



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: 06 February 2026

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

Moloi v The Road Accident Fund (333/2024) [2026] ZASCA 13 (06 February 2026)

Today, the Supreme Court of Appeal (SCA) handed down judgment in an appeal against the judgment of the full court of the Free State Division of the High Court, Bloemfontein (the full court), sitting as court of appeal. The application for special leave to appeal against the judgment and order of the full court was dismissed, with no order as to costs.

Ms Mananyana Jane Moloi (the applicant) instituted action in the high court against the respondent, the Road Accident Fund (the RAF), for damages for the personal injuries she sustained in a motor vehicle accident that occurred on 7 August 2016. The applicant had sustained a head injury with multiple open wounds to her face and soft tissue injuries on her right lower limbs. She claimed damages from the RAF in the amount R8 711 483, calculated as follows: general damages R900 000; future medical expenses R200 000; and past and future loss of income R7 611 483. The merits of the case were settled 100 percent in favour of the applicant, and an agreement was later reached by the parties to settle the general damages in the amount of R800 000. The only damages in issue before the high court were for past and future loss of earnings. To prove her damages the applicant proffered the evidence of a clinical psychologist, an industrial psychologist, an educational psychologist and an actuary.

The high court found that the applicant's claim for damages was not based on the physical injuries sustained in the accident, but on the effects of those injuries on her emotional, cognitive, psychological and social functioning. This conclusion was reached based on the evidence of the clinical psychologist's assessment of the applicant's emotional state. The high court upheld the claim for past loss of earnings but dismissed the claim for future loss of earnings. The full court subsequently dismissed the applicant's appeal with costs. This Court referred the application for special leave to appeal for oral argument in terms of s 17(2)(d) of the Superior Courts Act 10 of 2013.

The SCA, in dealing with the merits of the special leave to appeal, had to determine whether the applicant had established the grounds necessary to justify the grant of such leave. The applicant was required to demonstrate that in addition to the prospects of success there are special circumstances justifying the granting of special leave to appeal. These were to include that the appeal raises a substantial question of law; or if it raises only questions of fact, that they are of great importance to the parties or to the public; alternatively, that the prospects of success are so strong that the refusal of leave would probably result in a manifest denial of justice. The applicant submitted that the matter is of great importance to other litigants who may find themselves in her position, and that refusal to grant her future loss of earnings is a denial of justice.

The SCA found that the applicant had failed to establish a case for the granting of special leave to appeal. First, it found that the applicant failed, in her papers before this Court, to provide information required in terms of rule 6(5)(a)(i) and (iii) of the Supreme Court of Appeal Rules to enable this Court to decide the application. Second, it found that she failed to prove the existence of reasonable prospects of success. The evidence of the industrial psychologist which was to prove how the accident related injuries would affect the applicant's ability to perform her job or would affect her career advancement,

was primarily based on the applicant's vocational assessment, and could not prove the loss of future earnings, but assisted only in assessing the past loss of earnings. Last, it found that she failed to establish any special circumstances that would justify special leave to appeal being granted. The appeal was found to have raised no arguable point of law, let alone one of general public importance. The determination of quantum in this matter did not raise questions of law as the substantial amount the applicant stood to lose should special leave to appeal not be granted, could not be inherently regarded as a special circumstance. This matter turns on whether there is a loss (of future earnings) and the applicant did not state what point of law, if any, the appeal raises to establish special circumstances.

Accordingly, the SCA dismissed the appeal with no order as to costs.

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