Editorial note: Certain information has been redacted from this judgment in compliance with the law.

Reportable:	YES / NO
Circulate to Judges:	YES / NO
Circulate to Magistrates:	YES / NO
Circulate to Regional Magistrates:	YES / NO

IN THE HIGH COURT OF SOUTH AFRICA

NORTHERN CAPE DIVISION, KIMBERLEY

Case Number: 414/2018

Heard on: 31/05/2022
Delivered on: 08/08/2023

In the matter between:

ADV. D OLIVIER N.O obo	**Plaintiff**
SHAUNEDRE SIMON BOSTANDER	**First Minor**
SALMON BOSTANDER	**Second Minor**
SHAREN LONDIEN BOSTANDER	**Third Minor**
v	
MINISTER OF POLICE	**Defendant**

JUDGMENT

RAMAEPADI AJ

[1] This is a dependants' action in which the plaintiff, in his capacity as the duly appointed *curator ad litem* to the minor children (S S B, a minor male with identity number […] born on 15 October 2008; S B, a minor male with identity number […] born on 11 August 2005; and S L B, a minor female with identity number […] born on 19 March 2003, claim damages suffered as a result of the death of the minor children's mother (Susanna Bostander, an adult female with identity number[…] (''the deceased'')) who died on 20 August 2016 as a result of smoke inhalation due to a fire which broke out in the police holding cell in which she was being detained at Merrydale Police station in De Aar, Northern Cape (''the incident'').

[2] Merits were previously settled on the basis that the defendant (the Minister of Police) would pay 100% (hundred percent) of the plaintiff's agreed or proven damages arising out of the incident. The defendant further agreed to pay the plaintiff's taxed or agreed costs on the High Court scale as between party and party.

[3] The parties have agreed on certain facts and asked for a decision only on limited issues. In particular, the parties agreed that:

[3.1] the deceased (Susanna Bostander) was the natural mother of the three (3) minor children;

[3.2] only three (3) issues require determination by the Court, namely the deceased's salary level; the contingency deduction and; up to what year should maintenance for the minor children be calculated.

[4] Accordingly, all that remains of the plaintiff's case is the quantum of the plaintiff's claim and in particular, a determination of the questions summarised in paragraph [3.2] above.

[5] At the commencement of the trial, the parties handed in a bundle of documents which by agreement between the parties was marked Exhibit ''A'', consisting of the following documents:

[a] Affidavit of Mr. Elrico Swarts;

[b] Death certificate of Susanna Bostander;

[c] Birth certificates;

[d] Sassa records;

[e] Letter from Susanna Bostander's employer;

[f] Munro Forensic Actuaries report;

[g] Salary advices;

[h] Contract of employment and attendance register;

[i] Bank statements.

[6] By agreement between the parties, the actuarial report of Munro forensic actuaries dated 10 November 2021 (p13-16 of exhibit ''A'') was admitted

into evidence. The parties agreed that there was no need for the actuary to testify at the trial. For reasons which shall become apparent from what I set out below, the actuarial calculation of Munro forensics is not of any assistance in this matter because the basis of the calculation contained therein is not consistent with the evidence led at the trial. Accordingly, there is a need for the parties to obtain a new calculation which will based on the conclusions made in this judgment.

[7] At the trial, the plaintiff led the evidence of two (2) witnesses, whereas the defendant closed his case without leading any evidence.

THE PLAINTIFF'S CASE

First witness for the plaintiff

[8] The plaintiff's first witness was Elrico Jacobus Francois Swarts (''Swarts''), a thirty-one (31) year old male employed by Anglo American as a Sampler at Postmasburg (Northern Cape). A summary of Swarts's evidence is that:

8.1 He is the eldest son of the deceased (Susanna Bostander). The deceased has four (4) children, three (3) boys and one (1) girl. He is the eldest of the deceased's children.

8.2 He confirmed that this claim is for loss of support and maintenance in respect of the three minor children mentioned on page 7 of exhibit ''A'', namely

8.2.1 S L B who is currently residing with Swarts's uncle. She passed grade 12 in 2021, and intends to study nursing;

8.2.2 S B who is currently residing with Swarts at Postmasburg. He is doing grade 8 but is struggling at school;

8.2.3 S S B who is also residing with Swarts at Postmasburg. He is currently doing grade 7 at school and is doing well at school.

