



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: 27 November 2008

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.

HANNAH FLANDERS
JOHANNES MATHYS PRETORIUS
and
TRANS ZAMBEZI EXPRESS (PTY) LTD
THULANI WINSTON SIBENI

The SCA upheld an appeal against a decision of a full court of the Cape High Court, arising from a bus accident that occurred south of Masvingo, Zimbabwe on the eve of the Easter weekend, 2001. The bus was en route from Lusaka in Zambia to Johannesburg when it collided at night with a stationary Puma vehicle belonging to the Zimbabwean Defence Force. Eight passengers on the bus lost their lives and several others were injured, including the two appellants. The appellants sued the bus company as well as the driver of the bus for damages.

The Cape High Court held that the driver of the bus was negligent and that the bus company and driver were liable to the appellants. On appeal to a full court, this judgment was overturned. On further appeal to the Supreme Court of Appeal, the court held that the driver was negligent in failing to slow down once he had dipped his headlights in the face of an oncoming vehicle with its lights on bright. The court held, further, that in the circumstances there was a duty on the bus driver to stop or at least to reduce his speed by braking immediately so as to be able to stop within the range of his vision. His failure to do so was held to have been a cause of the collision.

The Supreme Court of Appeal accordingly upheld the appeal with costs and reinstated the order of the trial court.

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