

**IN THE HIGH COURT OF
GAUTENG DIVISION,**



**SOUTH AFRICA
JOHANNESBURG**

CASE NO: 2021 - 5818

1. Reportable: No
2. Of interest to other judges: No
3. Revised

Wright J
3 October 2023

In the matter between:

RASHID SULIMAN

PLAINTIFF

and

MONAGAREN SHANNON NAICK

1ST DEFENDANT

LALITHA NAICK

2ND DEFENDANT

JUDGMENT

WRIGHT J

1. The plaintiff, Mr Suliman claims damages from the defendants, Mr Naick and Ms Naick who are husband and wife. He alleges that he was called to their house to assist Ms Naick who he alleges was being attacked by her husband. He went to their house, which it is common cause is next to the house across the road from the plaintiff's house. He helped Ms Naick and was bitten by the defendants' dog. This is alleged to have occurred on 3 November 2019.
2. Mr Suliman claims R350 000 for general damages, R200 000 for past and future medical costs and R720 060 for past and future loss of income. All claims arise allegedly out of the dog bite.
3. Uniform Rule 18(10) requires a plaintiff in cases such as the present to plead the claim for damages in such a way as to enable a defendant reasonably to assess the quantum thereof. It is required that the nature and extent of the injuries and the nature, effects and duration of an alleged disability be specified. Medical, hospital and other similar expenses and how these costs are made up are to be pleaded. Pain and suffering must be set out and it must be pleaded whether these are temporary or permanent and which injuries caused the pain
4. and suffering. Loss of earnings must be set out showing how the amounts claimed are made up.
5. The particulars of claim fall way short of the kind of pleading required.
6. The allegation in the particulars of claim is that the plaintiff, at the time of the attack was a "*semi-professional golf player, was permanently employed as a golf instructor and earned a monthly salary of R30 000.*"
7. I was informed from the Bar by Mr Block for the plaintiff that these allegations are incorrect and that the plaintiff was actually self-employed and gave golf lessons from which he earned an income but not a salary.

8. The separate pleas for each defendant deny any domestic violence, that the plaintiff was bitten or generally that there was any such incident. The claim is alleged to be a fabrication. The plaintiff had allegedly previously visited the defendants' house. The second defendant, but not the first defendant pleads in the alternative that the plaintiff voluntarily assumed the risk of being bitten.
9. Both Mr Block and Mr Pilusa conceded that there are documents, relevant to the issue that each party has not discovered, for example bank statements, showing dates and amounts of alleged payments. The date of the alleged bite, 3 November 2019 is an important date given the denial of the pleaded incident. Payments, on certain dates and by who to whom may well play a crucial role in determining the truth.
10. Both sides produced photos at the last minute. Neither side has discovered these photos.
11. Mr Block informed me in chambers yesterday that he would call a Dr Seedat to testify that he saw the plaintiff on a certain date, 6 November 2019, that the wound he saw was consistent with that of a dog bite and that certain medication was prescribed. No expert notice had been filed for Dr Seedat. When I asked Mr Block how the doctor could testify as to the nature of the wound absent an expert notice, Mr Block said that he would not then lead that particular piece of evidence.
12. Yesterday, the plaintiff produced a letter from a neurologist, Dr Wolberg which had not been discovered or given to the defendants' legal team. The letter is undated but contains the allegation that Dr Wolberg saw the plaintiff on 11 August 2020. No expert notice has been served for Dr Wolberg.
13. Numerous chemist receipts have been included in the bundle. Once again, dates are important. No attempt had been made by the plaintiff's legal team to add up these receipts to get to a figure for alleged past medical expenses.
14. Some hand-written notes are in the trial bundle. Allegedly these are by the plaintiff and relate to golf lessons given by him to various persons. No attempt has been made to quantify a claim here. Dates here may be important.

15. Both sides pressed me to split the issues of merits and quantum. Mr Block suggested that there was no need for any more detail or readiness on quantum as the agreement between the opposing attorneys was that there be a split.
16. Mr Pilusa for the defendants confirmed the agreement. Rule 33(4) boils down to a split of issues being dependant on convenience. In my view, it would be inconvenient and unwise to split the issues. In this case, unlike many personal injury cases, the merits and the quantum are not discrete issues. The date of the alleged incident is crucial. The dates on which doctors saw the plaintiff are crucial as are the dates on doctors' notes and letters and on medical and other documents.
17. Mr Block conceded that the plaintiff and Dr Seedat would be required to testify twice if the issues are split.
18. Mr Block and Mr Pilusa were agreed that if I decline to split the issues the matter should be postponed. This is a sensible approach. The time estimate was for 4 to 5 days, on merits only. In my view, this time would not have been sufficient even if only merits were to be separately decided.
19. Regarding costs, neither side is ready, even on the merits and it would be unwise to attempt now to apportion blame.

ORDER

1. The issues of merits and quantum are not split.
2. The matter is postponed sine die, costs reserved.

GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 2 to 3 October 2023

DELIVERED : 3 October 2023

APPEARANCES :

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