



**THE SUPREME COURT OF APPEAL OF SOUTH AFRICA**  
**MEDIA SUMMARY**

**From:** The Registrar, Supreme Court of Appeal

**Date:** 21 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 judgments of the Supreme Court of Appeal***

*Road Accident Fund v Lise Maloney and Others (Case no 174/2024) [2026] ZASCA 73 (21 May 2026)*

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Today, the Supreme Court of Appeal (SCA) upheld an appeal from the Western Cape Division of the High Court, Cape Town. The order of the full court (sitting as court of appeal) was set aside and replaced.

On 21 June 2014 the deceased was involved in a motorcycle collision and suffered serious injuries. The injuries resulted in significant impairment of physical function and some disfigurement. On 6 December 2016, the deceased took his life. His widow instituted a dependants' claim for loss of support in her personal capacity and on behalf of the minor children. The claim before the trial court proceeded only on the question of liability. The particulars of claim alleged that "as a result of the aforesaid collision, the deceased sustained serious injuries and passed away on 6 December 2016". The trial court dismissed the claim. It found that the respondents had failed to establish that there was a factual causal link between the wrongful conduct giving rise to injury and the death of the deceased.

The full court came to the opposite conclusion. It accepted the evidence, including the opinions of the expert witnesses, and found that the death of the deceased was factually caused by the wrongful conduct giving rise to injury. The full court reasoned that it was not a requirement

that the deceased must have been diagnosed as suffering from a mental illness in order to establish factual causation. It did not proceed to examine legal causation.

The SCA reiterated that causation of harm involves two distinct enquiries. The first concerns factual causation and requires a causal relationship between the wrongful conduct and the resulting harm. The second enquiry concerns legal causation and asks whether there is a sufficiently close relationship between the wrongful conduct and the resulting harm to attribute liability for the harm. Considerations of foreseeability, proximity and intervening causes play a role, but the enquiry ultimately involves a determination of legal policy and fairness in the attribution of legal liability. The SCA held that factual causation is determined by asking whether, 'but-for' the wrongful conduct, the harm would have eventuated. The deceased took his life by deliberately inflicting a gunshot wound upon himself. The proper enquiry was therefore whether, 'but-for' the injuries sustained in the collision, the deceased would nevertheless have chosen to end his life.

The SCA accepted that the deceased's physical injuries caused him significant impairment of function and that he experienced pain, anger, frustration and a degree of mental distress. It also accepted that a person who suffers debilitating physical injuries may, in consequence of those injuries, develop psychological sequelae and that the deceased manifested emotional responses suggesting mental or psychological distress. Applying the hypothetical exercise, the Court found that it was improbable that, in the absence of the compounding effect of the deceased's injuries and distress, the deceased would have taken his life. Factual causation was therefore established.

The SCA found that the trial court erred because it premised its conclusion upon a misunderstanding of the nature of the test and considered the absence of a diagnosed impairment of mental capacity to be dispositive. The SCA found further that the full court came to the correct conclusion that factual causation was established, although it failed to consider legal causation.

This Court, however, specified that the evidence did not establish that the deceased suffered from a cognizable psychological lesion or injury impairing his mental capacity or judgment. The suicide occurred approximately two and a half years after the initial wrongful conduct, which reduced the sufficiency of the link between the cause and its effect and militated against

the reasonable foreseeability of the harm. This Court held that the occurrence of the suicide could not be said to have been reasonably foreseeable as a possible consequence of the wrongful and negligent conduct which caused harm to the deceased.

The SCA accordingly concluded that legal causation had not been established and upheld the RAF's appeal.