IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

(1) NOT REPORTABLE

(2) NOT OF INTEREST OF OTHER JUDGES

CASE NUMBER: 9619/2015

16/8/2017

In the matter between:

FOUCHe, J **PLAINTIFF**

and

ROAD ACCIDENT FUND **DEFENDANT**

HEARD ON: 15/05/2017

JUDGMENT: 16/08/2017

STRIJDOM AJ

1. The Plaintiff is Jeanine Fouche, a 34 year old female. She instituted an action against the Defendant in terms of the Road Accident Fund Act, 56 of 1996, as amended (the "Act"), for damages as a result of injuries she sustained whilst she was a passenger on a motorcycle with registration number […].

2. The merits have already been finalised in favour of the Plaintiff on the basis of 100% liability on Defendant's part.

3. Plaintiffs claim was quantified as follows:

3.1.	Past hospital and medical expenses	R450,000.00
3.2.	Future hospital and medical expenses – Section 17(4)(a) Undertaking	
3.3.	Loss of income and earning capacity	R6,666,606.00
3.4.	General damages	R1,300,000.00
		R8,416,606.00

4. The parties have settled Plaintiffs claim under the following heads of damages:

4.1.	Estimated future medical expenses - An undertaking in terms of Section 17(4)(a)	
4.2.	Past medical expenses	R344,175.99
4.3.	Past loss of earnings	R469,417.00

5. The only issues that remain for determination are:

5.1. General damages;

5.2. Future loss of earnings.

6. Regarding the determination of the outstanding issues it was agreed between the parties that reference would be made by both parties to the reports of the respective expert witness submitted as part of a bundle of documents filed into court.
7. This claim arises from a motorcycle accident which occurred on 15 June 2013 on Veldpou Street, Monument Park, Pretoria.
8. The following expert reports were obtained by the Plaintiff:

8.1. Dr VM Close - Orthopedic Surgeon;

8.2. P Badenhorst - Occupational Therapist;

8.3. Dr K Truter - Clinical Psychologist;

8.4. Dr F Greeff - General Surgeon;

8.5. Dr CJ Masureik - Maxilla Facial and Oral Surgeon;

8.6. Marco du Plooy - Orthotics and Prosthetics;

8.7. Dr Mazabow- Neuropsychologist;

8.8. Dr Stem - Radiologist;

8.9. Dr Shevel - Psychiatrist;

8.10. Dr B White - Plastic & Reconstructive Surgeon;

8.11. Esme Noble - Industrial Psychologist;

8.12. A Whittaker- Actuary.

9. The following expert reports were obtained by the Defendant:

9.1. Dr BA Okoli - Neurosurgeon;

9.2. L Prinsloo - Clinical Psychologist;

9.3. CJ Nel - Industrial Psychologist;

9.4. W Loots-Actuary.

10. From a synopsis of the reports of the experts the Plaintiff suffered the following injuries:

10.1. Multiple facial fractures;

10.2. Le-forte 3 fracture;

10.3. Fracture of the mandible;

10.4. Fracture of the nose;

10.5. Loss of teeth;

10.6. Contusion of the chest;

10.7. Blunt abdominal trauma;

10.8. Laceration of the spleen;

10.9. Laceration of the liver;

10.10. Fracture of the mid-shaft of the left femur;

10.11. A compound fracture of the left tibia;

10.12. A compound fracture of the right radius and ulna;

10.13. A fracture of the right ankle;

10.14. A fracture of the clavicle;

10.15. A moderate to severe concussive brain injury.

11. According to Dr. Shevel (Psychiatrist) the neuropsychiatric problem areas as reported by the Plaintiff can be summarised as follows:

