



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 31 May 2007

Status: Immediate

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

The dispute in this matter arises out of a road accident that occurred on 4 September 1999 on the road between Pretoria/Tswane and Hammanskraal. The collision involved a Nissan Skyline motor vehicle and a Yamaha motorcycle driven by Mr Grobler the respondent. As a result of the collision he was severely injured. He was completely paralysed below T8 with concomitant incontinence complications. The use of his arms and his hands have also become impaired. In the court *a quo* he was awarded damages in the total amount of R3 931 461 with costs.

The only issue in the present appeal was whether the respondent was contributory negligent. It was common cause that the driver of the insured vehicle had executed an overtaking manoeuvre and

thereby entering his incorrect lane of travel. The respondent was obliged to take evasive action.

On appeal the court stated that when a person is confronted with a sudden emergency not of his own doing it is wrong to examine meticulously the options taken by him to avoid the accident, in the light of after-acquired knowledge and to hold that because he took the wrong option, he was negligent. Accordingly the majority of the court found no contributory negligence on the part of the respondent and dismissed the appeal with costs.

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