



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 5 April 2022

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Minister of Police v Mzingeli and Others (115/2021) [2022] ZASCA 42 (5 April 2022)

Today the Supreme Court of Appeal (SCA) upheld an appeal for the Eastern Cape Division of the High Court, Mthatha (court a quo) and set aside the order of the court a quo. The matter was remitted to the court a quo for hearing of evidence on quantum and its determination. Leave to appeal was limited to only the quantum of damages awarded to each of the respondents (plaintiffs in the court a quo), whether a court could determine quantum of unliquidated damages without hearing oral evidence and whether the stated case was properly formulated in accordance with the rules of court and the requirements for the stated case, so as to be sufficient to have enabled the court to determine the issue of quantum of damages.

The respondents instituted proceedings against the appellant in the court a quo, claiming damages for unlawful arrest, detention and malicious prosecution. During trial the parties settled the merits, but were unsuccessful with quantum. The court a quo made an order in terms of rule 33(4) separating the issues of liability and quantum, and acceded to hear the issue of quantum by way of a stated case, as formulated by the parties in terms of rule 33(1) and (2) of the Uniform Rules of Court. Subsequently, awards of R3 000 000 were made to the first and third respondents whilst R4 000 000 was awarded to the second respondent.

A requirement for a stated case is that the parties are to ensure that there is agreement as to all the facts. Determination of unliquidated damages is permissible by way of a stated case, provided it is brought before the court in a proper fashion. The quantum of unliquidated damages claimed by the respondents were disputed; these damages were not fixed and required the assessment of the court, which was a factor acknowledged by the court a quo. Furthermore, no evidence was adduced to aid with the assessment and quantification of the damages and this Court emphasised its importance by reiterating the fact that a proper assessment and an appropriate award can only be made after evidence has been duly considered.

Upon appeal, the parties agreed that a stated case was not the correct approach adopted in this instance, which was confirmed by this Court. Nowhere in the stated case or the pleadings were any relevant facts agreed upon which were necessary for determining and proving the quantum awarded by the court a quo.

In the result, the SCA upheld the appeal and set aside the order of the court a quo. The matter was remitted to the court a quo for hearing of evidence on quantum and its determination.

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