11.1. Difficulty adjusting to living with chronic pain and with ongoing physical deficits;

11.2. Post-accident decline in occupational functioning;

11.3. Possible communication difficulties;

11.4. Impulsive type behaviour;

11.5. Depressed mood;

11.6. Emotional !ability/tearfulness;

11.7. Suicidal ideation;

11.8. Decreased ability to cope with stressful and pressurised situations;

11.9. Memory difficulties;

11.10. Difficulty sustaining concentration

11.11. Frustration/ irritability;

11.12. Has become a negative person (used to be very positive)

11.13. Mild temper dis-control/previous screaming outbursts:

11.14. Feeling of uselessness and worthlessness;

11.15. Sleep disturbance with initial insomnia;

11.16. Daytime fatigue;

11.17. Increase in appetite with significant weight gain;

11.18. Poor self-image/decrease in confidence;

11.19. Marked decline in libido;

11.20. Post-accident hormonal changes - acne;

11.21. Decreased socialisation;

11.22. Tendency to road rage;

11.23. No longer able to multitask;

11.24. Decrease in motivation;

11.25. Pessimism concerning the future;

11.26. Finds that her emotions overwhelm her rational mind.

CLINICAL FINDINGS:

12. On clinical examination of the Patient on 19 October 2015 Dr. Masureik (Maxillo-facial and Oral Surgeon) reported the following:

12.1. Surgical scars were created in the fronto zygomatic region. The scars appeared to have healed with very good cosmeses and should cause no further problems;

12.2. She has a scar where the tracheostomy was *done and this* has healed with scar tissue as is generally found with these procedures;

12.3. Her occlusion has been asymmetrically displaced as a result of the fractures and especially the fracture involving the right condyle process. The posterior part of the jaw on the right hand side is shorter than it was prior to the injuries.

13. Paula Badenhorst (Occupational Therapist) reported the following impairments and functional status limitations following her evaluation of the Plaintiff on 6 August 2015:

13.1. Moderately restricted tolerance for standing. Suited to the occasional standing over a work day (up to 33%);

13.2. Lifting and carrying ability is within the occasional medium physical demand level. Would be expected to have difficulty when carrying heavy/very heavy loads on a frequent basis during a work day. She is also expected to have difficulty lifting loads overhead;

13.3. Movements of the right wrist were mildly reduced (wrist extension, forearm supination and pronation);

13.4. Hand grip strength and co-ordination: decreased right hand grip strength and some difficulty of the hand co-ordination subtests with right hand due to pain and fatigue in the right wrist;

13.5. Dynamic strength: she was able to lift 22,7kg (medium weight) in standing and exerted pushing forces between 9 and 34kg. Testing elicited right wrist pain.

13.6. She has some mild mobility restrictions related to balancing on her left leg. Walking heel.to, walking on her heels, kneeling and crawling. These are viewed as somewhat significant and would be expected to impact her daily life tasks;

13.7. Mildly reduced agility in assuming mobility positions;

13.8. Physical exertion is more tiring and reports that she is slowed down since the accident. She reports that the pain affects her concentration at work and that she is taking shortcuts at work and is not as physically active as she was before the accident.

13.9. The cumulative and debilitating effect of long term chronic pain

(more than 2 years) and the deconditioning effect of decreased physical activity and emotional/psychological difficulties, such as depression, may also be expected to deplete her energy levels and compound to difficulties with sustaining mental and physical effort;

13.10. She has diminished physical and psychological effort tolerance which affects her self-management and work capacity and this appears to be related to the accident.

14. On examination of the Patient by Mr. P. Bruce White (Plastic-and Reconstructive Surgeon) the following is reported:

14.1. Well-heeled scars of both eyebrows and both infra-orbital regions;

14.2. An intra-oral scar of the left inferior buccal region. This is from the repair of the fractured mandible. The submental nerve has been traumatised with resultant numbness of the lower left lip and chin;

14.3. An unsightly widened tracheostomy scar;

14.4. A well-heeled vertical linear surgical scar of the volar aspect of the right forearm;

14.5. An irregular slightly widened scar of the styloid process of the right ulnar;

14.6. A well-heeled slightly reddened vertical surgical scar of the left trochanteric region;

14.7. Two punctate scars of the distal left thigh. These are the sites of the locking screws;

14.8. An unsightly vertical surgical scar of the left knee with multiple punctured scars of the medial and lateral aspects of the tibial tuberosity;

14.9. A swelling of the mid-portion of the left shin with a n unsightly indented overlying scar. This is where the muscle has herniated through the muscle septum;

14.10. An unsightly hyper-pigmented deeply indented scar of the left calve;

14.11. Two punctured scars of the anterior aspect of the distal left shin;

14.12. Loss of sensation of the sole of the left foot.

15. Following the clinical examination of the Plaintiff, Dr. Kobus Truter (Psychologist) reported the following:

15.1. Plaintiff presented as emotional during the clinical interview;

15.2. She was moderately disinhibited and her mood fluctuated;

15.3. She was weepy, emotional and even cried;

15.4. She displayed periods of frustration and irritability;

15.5. At times, she was more cheerful.

16. According to Dr. Mazabow (Neuropsychologist) Plaintiff presented as an animated, co-operative and friendly woman who was rather verbose and required a high level of structuring of the conversation. According to this expert she was disinhibited at times, with exclamations of profanity, followed by apologies and with over-familiarity with the doctor.

