



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

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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.

The Road Accident Fund & Others v Mautla and Others (414/2024) [2025] ZASCA 200 (19 December 2025)

Today the Supreme Court of Appeal (SCA) granted an application under s 17(2)(f) of the Superior Courts Act 10 of 2013 to reconsider an order of the SCA dated 15 March 2024 dismissing the applicants' application for leave to appeal (the petition order). The SCA set aside the petition order and replaced it with an order granting the applicants leave to appeal to the SCA against an order of a full court of the Gauteng Division of the High Court, Pretoria, sitting as a court of first instance (the full court).

The first applicant was the Road Accident Fund (the Fund), and the second and third applicants were its former Chief Executive Officer and Chairperson of the Board, respectively. The respondents were individual claimants under the Road Accident Fund Act 56 of 1996 (the RAF Act) and entities who have supplier claims against the Fund. The respondents were the applicants in the high court application before the full court. They instituted the full court application after experiencing difficulties lodging claims against the Fund. These difficulties stemmed from the Fund's decisions to adopt and implement revised compliance rules for the lodgement of claims, including, among other things, a new RAF1 Form.

The respondents sought to review and set aside the decisions giving rise to the revised compliance rules. In addition, they prayed for an order declaring Regulation 7(1) of the Regulations¹ promulgated under s 26 of the RAF Act (the Regulations) to be unconstitutional and invalid. Further, that regulation 7(1) be reviewed and set aside to the extent that it confers on the Fund the right to amend or substitute the RAF1 Form attached as Annexure A to the Regulations. The respondents contended that only the Minister, and not the Fund, has the power to prescribe amendments to the RAF1 Form, and that the Minister has no power to delegate this function to the Fund.

On 6 November 2023 the full court granted the relief sought by the respondents and declared invalid the identified directives and notices and set them aside. The gist of the full court's judgment was that the Fund had no power under the RAF Act to adopt and implement the impugned decisions, nor could the Minister delegate his powers to the Fund. It subsequently refused the application for leave to appeal. Dissatisfied with the petition order, the applicants applied to the President of the SCA for relief under s 17(2)(f).

In the interim, a second full bench of the Gauteng Division of the High Court, Pretoria (the second full court) granted different applicants similar relief in a second review application (the LPIIF application) against the Fund. The second full court reviewed and set aside the decisions of the Fund that were the subject-matter of the LPIIF application. However, the second full court granted the applicants leave to appeal its decision to the SCA. That appeal is pending and has been enrolled for hearing in 2026.

¹ Road Accident Fund Regulations GN R770, GG 31249, 21 July 2008.

The SCA considered the jurisprudence pertaining to applications for reconsideration in terms of s 17(2)(f). It observed that as things stand, the position that prevails is that determined in *Motsoeneng v South African Broadcasting Corporation* [2024] ZASCA 80; 2025 (4) SA 122 (SCA) and confirmed in *Bidvest Protea Coin Security v Mabena* [2025] ZASCA 23; 2025 (3) SA 362 (SCA): whether there are exceptional circumstances that permit the referral to the SCA for reconsideration of the decision refusing leave, is 'a threshold question', to be determined by the SCA. It noted further that while there had been minority decisions from the SCA (*Schoeman v Director of Public Prosecutions* 2025 (2) SACR 561 (SCA) para 88) (and the Constitutional Court (*Godloza and Another v S* [2025] ZACC 24) holding a different view, until the key holdings in *Motsoeneng* and *Bidvest* are reversed by the SCA or overturned by the Constitutional Court, they remain binding authority.

The SCA found further that the judges granting the petition order had erred in applying the higher test for special leave to appeal in refusing the application for leave. In addition, the subject matter of the full court application involved weighty questions of law that ordinarily would justify leave to appeal being granted on the ordinary standard. Consequently, it found that the jurisdictional requirement triggering the power to reconsider the petition order had been satisfied.

On the question whether there were grounds to vary to petition order refusing leave to appeal, the SCA pointed to the disparity between that order and the full court having granted leave to appeal in the LPIIF matter. It noted that at the heart of both disputes was the question of the proper allocation of powers between the Minister, on the one hand, and the Fund, on the other. This depended on an interpretation of the RAF Act. These issues were common to both matters. They were also of significant public importance. It would be contrary to the objective of achieving legal certainty on these issues if one panel of judges from the SCA were to refuse leave to appeal in circumstances where substantively the same issues were pending before another panel of the Court.

As a result, the SCA granted the application to reconsider the petition order by substituting it with an order granting leave to appeal to the SCA.