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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

08/02/2017

CASE NO: 36464/2014

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

In the matter between:

BRUCE BERNARD TALJAARD

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

MAKGOKA,J:

[1] This is an action for damages in terms of the Road Accident Fund Act, 56 of 1996, as amended (the Act) pursuant to a motor vehicle collision on 12 May 2010. The plaintiff, then 28 years old, was a driver of motorcycle which collided with an unidentified motor vehicle. He suffered serious multiple injuries, mainly to his lower limb. His right leg and left index finger were eventually amputated. He was employed as an underground assistant boilermaker.

[2] All other heads of claim have been settled, except for the past medical expenses, on which the parties hopefully will find each other. Before me was the determination of the

plaintiff's damages in respect of his loss of earnings and earning capacity. I have had regard to the joint minute of the industrial psychologists, Mrs Barbara Donaldson and Mr Bernard Oosthuizen, dated 20 January 2017, as well as the addendum thereto by the same experts, dated 1 February 2017. In addition, I have considered the actuarial calculation prepared on behalf of the plaintiff by Algorithm Consultants and Actuaries dated 24 January 2017.

[3] The parties have agreed on certain actuarial calculations for different scenarios. Using the opinions expressed by the industrial psychologists in respect of the plaintiff's probable career path, the actuaries have made a calculation of what the plaintiff would have earned in the remainder of his working life had he not been injured. The retirement age is assumed at age 62½. The actuaries have calculated the amount the plaintiff would have earned (on the basis of various assumptions) but for the accident. To these amounts, provision was made for contingencies of life, and adjusted the amounts accordingly.

[4] During the brief hearing I was handed up a draft order, which, having regard to the reports of the experts referred to above, I am satisfied that it represents fair and adequate compensation for the plaintiff.

[5] In the result the following order is made:

1. The draft order, attached hereto and marked 'X', is made an order of this court.

TM Makgoka

Judge of the High Court

Date of hearing: 1 February 2017

Judgment delivered: 8 February 2017

Appearances:

For the Plaintiff: Adv. P du Plessis SC

Instructed by: Van Velden-Duffey, Rustenburg

MacRobert Inc., Pretoria

For the Defendant: Adv. A. Ntimbana

Instructed by: Fourie Fisser Inc., Pretoria

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

On the 8th of February 2017

Before his Honourable Judge Makgoka

Case No: 36464/2014

In the matter between:

BB TALJAARD

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

After having heard counsel, the court orders as follows:

1.

PLAINTIFF'S CLAIM FOR GENERAL DAMAGES & LOSS OF EARNINGS:

The Defendant is ordered to pay to Plaintiff the amount of R2746 400 (TWO MILLION SEVEN HUNDRED AND FORTY SIX THOUSAND FOUR HUNDRED RAND) which consist of an

amount of R800 000.00 for general damages and an amount of R1946 400 for loss of earnings, in delictual damages following the injuries Plaintiff sustained resulting from a motor vehicle accident which occurred on 12 May 2012, which amount is payable by Defendant to Plaintiff on/or before 15 February 2017 by depositing same into Plaintiff's attorneys of record's trust account, the details of which are as follows:

ACCOUNT HOLDER : **VAN VELDEN-DUFFEY INC**
BANK : **ABSA BANK**
TYPE OF ACCOUNT : **TRUST**
ACCOUNT NUMBER : **[0...]**
BRANCH : **630146**
REFERENCE : **MAT21570**

2.

INTEREST:

2.1 The Defendant will not be liable for interest on the outstanding amount;

2.2 Should the Defendant fail to make payment of the capital amount on/or before 15 February 2017, Defendant will be liable for interest on the amount due to Plaintiff at a rate of 10.5% per annum as from the date of this order to date of final payment.

3.

PLAINTIFF'S CLAIM FOR PAST HOSPITAL & MEDICAL EXPENSES:

The Plaintiff's claim for past hospital and medical expenses is separated and postponed *sine die*.

4.

UNDERTAKING:

The Defendant is ordered to deliver to Plaintiff, within reasonable time, an undertaking in terms of Section 17(4)(a) of the Road Accident Fund Act, Act 56 of 1996, wherein the Defendant undertakes to pay to the Plaintiff 100% of the cost of future accommodation in a hospital or a nursing home or treatment of, or rendering of a service or supplying of goods to Plaintiff pursuant to the injuries Plaintiff sustained in a motor vehicle accident which occurred on 12 May 2012, after the costs have been incurred and on proof thereof.

5.

COSTS:

The Defendant is ordered to pay the Plaintiffs taxed or agreed party and party costs on High Court Scale, which costs will include, but will not be limited to, the following:

5.1 The costs of all expert reports, medico-legal reports, addendum medico-legal reports, and combined joint reports, RAF4 Serious Injury Assessment Report(s) and radiology reports of all experts of whom notice has been given and/or whose reports have been furnished to the Defendant and/or its attorneys and/or whose reports have come to the knowledge of the Defendant and/or its attorneys as well as all reports in their possession and/or contained in the Plaintiff's bundle of documents. This shall include, but not be limited to, the following experts of whom notice has been given, namely:

5.1.1 Dr Van Den Bout, Orthopaedic Surgeon;

5.1.2 Kobus Truter, Clinical Psychologist;

5.1.3 Dr PB White, Plastic & Reconstruction Expert;

5.1.4 Anneke Greeff, Occupational Therapist;

5.1.5 Marco Du Plooy, Orthotics & Prosthetics;

5.1.6 Barbara Donaldson, Industrial Psychologist;

5.1.7 Greg Whittaker, Actuary;

5.2 The full fees of Plaintiff's senior counsel in respect of preparation, consultations, pre-trial conferences, travelling time and expenses and a day fee for 1 February 2017;

5.3 The costs of holding all pre-trial conferences, as well as roundtable meetings between the legal representatives for both the Plaintiff and the Defendant, including counsel's charges in respect thereof as well as all reasonable costs, including but not limited to travelling expenses, incurred by the Plaintiff's attorneys and counsel in order to attend such pre-trial conferences;

5.4 The costs of and consequent to compiling all minutes in respect of pre trial conferences;

5.5 The reasonable taxable costs of one consultation with the clients in order to consider the offer of the Defendant, the costs to accept it, have it made an order of court and to procure performance by the Defendant of its obligations in terms hereof;

5.6 The cost incurred in obtaining payment and/or execution of the capital amount mentioned in paragraph 1 above.

6.

TAXATION:

6.1 Plaintiff is ordered to serve the Notice of Taxation of Plaintiff's party and party bill of costs on Defendant's attorneys of record;

6.2 The Defendant is ordered to pay the Plaintiff's taxed and/or agreed party and party

costs within 14 (FOURTEEN) days from the date upon which the accounts are taxed by the Taxing Master and/or agreed between the parties.

SIGNED AT PRETORIA ON THIS THE 1st DAY OF FEBRUARY 2017.

REGISTRAR

COUNSEL FOR PLAINTIFF : ADV P DU PLESSIS SC

082 578 2424

ATTORNEY FOR PLAINTIFF : MR M BEZUIDENHOUT

VAN VELDEN-DUFFEY INC

073178 4275

ATTORNEY FOR DEFENDANT : MR A NTIMBANA

FSF INC

076 759 2957