17. Dr. Mazabow further reported that the Plaintiff was impulsive in her responses, rushing into the tasks before the instructions had been completed, and with a slapdash manner of execution, resulting in careless errors. As she fatigued, her right eyeild tended to droop and her careless errors increased, and with perseverative responses.

18. Dr. Mazabow reported the following with regard to Plaintiff's neuropsychological profile:

18.1. On cognitive assessment, she demonstrates the following profile of cognitive functions:

18.2. She had superior scores on tests of clerical speed/accuracy, verbal fluency, and visual recognition memory:

18.3. She had scores within the average range on tests of fine motor speed/dexterity for the left hand, simple visuo-motor tracking speed, immediate span of attention, working memory, visuo- construction, concept-formation, visual reasoning, arithmetic reasoning, rote verbal memory, and narrative memory;

18.4. In contrast, she had poor performances on tests of fine motor

speed/dexterity for the right hand (likely associated with the injury to that wrist), sustained attention/vigilance, double-mental tracking, complex visuographic reproduction, and stimulus resistance;

18.5. She also had poorer than expected scores on tests of clerical speed/accuracy on tasks with higher visuographic demands, and on the test of forward-planning and of visual-memory/recall, and she also demonstrated variability in her concentration;

18.6. Further, qualitatively, she demonstrated a number of "frontal" signs, including proneness to disinhibition, verbosity, impulsive responses, and preservation, and slapdash execution with careless errors, and she also fatigued rapidly.

19. According to Dr. Mazabow Plaintiff sustained a diffuse brain injury, comprising both primary and secondary components, likely of a mild- to moderate or moderate nature overall, with signs also of more focal, orbito-frontal dysfunction. Dr. Mazabow indicated that a traumatic brain injury of this nature would be expected to give rise to neuropsychological impairments of the type demonstrated by the Plaintiff (in her clinical presentation and in her test results, as well as in the description given by herself and her brother) and would also be expected to give rise to deterioration in vocational functioning.

20. Added to the above brain injury Plaintiff, according to Dr. Mazabow, is experiencing chronic, severe depression disorder, as seen in her score of 43 on the depression inventory, with suicidal thoughts.

21. Dr. Mazabow is of the opinion that the Plaintiff's cognitive behavioural, social/interpersonal and vocational disturbances are attributed to the combination of a moderate traumatic brain injury sustained in the accident in question (comprising primary diffuse, secondary diffuse, and vocal-orbito-frontal component), combined with the effects of a severe, chronic mood disorder/depression, occurring in a psychologically vulnerable person.

22. On the clinical examination of the Plaintiff by Dr. Close (Orthopedic

Surgeon) on 21 January 2015 the following is reported:

22.1. There is a mild loss of dorsiflexion, radial and ulnar deviation;

22.2. She has some stiffness of the lesser toe flexion on the left compared to the right, which is since the accident. She also complains of reduced sensations over the sole of the left foot.

23. According to the Dr. Shevel, clinically the following neuropsychiatric signs were apparent following this examination of the Plaintiff:

23.1. Talkativeness;

23.2. Flight of ideas;

23.3. Emotional !ability - no pervasive depression (is on appropriate medication), but burst into tears on a few occasions;

23.4. Cognitive deficits.

RADIOLOGICAL EXAMINATION:

24. A CBCT scan was done on the 19th of October 2015, which revealed the following facial injuries:

24.1. Severe comminution of the mid-facial area, including nasal bones, the maxillary sinuses;

24.2. Bilateral fractures of the mandible, involving the right condylar process and left body of the lower jaw;

24.3. Internal fixations were present in the left- and right frontozygomatic areas, as well as the body of the mandible in the tooth 33 area;

24.4. The right mandibular condyl, also shortened, seems to be in position and is functioning well as a joint.

25. A CT scan of the chest showed areas of infiltration in keeping with lung contusion. No pneumo- or haemothorax.

26. A CT scan of the abdomen and pelvis showed and intra-peritoneal injury of the liver in keeping with a liver laceration. There was also a small area in the posterior- and superior aspect of the spleen.