8.3 His plan is to take care of the two siblings who reside with him so that they complete grade 12 and further their education. The one sibling wants to become a doctor, whereas the other one wants to become a policeman;

8.4 Before he moved to Postmasburg, he was residing with the deceased at Merrydale. The deceased was a farmworker before moving to Merrydale. The deceased was also doing odd jobs as a cleaner. Thereafter, the deceased worked on contracts for a period of about five (5) years. The deceased did not have long periods of unemployment.

8.5 The minor children's father passed away before the deceased passed away. During his lifetime, the minor children's father supported them. He was working at the farms.

[9] In cross-examination, Swarts confirmed that before moving to Merrydale, the deceased resided at her parental home. He further testified that the deceased resided at her parental home in Merrydale from 2010 to 2016.

During that period the deceased was also working at the farms. When she was at work at the farms, the deceased would often stay there.

[10] Swarts further testified under cross-examination that at the farms, the deceased's salary ranged between R3 000 and R4 000. When asked as to how he came to know about the deceased's salary, Swarts testified that he knew about the deceased's salary because at times the deceased would send him to withdraw money from her account.

[11] Swarts conceded that the deceased's salary was not fixed, but varied depending on the number of days she worked in a month and the food she took.

[12] Swarts confirmed that the job at Kusile Group (''Kusile'') was for the eradication of the bucket system.

[13] Swarts denied that before securing the job at Kusile, the deceased was not working for a while.

[14] Swarts confirmed that the deceased was earning a disability grant because she was HIV positive. He testified, however, that the disability grant was not permanent.

[15] Swarts could not dispute that the R3 000 to R 4 000 which he said was the deceased's salary at the farms, in fact included the disability grant that the deceased was earning.

[16] Swarts further testified that the money paid to Lizzy George, was the deceased's salary for the month of August 2016.

The Second witness for the plaintiff

[17] The second witness for the plaintiff was Mivuyo Mpeluza (‘’*Mpeluza’’*), a 43-year old male residing in Kimberly. He testified that the deceased was working with him in 2014 doing general work.

[18] Mpeluza further testified that in 2016 the deceased was a general worker at the Kusile earning R120 per day.

[19] He testified that at current, general workers are earning R123 per day, working eight hours per day. He further testified that the deceased did not have a sickness benefit at Kusile.

[20] Mpeluza testified that the time-sheet for the deceased dated May 2016 is in fact for the month of June 2016.

[21] He testified that Kusile normally employed local labour.

[22] In cross-examination, Mpeluza testified that the project for the eradication of bucket system was initially for two years but was later extended for a further two months.

[23] He confirmed that Kusile employed local labour.

[24] Mpeluza confirmed that he is the author of the letter on page 12 of exhibit ‘’A’’. He testified that the salary of R2 500 to R4 500 referred to in the letter was arrived at by multiplying the daily salary of R120 by 21 days.

He testified that if the deceased worked every day of the month without overtime, she would have earned R2 520 per month.

[25] Mpeluza testified about the timesheet on page 20 of exhibit ‘’A’’. He confirmed that in that month, the deceased was absent from work for 11 days. Then, in relation to page 21 of exhibit ‘’A’’, Mpeluza testified that in that month the deceased was absent for 5 days.

[26] In relation to page 23 of exhibit ‘’A’’, Mpeluza conceded that one cannot verify from the entries on that document which amount represented the deceased’s salary.

[27] Mpeluza explained the discrepancy between the date on page 12 (1 July 2016) and that on page 20 of exhibit ‘’A’’ (May 2016) that in May the deceased only worked for one (1) day and the work was stopped. He testified that the work only resumed in June 2016.

[28] Mpeluza testified that in terms of the contract, the deceased was supposed to earn a minimum of R2520 per month if she worked every day of the month, but without overtime.

[29] He further testified that page 21 of exhibit ‘’A’’ reflects the hours of overtime worked by the deceased in that month. He testified that page 20 of exhibit ‘’A’’ is not for the month of May 2016. He testified that after he lost his laptop in 2019, the resident engineer simply made copies of the May timesheet and used it for subsequent months as well without changing the dates.

[30] The plaintiff then closed his case. The defendant also closed his case without leading any evidence.

[31] As I have already indicated above, by agreement between the parties the actuarial calculation of Munro forensic actuaries on pages 13 to 16 of exhibit ‘’A’’ was admitted as evidence without the need for the actuary to testify at the trial. For the reasons already advanced above, the actuarial calculation is, however, not of any assistance in this matter. The parties need to obtain a new calculation based on the conclusions made in this judgment.

