THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

ROAD ACCIDENT FUND AND P E MONJANE
CASE NO 295/06

From : **The Registrar, Supreme Court of Appeal**
Date: **18 May 2007**
Status: **Immediate**

Please note that the media summary is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

The Supreme Court of Appeal today upheld an appeal against a decision of the High Court, Pretoria, which had held that a worker who sustained injuries in a motor accident caused by the negligence of his employer was entitled to recover compensation under both the Road Accident Fund and the Compensation for Occupational Injuries and Diseases Act.

The facts were that the worker, Mr Pedro Monjane, fell off a truck and was injured while loading vegetables when his employer, Mr Michael Duarte, suddenly and without warning set the truck in motion.

It was common cause that the injury sustained by Mr Monjane was an 'occupational injury' within the meaning of the Compensation Act although it was sustained in the context of a motor accident. The SCA held that on a proper construction of the two Acts it was clear that where the negligent

party in a motor accident was the claimant's employer, the claimant was entitled to compensation under the Compensation Act only and not also under the Road Accident Fund.

The court noted that although it might seem unfair to confine a claimant to compensation under the Compensation Act, both Acts constituted social legislation and it was up to Parliament as a matter of policy to decide where to draw the line between the areas covered by the two Acts. In certain limited circumstances a degree of overlapping was permitted and an injured workman could claim under both Acts, but it was quite clear that where the negligent party was the claimant's employer Parliament had decided that the claim was to be limited to compensation under the Compensation Act.

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