27. The following x-ray reports were discussed by Dr. Close:

27.1. An x-ray of the right forearm, dated 24 June 2013 notes an open reduction and internal fixation of the distal radius with no callus formation, and a comminuted fracture of the distal ulna with shortening and slight angulation of the multiple loose fracture fragments with no visible external callus;

27.2. An x-ray report of 3 September 2013 reported a radial lucent fracture line in the radius and comminution of the distal ulna with minimal endosteal callus formation in keeping with non- union. There was also radiocarpal joint space narrowing. The left femur and left lower leg showed a transverse type fracture of the femur with an intra-medullary pin in sito, good position and alignment. The radio loosened fracture line was still visible. External callus formation was demonstrated, but incomplete healing. The left lower leg showed a transverse tibial fracture with an intramedullary pin in sito, in good position and alignment. No osteo-endosteal or bridging external callus over the fracture line is seen. The proximal and distal fibular fractures showed signs of early healing.

28. X-rays obtained on 21 January 2015 and reported on by Dr. Steyn indicated the following:

28.1. In the right forearm there is a healed fracture of the distal shaft of the radius with internal fixation in sito, no complications noted. There is also deformity of the distal ulna with a negative ulna variance and irregularity of the coretex of the distal metaphysis in keeping with an old fracture;

28.2. There is a loss of the normal ellipse between the radius and ulna on the AP view. There is lateral or radial bowing of the radius. There is also slight radial bowing of the ulna. The radiocarpal joint is reported as in tact, as the elbow;

28.3. The left femur and pelvis x-ray shows no pelvis fracture, normal hips, evidence of a healed fracture of the mid-shaft of the left femur

with internal fixation in sito and no complications noted. The knee is normal.

28.4. The mid-distal shaft tibial fracture has healed. The internal fixation is in sito. There is also a healed fracture of the distal shaft of the fibula. The ankle appears normal. There is slight posterior bowing of the fibula on the lateral view.

29. On personal perusal of the aforesaid x-rays(21 January 2015) Dr. Close reported the following:

29.1. There is one distal locking screw which is intact in the distal femur and there are no locking screws in the distal tibia;

29.2. The fractures have healed with excellent alignment in the lower limps, but the forearm shows loss of normal radio-ulnar relationship with bowing, and disruption of the distal radio- ulnar joint due to the comminuted distal ulna fracture. There is no evidence of radiocarpal osteoarthritis. The radius fracture has now healed.

29.3. With regards to the loss of the normal radio-ulnar ellipse, Dr. Close is of the view that the fixation appears to be anatomical and wonders if this deformity was not pre- existing, possibly due to a childhood fracture.

30. The following future medical treatment is indicated by Dr. Masuriek (Maxillo-Facial and Oral Surgeon):

30.1. Correction of the asymmetry in the occlusion. According to this expert this asymmetry ultimately could lead to a joint replacement.

31. The recommendations regarding rehabilitation, special equipment, assistance in the home and transport is discussed in the report of Paula Badenhorst.

32. According to Marco du Plooy (Orthodontist) Plaintiff needs to be rehabilitated which means Plaintiff will need to have access to foot orthotics.

33. According to Mr. P. Bruce White (Plastic- and Reconstructive Surgeon)

revision of the tracheostomy scar, the scar of the right ulnar styloid region, the indented scar of the left calve and repair of the herniation of the anterior aspect of the left mid-shin will have to be done. This procedure will necessitate and overnight stay in the hospital and two weeks off from a working situation. Dr. White indicated that even after surgery Plaintiff will remain permanently scarred.

34. According to Kobus Truter, Plaintiff will benefit from long term psychotherapy: Provision should be made for 30 cessions, to be put to use over her lifespan.