ARGUMENT BY THE PARTIES

Plaintiff’s argument

[32] Adv Du Toit who appeared on behalf of the plaintiff did not persist with the amount in the particulars of claim, or that used in the actuarial calculation. Instead, Adv Du Toit urged me to use the national minimum wage of R23-19 per hour, which was applicable in 2022, as a basis for calculating the deceased’s salary level and the resultant loss of support suffered by the minor children.

[32] He further argued that based on Swarts’s evidence that the deceased did not have extended periods of unemployment, the court should apply 5% contingency deduction for past loss and 10% for future loss.

[33] Mr Vissagie on the other hand, argued that the actuarial calculation of Munro is based on an amount of money without any basis. He further argued that absent any basis for the calculation, the plaintiff is essentially

asking this court to speculate about the deceased's earnings and the resultant loss of support.

[34] Mr Vissagie argued that in 2016 the national minimum wage was R16-00 per hour. He urged the court to use the 2016 national minimum wage as a basis for calculating the deceased's earnings and the resultant loss of support suffered by the minor children. In terms of the 2016 national minimum wage, the deceased would have earned R2 688-00 per month and R32 256-00 per annum.

[35] In the discussion below, I deal with each of the questions raised in paragraph [3.2] above. Before doing so, it is necessary to first examine the nature and scope of the plaintiff's claim, and the considerations relevant thereto.

THE NATURE AND SCOPE OF THE PLAINTIFF'S CLAIM

[36] At common law, a claim for damages for loss of support because of the death of a breadwinner is said to be *sui generis*. This type of claim was described by the then Appellate Division in *Legal Insurance Company Ltd v Botes*,[1] as follows:

> ''*The remedy relates to material loss caused to the dependants of the deceased man by his death. It aims at placing them in as good a position, as regards maintenance, as they would have been in if the deceased had not been killed. To this end, material losses as well as benefits and prospects must be considered. The remedy has*

[1] 1963 (1) SA 608 (A)

been described as anomalous, peculiar, and sui generis – but it is effective."

[37] A review of case-law reveals that this type of claim is only available to the dependant(s) of the deceased to whom the deceased was under a legal duty to provide maintenance and support, provided that the dependent is able to establish actual patrimonial loss, past and future, as a consequence of the death of the breadwinner. The evolution and nature of such claim was explained by Holmes JA in *Legal Insurance Company Ltd v Botes*.[2]

''The remedy was unknown to Roman Law, in which no action arose out of the death of a freeman, and consequently the Acquilian action was not available. It had its origin in Germanic custom, in which the reparation of 'maaggeld' was regarded as a conciliation to obviate obviate revenge by the kinsmen of the deceased, and it was divided among the latter's children or parents or other blood relatives. The Roman-Dutch law modified the custom by regarding the payment as compensation to the dependants for loss or maintenance. The Roman-Dutch jurists felt that this could be accommodated within the extended framework of the Roman Acquilian action by means of a utilis actio. The remedy has continued its evolution in South Africa-particularly during the course of this century-through judicial pronouncements, including judgments of this Court, and it has kept abreast of the times in regard to such matters as benefits from insurance policies. The remedy relates to material loss 'caused to the dependants of the deceased man by his death'. It aims at placing them in as good a position, as they would have been in if the deceased had not been

[2]1963 (1) SA 608 (A)

killed. To this end, material losses as well as benefits and prospects must be considered. The remedy has been described as anomalous, peculiar, and sui generis-but it is effective."[3]

[38] It is not in dispute in this case that the deceased had a legally enforceable duty to support the minor children. Nor, is it in dispute that the minor children have a right of action for loss of support against the defendant. As I have already explained, the dispute between the parties is limited to those aspect of the case set out in paragraph [3.2] above. These are the only issues in respect of which the parties require a decision in this matter.

THE FIRST QUESTION: WHAT WAS THE DECEASED'S SALARY LEVEL?

[39] This enquiry is necessary for the purpose of computation of the dependant's claim. The enquiry is two-fold:

[a] First, the Court must assess what the deceased would probably have earned had she not died when she did.

[b] Second, the Court must then distribute the equivalent of the lost income between the beneficiaries.

