



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: 16 April 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

The Road Accident Fund v Mudawo and Others (Case no: 1185/2024) and The Road Accident Fund v Lyton and Others (Case no: 1468/2024) [2026] ZASCA 54 (16 April 2026)

Today, the Supreme Court of Appeal (SCA) dismissed two appeals brought by the Road Accident Fund (the Fund) concerning the meaning and effect of s 17(1) of the Road Accident Fund Act 56 of 1996 (the Act). The first appeal was against a judgment of a Full Court of the Gauteng Division of the High Court, Pretoria (case no 1185/2024). The second appeal was against a judgment of the same division (case no 1468/2024).

The central issue on the first appeal was whether the phrase ‘any person’ in s 17(1) of the Act excludes foreign nationals illegally in South Africa (illegal foreigners). In June 2022, the Fund's chief operations officer issued a management directive requiring foreign claimants to produce documentary proof that they were lawfully in South Africa at the time of the accident. The following month, the Minister of Transport published a new RAF 1 claim form incorporating the same requirement. These two measures (the impugned decisions) had the practical effect of excluding illegal foreigners from lodging claims under the Act. The respondents, all foreign nationals injured in motor vehicle accidents in South Africa, brought a review application challenging the impugned decisions, on the grounds that they violated, amongst others, the principle of legality, and the rights to equality, dignity and freedom and security of the person, and children’s rights. The Full Court reviewed and set aside the impugned decisions and held that s 17(1) does not exclude illegal foreigners. This Court granted the Fund special leave to appeal the decision of the Full Court.

In the first appeal, the Fund contended that the phrase ‘any person’ in s 17(1) of the Act, does not include illegal foreigners, and that it should be interpreted in the light of the Immigration Act 13 of 2002 (the Immigration Act), which prohibits foreign nationals from entering or being

in South Africa illegally. The SCA held that the phrase ‘any person’ in s 17(1), on its plain language, is a concept of wide and unqualified generality. Unlike other legislation, such as the Social Assistance Act 13 of 2004, which expressly limits beneficiaries to citizens, permanent residents and refugees, the Act contains no such limitation. Interpreting ‘any person’ to exclude illegal foreigners defeated that purpose and was inconsistent with several constitutional rights. The SCA rejected the Fund’s reliance on the Immigration Act 13 of 2002. Section 44 of the Immigration Act contains a proviso that the duty to ascertain immigration status shall not prevent the rendering of services to which illegal foreigners are entitled under any law. The SCA further found no evidential basis for the Fund's assertions that illegal foreigners lodged fraudulent claims or submitted claims for accidents outside South Africa: the existing claim form already required a claimant to provide the date, time, place and police station of the reported accident. The SCA also held that the impugned decisions violated the constitutional principle of legality. The Minister's power under s 26 of the Act is confined to making regulations to achieve the object of the Act. Neither the Minister nor the Fund is empowered to exclude any category of claimants from the statutory compensation scheme. The impugned decisions were therefore arbitrary.

The second appeal was with the leave of the High Court. Only the first, seventh, eighth, ninth and tenth respondents participated in the appeal. The second appeal concerned the Fund's attempt to suspend court orders and stay warrants of execution obtained by thirteen foreign nationals who had successfully prosecuted claims against the Fund, concluded settlement agreements and, in several instances, obtained court orders. When they sought to enforce those orders, the Fund refused payment and launched an urgent application for a stay of execution of the orders and warrants, based entirely on its contention that s 17(1) excluded illegal foreigners. The SCA held that neither the Directive nor the amended claim form operated retrospectively, and that many of the respondents' claims had been lodged, settled and made court orders before either measure came into force. A settlement agreement (*transactio*) has the effect of *res judicata*, and a stay of execution is granted only where real and substantial justice compels such action. The Fund had not attacked any of the underlying judgments and made out no case for that relief.

Both appeals were dismissed with costs, including the costs of two counsel.

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