35. According to Dr. Mazabow (Neuropsychologist) Plaintiff will benefit from a further course of psychotherapeutic treatment (over a year), and provision should be made for 50 cessions of psychotherapy. However, the likely organic component to her cognitive/behavioral impairments will make for a poor prognosis for the mood symptoms, and her cognitive difficulties will also not be resolved by that treatment.

36. According to Dr. Close provision should be made for the removal of the radial plate, left femur nail, left tibial nail and conservative treatment.

GENERAL DAMAGES:

37. Prior to the accident Plaintiff had no notable injuries or complaints but the general, consensus of the experts was that she now presents with various congnitive and neuropsychological deficits as well as chronic major depression.

38. It is common cause that the Plaintiff sustained multiple facial fractures, loss of teeth, contusion of the chest, blunt abdominal trauma with laceration of the spleen and liver fracture of the mid-shaft of the left femur, fracture of the left tibia, fracture of the right radius and ulna, fracture of the right ankle, a fracture of the clavicle and a mild to moderate diffuse concussive brain injury.

39. Taking into consideration the Plaintiffs pain and suffering, permanent disfigurement, permanent disablement and loss of amentiies, I am of the view that the amount claim by the Plaintiff namely R1,400,000.00 is

reasonable in the circumstances.

LOSS OF INCOME/ EARNING CAPACITY:

40. At the time of the collision Plaintiff was working at Associated Motor Holdings (Pty) Ltd Mitsubishi Motors, Midrand as a Sales Executive. According to Plaintiff she was a Fleet Sales Lady and Avis was her biggest client. She received a basis salary of R9,500.00 per month with commission and took home between R20,000.00 and R40,000.00 per month.
41. She retuned to work after 9 months. In this period she was paid her basic salary for 2 months. She went back to work for 3 months and resigned. In July 2014 she started to work at Sandown Motors, Mercedes Benz, Century City in Cape Town. Her basic salary amounts to R5,288.000 per month. After three months she decided to move to Gariep Motors in Kimberley where she sold second hand vehicles, earning a basic salary of R?,500.00 per month.
42. Plaintiff went back to Brits and stayed with her father after she was treated for depression in Hilliandale Clinic. In Brits Plaintiff works for Ford, Brits selling new vehicles from June 2015. She was let go and was not appointed.
43. On 11 January 2016 Plaintiff started at WURTH SA Co as Sales Representative, selling chemicals etc. She earns a fixed salary of R16,000.00 per month.
44. According to Dr A Okoli, Plaintiff sustained a moderate to severe diffuse brain injury.
45. Paula Badenhorst re-iterates the view expressed by other experts that the Plaintiff is a vulnerable employee in the open labour market and retaining a worker role requires additional effort with resultant fatigue, affecting work competencies and abilities when compared to pre-accident and she requires assistance with heavier tasks.
46. According to Dr Mazabow, Plaintiff is not likely to return to her pre-morbid level of vocational functioning in the sales arena and would also be a poor

candidate for sedentary work.

47. According to Dr Shevel, the memory and concentration difficulties of the Plaintiff will largely prevent her from being able to be re-trained in any alternative occupational field. Dr Shevel is of the view that the Plaintiff may well become functionally unemployable in the future.

48. An Actuarial calculation was obtained by the Plaintiff s actuary to calculate the Plaintiffs loss of income on the various scenarios as indicated by the two Industrial Psychologists.

49. In the calculation Scenario 1A and Scenario 1B is based on the propositions of Esme Noble, Plaintiffs Industrial Psychologist. In Scenairo 1A provision is made for retirement in 10 years' time whereas in Scenario 1B Plaintiff will work until normal retirement age 65 years with a higher post accident contingency deduction. Scenario 28 is based on the alternative scenario proposed by Cecile Nel where the Plaintiffs current income us utilised with a higher post-accident contingency.

50. The summary of the actuarial result are as follows:

<u>Future loss:</u>	
Value of income uninjured:	R8,595,030
Less contingency deduction-15%	R1,289,255
	R7,305,775

<u>Future loss:</u>	
Value of income injured:	R3,470,821
Less contingency deduction-50%	R1,735,411
	R1,735,410

Nett future loss:	R5,570,365
Total net loss:	R6,080,423

Losses after the application of the Amendment Act:

Nett past loss:	R469,417
Nett future loss:	R5,543,540
Total nett loss:	R6,012,957

51. I am of the view that in quantifying this claim, one should have regard to Scenario 1B by Esme Noble and 28 by Cecile Nel.

