

**NGOMANE v ROAD ACCIDENT FUND (1778/16) [2019] ZAGPPHC 51 (5 March 2019)**

**Abstract:**

**In this case the learned Judge states that with past and future loss of earnings claims. The plaintiff is not required to prove the loss with mathematical precision however the Plaintiff is required to place before the court all evidence reasonably available to enable the court to quantify the damages and to make an appropriate award in his favour.**

**Facts:**

In this matter the Plaintiff claimed damages arising from injuries sustained by the Plaintiff as passenger in a collision that occurred on 10 May 2013. She suffered a soft tissue injury, tear drop fracture of the C5 and laceration on his right wrist.

As a result of his injuries he suffered damage and is entitled to damages in the sum of R855 000.00.

The disputed issue in this matter was the determination of the extent of the Plaintiff's past and future loss of earnings and earning capacity.

The Plaintiff at the time of the collision was employed by the National Lottery Board occupying the position of assistant company secretary. He is an LLB graduate from the University of Zululand.

During 2015, he voluntarily resigned from his position to take up a position overseeing the farm activities of his family sugarcane farm. His net salary during this period was approximately R75 029.37.

The experts further agreed that the plaintiff returned to his pre- accident employment after recuperating. Furthermore, that the plaintiff voluntarily resigned from his position to take up employment at his family's farm. He however has been unemployed since December 2015. Having regard to all other expert reports presented to them, they opined that the plaintiff would be able to return and continue to work in the open labour market and will be able to progress in his career path and likely earnings as anticipated in the pre- accident scenario until retirement age 65 years.

Now in determining the plaintiff's post and future loss of earning and earning capacity the court has to determine whether post-accident and as a result of the sequelae of the collision, he has been unable to return to his position as a Legal Administration Officer.

"In the case of *Bridgman NO v Road Accident Fund 2002 (1) ALLSA 1 (CPD)* the court held that in order to claim compensation for patrimonial loss a plaintiff must discharge the onus of proving on a balance of probabilities that such loss has indeed occurred. This does not necessarily mean that the plaintiff is required to prove the loss with mathematical precision however the Plaintiff is required to place before the court all

evidence reasonably available to enable the court to qualify the damages and to make an appropriate award in his favour”

Pre-accident the Plaintiff was gainfully employed in the position of Legal Administration Officer. Following the collision, he was able to return to his former employment but voluntarily resigned from this position.

**Judgement:**

The following order was made:

- 1.The Plaintiff is entitled to 100% of his proven/agreed damages;
2. The Defendant shall pay the Plaintiff the total amount of R2 150 377.15 in respect of both his past and future loss of earning and earning capacity as well as his general damages.

Read full case at: <http://www.saflii.org/za/cases/ZAGPPHC/2017/401.html>

The reason why this case is so important is because it makes the claimant understand that the Road Accident Fund does not need to be given details with extreme precision to prove loss of earnings. As long as they are able to prove on a balance of probabilities on the evidence that they are presented with, it will be sufficient.