[40] In this segment, I do not embark upon the task of distributing the equivalent of the lost income among the deceased's minor children. This court has not been called upon to embark on such exercise. All that I have

[3] At 614B-G

been called upon to decide in this segment of the case, is to determine what the deceased would have earned had she not died.

[41] Despite Swarts's evidence that the deceased's salary ranged between R3 000 and R4 000 per month, and Mpeluza's evidence that the deceased's salary ranged between R2 500 and R4 500 per month, the plaintiff's counsel seems to acknowledge that the evidence presented by the plaintiff is not reliable for purposes of determining the deceased's salary level with any measure of certainty. Hence in argument, plaintiff's counsel jettisoned any reliance on the evidence of Mpelusa and Swarts for purposes of determining the deceased's earnings. Instead, he urged the court to use the 2022 national minimum wage as a basis for calculating what the deceased would have earned had she not died, which in 2022 was R23-19 per hour. The national minimum wage is published annually by the Department of Employment and Labour and is readily accessible to anyone who wants to have sight thereof.

[42] Mr Vissagie on behalf of the defendant highlighted the unreliability of the plaintiff's evidence for purposes of determining the deceased's earnings. Mr Vissagie argued that instead of relying on the evidence of Swarts, Mpeluza and the documents contained in exhibit ''A'', the court should instead, use the 2016 national minimum wage as a basis for calculating the deceased's salary level. According to Mr Vissagie, in 2016 the national minimum wage was R16-00 per hour.

[43] I agree with Mr Vissagie's observation about the plaintiff's evidence pertaining to the deceased's salary. Swarts's estimate of the deceased's salary is based on the amount he would at times withdraw from the deceased's bank account. It is undisputed that up until August 2016 the

deceased received a disability grant from Sassa. According to page 10 of exhibit ‘’A’’, between May and August 2016 the deceased received a disability grant of R1500 per month. In all probabilities, the R1500 disability grant was part of the amount which Swarts referred to in his evidence as being the deceased’s salary at the farms which according to him, ranged between R3 000 and R4 000 per month.

[44] The best way to determine the deceased’s salary at the farms would be to take the median of R3 000 and R4 000, which yields R3 500. In my view, this would be an almost realistic estimate of the amount which Swarts would withdraw from the deceased’s bank account monthly. To arrive at the deceased’s salary, one must then deduct the R1 500 disability grant from the R3 500, which leaves the amount of R2 000-00. This would have been the deceased’s salary at the farms.

[45] At the time of her death, however, the deceased was no longer working at the farms, but was then working at the Kusile Group. According to Mpeluza, at Kusile the deceased’s salary ranged between R3 500 and R4 500 per month. Save for Mpeluza’s say so, there is no shred of evidence before the court to substantiate Mpeluza’s assertion about the deceased’s earning level at Kusile. The only evidence which comes closest to Mpeluza’s assertion, is a document on page 18 of exhibit ‘’A’’ which suggests that in a particular month the deceased earned an amount of R 3 163-32. It is uncertain how the amount of R3 163-32 was arrived at and for which month or period was that amount.

[46] The amount of R 3 163-32 cannot be used as a true measure of the deceased’s earning threshold at any given point in time. It is significant that according to Mpeluza, at average the deceased worked 21 days in a

month and if she worked every day, she would have earned R2 520-00 per month.

[47] The evidence before the court reveal, however, that in the first two or three months of her employment at Kusile, the deceased never worked for 21 days. In the one month (page 20 of exhibit ‘’A’’) the deceased worked for 17 days, and in the other month (page 21) she worked for 19 days. In the one month the deceased was absent from work for 12 days, whereas in the other month she was absent from work for five (5) days. On both months, therefore, the deceased did not work for the full 21 days in a month.

[48] I agree with Mr Vissagie for the defendant that the evidence before the court does not support Mpeluza’s assertion that the deceased’s salary at Kusile ranged between R 2 500 and R4 500 per month. There is no other evidence that support the plaintiff’s case that the deceased’s salary ranged between R2 500 and R4 500 per month.

[49] This notwithstanding, this court is required to do its level best to arrive at a fair and reasonable determination of the deceased’s earning threshold. The exercise, of course is no more than making an educated guess. This exercise was explained by Holmes JA in *Anthony and Another v Cape Town Municipality*,[4] as follows:

> ‘’*When it comes to scanning the uncertain future, the Court is virtually pondering the imponderable, but must do the best it can on the material available, even if the result may not inappropriately be described as an informed guess, for no better*

[4] 1967 (4) SA 445 (A)

system has yet been devised for assessing general damages for future loss.''