52. Whatever deduction is finally made, it is a result of what can only be referred to as "an informed guestimate". It has to be informed *inter alia* by the expert reports but would ordinarily exclude "normal factors" such as liability for tax and life expectancy because such contingencies are included in actuarial calculations of the projected income.

53. While weighing the conflicting submissions made by both counsels, the Court has to take cognisense of the views expressed in the expert reports, with particular reference to those of the industrial psychologists and the actuaries.

54. Bearing all the above factors in mind one has to try and construct a realistic picture of what is likely to happen in future especially with regard to the post-morbid scenario.

55. In ***Southern Association v Bailey N.O.*** **1984 (1) SA 98 at 116G - 117A** Nicolson JA held:

> *"Where the method of actuarial computation is adopted, it does not mean that the trial Judge is "tied down by inexorable actuarial calculations". He has "a large discretion to award what he considers right" (per Holmes JA in Legal Assurance Co Ltd v Bates 1963(1) SA 608 (A) at 614 F). One of the elements in exercising that discretion is the making of a discount for "contingencies" or the "vicissitudes of life". These include such matters as the possibility that the plaintiff may in the result have less than a normal expectation of life and that he may experience*

periods of unemployment by reason of incapacity due to illness or accident, or to labour unrest or general economic conditions. The amount of any discount may vary, depending upon the circumstances of the case. See ***Van Der Plaats v South African Mutual Fire and General Insurance Co Ltd 1980 (3) SA 105 (A)*** *at 114-115. The rate of the discount cannot of course be assess on any logical basis. The assessment must be largely arbitrary and must depend upon the Judge's impression of the case".*

56. Having considered the various medico-legal reports, the different legal approaches and the submissions by both counsels, I am persuaded that a 15% pre-accident and a 50% post-accident contingency be applied.
57. In my view it would be a fair and reasonable approach in quantifying this claim to take the average of the two calculations, being RS,418,978.00 (Scenario 1B) and R5,982,384 .00 (Scenario 2B) which is R6,200,681.00.
58. Lastly, there is the question of the special costs claimed by Plaintiff.
59. The Plaintiff commissioned various expert reports. In a pre-trial minute dated 12 October 2016 it was recorded by the Plaintiff that the Defendant did not file any counter reports for certain experts. However, the Defendant was requested to indicate whether he admit the contents of the so-called reports, Defendant reply that he will revert on or before 20 October 2016. This matter was set down for trial on 26 October 2016. The case was removed from the role and was set down for 15 May 2017. On 15 May 2017 counsel for the Defendant indicated that the joint minutes are admitted as well as the expert reports.
60. The Defendant did not (until 15 May 2017) communicate its decision with regard to the acceptance or rejection of the expert reports obtained by the Plaintiff.
61. Plaintiff submits and I accept that Defendant unduly delayed to admit the expert reports until the day of trial. By so doing Defendant compelled Plaintiff to incur expenses which could have been easily avoided.
62. It is true that the Defendant has a constitutional duty to act with dignity,

honesty, openness and fairness in conducting litigation. Its duty is to compensate victims for the damages sustained as a result of motor collisions and not to litigate as they please.

See: *Mlasheni v Road Accident Fund* 2009 (2) SA 401 (E)
***Jacobs v Road Accident Fund* 2013 JDR 2276 (GNP)**

63. I accordingly find that a special costs order is justified in the circumstances.

64. In the result,

The Draft Order annexed hereto marked "X" is made an Order of Court.

