

# ***KOCH Consulting Actuaries cc***

Member: Robert J Koch *BSc LLD FASSA*:  
Unit 503 at 220 Loop Street Cape Town 8001  
Website: [www.robertjkoch.com](http://www.robertjkoch.com)

VAT 4800281984      CK2008/123630/23  
Tel: 021-4624160      Fax: 086-5137615  
E-mail: [rjkactuary@gmail.com](mailto:rjkactuary@gmail.com)

## **NEWSLETTER**

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### **Vital statistics:**

CAP determination 30 April 2026:	R381510
CPI year-on-year to April 2026:	4,0%
RSA long bond yield R2030 June 2026:	8,7%
Real rate of return (8,7 less 4,0):	4,7%
FNB house prices for 2025 (3,8%-4%) real:	-0,2%

**What life table should be used for damages claims:** *Tobi v Passenger Rail Agency of South Africa* (9055/2014) [2026] ZAWCHC 20; [2026] 1 All SA 600 (WCC). This was a claim for damages for injuries sustained when Tobi was pushed from a moving passenger train. The claim included loss of earnings and future medical expenses. Compensation was awarded by way of a lump sum. One issue to which the Court devoted a substantial amount of time was the assumption to be made for the life expectancy for the actuarial calculations. The claimant was of Black African descent. The defendant proposed life table 5 from the Quantum Yearbook. The claimant proposed life table 2.

The Court pointed out that from a judicial point of view life expectancy should be determined having regard to the particular circumstances of the claimant and that there was no rule that a particular life table should be used by the courts. However, this is not to say that the life tables should be ignored but that they are merely evidence relevant to the inquiry. Other relevant factors were: the parents of claimant were still alive at the respectable ages of 73 (father) and 78 (mother); life tables 5 and 2 are based on racially based census data for the years 1984 to 1986 (table 5 being coloureds and table 2 whites); Koch in the Quantum Yearbook has attempted to sanitise the racial aspect with socio-economic groupings based on income, a classification that is unconstitutional; medical science over the years since 1986 has greatly improved life expectancies. The Court concluded that life table 5 was too low. Because the claimant had relied on the higher life table 2 the Court ordered that life table 2 be used by the actuaries but declined to make a ruling that life table 2 was the general rule.

Life table 5 records a higher mortality for coloured persons back in 1986. A major component of this extra mortality was death by violence, a factor still relevant in South Africa today which has one of the world's highest murder rates. The life tables from the 2015 census are not racially based but include distortions from ongoing violent deaths, AIDS, and pneumonia. Dorrington has produced a

table for black employed lives published in the Quantum Yearbook 2001. Medical services in South Africa are severely compromised by corruption and mismanagement.

The earnings levels attributed to Koch's sanitised racial tables derive from the average earnings in 1986 for that racial group adjusted for inflation. Koch Consulting Actuaries presently assumes life table 2 for all calculations unless instructed otherwise or if there is explicit evidence of extra mortality. Normal mortality is assumed for claimants known to be HIV positive following *Njoko v Minister of Safety and Security and Another* (2011 (5) SA 512 (KZP)) [2011] ZAKZPHC 25; 1565/09 (8 June 2011).

**Maintenance claim by divorcee from deceased estate:** Maintenance may only be claimed from a deceased estate if the divorce settlement expressly states that the undertaking to pay maintenance is binding on the estate (*Hodges v Coubrough NO* 1991 3 SA 58 (D); [Van Der Westhuizen NO v Master, North West High Court \[2026\] ZANWHC 132](#))).

In the event that the death of the maintenance payer is wrongfully caused the surviving ex-spouse may claim damages for loss of support (*RAF v Henery* 1999 3 SA 421 (SCA)). If there is also a claim for maintenance from the deceased estate then that value is deductible against the claim for damages for loss of support (*Heyns v SA Eagle Versekeringsmpy* 1988 (T) (unreported 6.7.88 case 13468/86)). The Assessment of Damages Act 9 of 1969 applies only to pensions and life insurance payments. It is arguable that the claimant is obliged to mitigate damages by claiming against the estate before claiming loss of support.

**Damages for costs of a curator bonis:** Attorneys appointed as curators sought 6% fees from the RAF on compensation awards. The RAF refused payment, contending that awards are capital not income. The court held that compensation remains capital damages, curator fees at 6% apply only to income generated from capital, not lump sum awards. The application was dismissed ([Booyesen NO v Road Accident Fund \[2026\] ZAWCHC 279](#)).

There is good authority for adding to the lump sum compensation an additional lump sum for the future cost of a curator bonis. That needs to be claimed and pleaded. In *Carstens v Southern Insurance* 1985 3 SA 1010 (C) 1029 an actuarially calculated 7½% was added to the compensation lump sum for the costs of a curator bonis; in *Webster v Commercial Union* 1994 4 C&B A4-154 (C) a further amount of 10,9% was added for the costs of providing security).

**Finis**