[50] In *Southern Insurance Association Ltd v Bailey NO*,[5] the court dealt with loss of earning capacity rather than loss of support. In that case too, the court said the following about the assessment of the plaintiff's loss:

''Any enquiry into damages for loss of earning capacity is of its nature speculative, because it involves a prediction as to the future, without the benefit of crystal balls, soothsayers, augurs or oracles. All that the Court can do is to make an estimate, which is often a very rough estimate, of the present value of the loss. It has open to it two possible approaches. One is for the Judge to make a round estimate of an amount which seems to him to be fair and reasonable. That is entirely a matter of guesswork, a blind plunge into the unknown.

The other is to try to make an assessment, by way of mathematical calculations, on the basis of assumptions resting on the evidence. The validity of this approach depends of course upon the soundness of the assumptions, and these may vary from the strongly probable to the speculative. It is manifest that either approach involves guesswork to a greater or lesser extent. But the Court cannot for reason adopt a non possumus attitude and make no award.''[6]

[51] That is precisely what this court must do even if the exercise of determining what the deceased would have earned had she not died, involves to a greater extent guesswork.

[5] 1984 (1) SA 98 (A)
[6] Id at 113G-114A

[52] As I have already indicated above, Adv Du Toit urged this court to use the national minimum wage of R23-19 as a basis for calculating the deceased's earning threshold.

[53] Mr Vissagie does not seem to be seriously opposed to using the national minimum wage as a basis for calculating the deceased's salary level. In any event, this seems to be the best way of determining the deceased's earning threshold in the absence of reliable information before the court. This will probably establish a sound basis for determining the deceased's salary level. The difference in approach between the plaintiff and the defendant, though, is that Mr Vissagie contends that the court should use the 2016 national minimum wage of R16-00 per hour as opposed to the 2022 national minimum wage of R23-19 as proposed by Adv Du Toit.

[54] I agree with Mr Vissagie that the 2016 national minimum wage should be used as a basis for determining the deceased's salary level. On Mr Vissagie's proposed approach, the deceased's salary level at the time of her death would have been R2 688-00 per month. This seems to be a fair and reasonable basis for determining the deceased's salary level at the time of her death. It is significant that the amount proposed by Mr Vissagie is not significantly different from the R2 520, which according to Mpeluza, would have been the deceased's monthly salary had she worked every day. Taking all these factors into account I conclude that the deceased's salary level at the time of her death was R32 256-00 per annum. Had she not died, it is assumed that the deceased's salary would have increased to keep pace with the rate of inflation for the rest of her life.

CONTINGENCIES

[55] Had she not died, the deceased's future life and in particular, her employment would have been subject to a variety of normal changes in circumstances and hazards. The evidence on record is that though not extensive, the deceased has in her lifetime experienced episodes of unemployment. It is anticipation that this trend would have continued throughout her working life. Her proven level of absenteeism in particular, may have resulted in the deceased losing her job. More so, the short period of the deceased's employment at Kusile as well as the lack of reliable information or data to map the deceased's career progression makes it the more difficult to ascertain the deceased's work history with a measure of exactitude. Further, considering the circumstances surrounding her death, the possibility that the deceased may not have reached a normal life expectancy cannot be overruled. These are the general contingencies which must be catered for by means of an appropriate contingency deduction.

[56] Adv Du Toit on behalf of the plaintiff urged me to apply a 5% contingency deduction on past loss and 10% on future loss as is frequently done. However, I fail to see how, in this case, such a deduction can be justified. The evidence placed before this court reveals no certainty as to what would have happened during the six (6) years which have passed since the deceased's death, had she lived, than what it reveals about the future. I am inclined to apply a higher contingency deduction on future loss.

[57] Taking all the above factors into account, I conclude that a 5% deduction on the past loss, and 15% on the future loss would in the circumstances, be appropriate to allow for general contingencies.

UP TO WHAT YEAR WAS THE DECEASED OBLIGED TO MAINTAIN THE MINOR CHILDREN?

[58] It is now ell established that the duty of maintenance and support endures until the child reaches the age of majority (18 years) or, if the child is still attending school, until the child becomes self-supporting.