_____

JJ STRIJDOM

ACTING JUDGE OF THE HIGH COURT

PRETORIA

DATE:

APPEARANCES:

Counsel for Plaintiff:	Adv M van Antwerpen
Attorney for Plaintiff:	Adams & Adams
Counsel for Defendant:	Adv H Vermaak
Attorneys for Defendant:	Diale Mogashoa Attorneys

IN THE HIGH COURT OF SOUTH AFRICA,
GAUTENG DIVISION, PRETORIA

HELD AT PRETORIA ON THIS THE 16th DAY OF AUGUST 2017 AT COURT 4C BEFORE THE HONOURABLE JUSTICE STRIJDOM AJ

CASE NO: 2015/ 9619

In the matter between:

FOUCHE, J Plaintiff

and

ROAD ACCIDENT FUND Defendant

DRAFT COURT ORDER

HAVING HEARD COUNSEL for the Plaintiff and Defendant and by agreement between the parties

THE COURT GRANTS JUDGMENT in favour of the Plaintiff against the Defendant in the following terms:

1.1 The Defendant shall pay the sum of **R8,414, 273. 99. (Eight Million Four hundred and fourteen thousand two hundred and seventy three rands and ninety nine cents)** in settlement of the Plaintiff's claim to the Plaintiff's attorneys, Adams & Adams, payable by direct transfer into their trust account with the following details:

Nedbank
Account number : [….]

Branch number : 198765
Pretoria
Ref: NK/ RIW/ P1406

1.2 The aforementioned amount of **R8,414, 273.99** is comprised of as follows:

1.2.1	General Damages	R1400 000.00.
1.2.2	Past Medical Expenses (agreed between parties)	R344 175.99
1.2.3	Past loss of earnings (agreed between parties)	R469 417.00
1.2.4	Future loss of earnings	R 6 200 681 00.
	TOTAL	**R8,414 273 99.**

1.3 The capital amount referred to in paragraph 1.1 above will not bear interest unless the Defendant fails to effect payment thereof within 14 (FOURTEEN) calendar days of the date of this Order, in which event the capital amount will bear interest at the rate of 10.50% per annum calculated from and including the 15 (FIFTEENTH) calendar day after the date of this Order to and including the date of payment thereof.

2. The nett proceeds of the payment referred to in paragraph 1.1 above as well as the taxed or agreed party and party costs payable by the Defendant, and the Plaintiff's attorney and own client legal costs (the "capital amount"}, shall be payable to the Plaintiffs trust, established in terms of the court order, dated 26 October 2016.

3. The Defendant must make payment of the Plaintiff' s taxed or agreed party and party costs on the High Court scale which costs shall include the following:

3.1 All the fees of Senior Junior Counsel on the High Court Scale

(inclusive of fees for the drafting of the heads of argument and counsel's day fee for reservation for trial);

3.2 The reasonable taxable costs of obtaining al l expert / medico-legal / joint minutes and actuarial reports from the Plaintiff ' s expert s which were furnished to the Defendant ;

3.3 The allowance payable to witnesses in civil cases as published in Government Gazette Number 30953 (NO RE394) dated 11 April 2008 and specifically section 4 thereof is not applicable and the Defendant must make payment of the full fees in respect of the preparation, reservation and at ten dance, if any, to testify , of the following experts:

7.3.1 Dr Greeff;

7.3.2 Dr Masureik;

7.3.3 M du Plooy;

7.3.4 Dr B White;

7.3.5 Dr K Truter;

7.3.6 Dr Mazabow;

7.3.7 Dr Close;

7.3.8 Dr Shevel;

7.3.9 P Badenhorst;

7.3.10 E Noble;

7.3.11 G Whittaker .

3.4 The costs incur red in obtaining payment of the amount mentioned in Paragraph 1.1 above;

3.5 Reasonable travelling costs (inclusive of toll gate and e-toll charges) incurred by the Plaintiff in attending medico-legal

appointments with the parties ' experts and in attending court on the day of trial;

3.6 The costs of a consultation between the Plaintiff and her attorney to discuss the settlement offer received from the Defendant and the terms of this order;

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

4. The following provisions will apply with regards to the determination of the aforementioned taxed or agreed costs:

4.1 The Plaintiff shall serve the notice of taxation on the Defendant' s attorney of record;

4.2 The Plaintiff shall allow the Defendant 7 (SEVEN) court days to make payment of the t axed costs from date of settlement or taxation thereof;

4.3 Should payment not be effected timeously, the Plaintiff will be entitled to recover interest at the rate of 10.50% on the taxed or agreed costs from date of allocatur to date of final payment.

BY ORDER OF THE COURT **ADAMS & ADAMS**

NK/RIW/P1406

Counsel for Plaintiff : Adv M van Antwerpen 083 245 0757

Counsel for Defendant: Adv Vermaak