



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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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.

ROAD ACCIDENT FUND v P F CLOETE NO & OTHERS

The Supreme Court of Appeal today handed down judgment in favour of Dr Els Thomas, a young Belgian doctor who was seriously injured in a motor collision near Cape Town while on vacation during October 1996. In an arbitration presided over by the third respondent, a senior advocate at the Cape Bar, she won award of damages against the Road Accident Fund in excess of R25 million.

In the course of the arbitration, the Fund applied to the arbitrator in terms of section 20 of the Arbitration Act of 1965 to state a question of law for the opinion of the court with regard to certain benefits to which Dr Thomas was entitled in terms of Belgian social security legislation. The question as ultimately stated by the arbitrator

was whether a previous decision of the Cape High Court, handed down in 1996 in a similar matter involving four Swiss claimants (*Zysset v Santam*) was correctly decided.

In the majority judgment, written by Harms DP held that the question posed by the arbitrator was not a question of law, as required by the Arbitration Act. The Cape High Court accordingly had no jurisdiction to decide the matter, with the result that the cross-appeal of Dr Thomas had to be upheld with costs. At the same time, the appeal of the Road Accident Fund against part of the high court's order was dismissed with costs.

In a separate concurring judgment, Griesel AJA came to the same conclusion, but for different reasons. He held that the high court had erred in exercising its discretion to deal with the matter at all.