[59] At the time of trial, S L B was already 19 years old and had just finished grade 12 in 2021. Swarts's evidence is that S intends to study nursing. At the time of the trial though, S was not attending any tertiary studies. Save for Swarts' say so, there is no evidence before the court to confirm that S had indeed passed grade 12 and if she indeed passed grade 12, the results that she achieved. Nor is there any evidence before the court to show that S had applied to any tertiary institution or nursing academy to study nursing and the status of her application, if any. For all intense and purposes S is no longer attending school. Once it is so, then there is no reason why S's maintenance and support should extend beyond her age of majority.

[60] In the result, I conclude that S's maintenance and support should have ceased at the end of 2021 when she finished grade 12. Beyond that, there ought not to have been any duty of maintenance and support in respect of S.

[61] According to Swarts, S and S are still attending school. At the time of the trial S was 17 years old but still doing grade 8. Swarts testified that he is struggling at school. If all goes well for him, he will only finish school at the age of 21. This is the stage at which his duty of support should come to an end. S on the other hand, is doing grade 7 at the age 14. If all goes well for him, he will finish school at the age of 19. This is the age at which his duty of support should come to an end. As I have already indicated, there is no evidence before the court to suggest that S would further his studies at a tertiary institution. This court has not been provided with S's progress reports to show how he is progressing at school. In the absence of that, this court has not been placed in a position to assess the probability of S pursuing his studies beyond grade 12 and if so, the field of study that he is likely to pursue. It is precisely for that reason that the court has decided to make allowance only up to grade 12.

[62] In the result I conclude that:

62.1 S L B's maintenance and support ceased when she finished school at the end of 2021. At that time, she was just over 18 years old. Her duty of support and maintenance would only have continued had she still been at school or a tertiary institution or academy of learning. However, since she is currently not attending any school or academic institution, she is not entitled to further maintenance and support beyond her age of majority.

62.2 S B's duty of maintenance and support should come to an end at the age of 21. It is assumed that that is the age when he is likely to finish school.

62.3 S S B's duty of maintenance and support should come to an end at the age of 19 when he finishes school. Despite the say so of Swarts, there is no evidence before the court to suggest that S is likely to further his studies at a tertiary institution.

CONCLUSION

[63] In conclusion I make the following findings in respect of the issues raised in sub-paragraph [3.2] above:

63.1 At the time of her death, the deceased was earning a salary of R2 688 per month, which equates to R32, 256 per annum;

63.2 A 5% contingency deduction is to be applied on the past loss and, a 15% deduction on future loss;

63.3 The maintenance and support obligation in respect of the minor children should be as follows:

63.3.1 S L B should receive maintenance and support only up to the end of 2021, being the year in which she finished school. It is coincidental that this date is also the year in which S reached the age of majority. Beyond that date, there should be no further maintenance obligation in respect of S;

63.3.2 S B's maintenance and support obligation should come to an end at the age of 21 years, being the year in which he is expected to complete grade 12; and

63.3.3 S S B's maintenance and support obligation should come to an end at the age of 19 years, being the year in which he is expected to complete grade 12.

[64] The parties should request an actuary to make a new calculation based on the above findings. It is not the role of this court to make the calculations.

COSTS

[65] The plaintiff is entitled to the costs of trial, inclusive of the reserved costs. Mr Vissagie urged me to allow costs at Magistrate's court scale D for Regional Court. He argued that this must be so because the quantum of the plaintiff's damages would probably fall within the jurisdiction of the Magistrate's Court.

[66] I am not able at this stage to determine whether the quantum of the plaintiff's claim would fall within the jurisdiction of the Magistrate's court or not. For this reason, costs are awarded on the High Court scale. In any event, this matter is in the High Court. It does not seem that the defendant has at any stage protested the plaintiff instituting this action in the High Court. Nor has the defendant at any stage requested this matter to be transferred to the Magistrate's court on the basis that the quantum of the plaintiff's claim falls within the jurisdiction of the Magistrate's court.

[67] For this reason, there is no reasonable why the defendant should not pay the plaintiff's costs of trial at the High Court scale. The defendant is also ordered to pay the reserved costs at High Court scale.

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RAMAEPADI AJ

NORTHERN CAPE DIVISION

For the applicant:	Adv AJ Du Toit
Instructed by:	DSC Attorneys
For the respondent:	Mr P Vissagie (Attorney)
Instructed by:	State Attorney (Kimberley)