubrics:
- (a) Past loss of earnings: R165 421,00;
 - (b) Future loss of earnings: R1 153 218,00;
 - (c) General damages:

R500 000,00

- [12] In respect of the issue of future hospital and medical expenses, it is customary that an undertaking in terms of the provisions of section 17(4)(a) of the Road Accident Fund be provided by the defendant.

I grant the following order:

1. An order is granted in terms of the draft order attached hereto marked "XYZ"

C J VAN DER WESTHUIZEN

JUDGE OF THE HIGH COURT

Date of Hearing: 06 August 2020

On behalf of Applicant: SG Maritz

Instructed by:

N van der Walt Inc

Judgment

delivered: 07 August 2020

On behalf of Respondent: No appearance

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Prepared on 11 October 2026 · Esheria