



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: 19 May 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 judgment of the Supreme Court of Appeal

Sinhle Inosacia Sambo v Road Accident Fund (1043/2024) [2026] ZASCA 72 (19 May 2026)

Today the Supreme Court of Appeal (SCA) upheld an appeal against an order of the Mpumalanga Division of the High Court, Mbombela (the high court), which had dismissed a claim for loss of support brought by Ms Sinhle Inosacia Sambo (Ms Sambo), both in her personal capacity and as mother and natural guardian of her minor child, SM, against the Road Accident Fund (RAF).

The claim arose from a motor vehicle collision on 14 August 2018 along the R40 Highway in Mpumalanga, in which Mr Nhlanhla Mnisi (the deceased), a passenger, sustained fatal injuries. It was common cause that the collision occurred as a result of the negligent driving of the insured driver. Ms Sambo averred that the deceased was obliged to support both her and the minor child: she on the basis of an alleged customary marriage, and the minor child on the basis that the deceased was his father. Although the RAF disputed the marriage, it conceded that the deceased was the father of the minor child and was thus obliged to support him. On that basis, the RAF accepted that the minor child had suffered loss of support. The only remaining issue regarding the minor child's claim was the quantum of damages.

During the trial, evidence emerged that the deceased had earned income from a money-lending business. In response to a question from the court, Ms Sambo stated that the business was not registered. The high court, on its own accord, proceeded to determine whether the deceased's income from the unregistered money-lending business was lawful. The high court concluded that the income was illegal. On that basis, the high court dismissed both Ms Sambo's and the minor child's claims with costs.

The SCA held that the legality of the deceased's income was never pleaded by the RAF nor canvassed with the parties at trial. Deciding the matter on that unpleaded issue deprived Ms Sambo of her constitutional right to a fair hearing under s 34 of the Constitution. The Court further found that the high court lost sight of the pretrial arrangement that the minor child's loss of support was not in dispute, and failed to give due consideration to the paramountcy of the child's best interests under s 28(2) of the Constitution. The SCA declined to pronounce on the legality question, as the facts were insufficiently developed.

As a result, the SCA upheld the appeal and remitted the matter to the high court, differently constituted, to consider the quantum of the loss of support claims. The RAF was ordered to pay the costs of the appeal.

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