



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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From: The Registrar, 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

THE ROAD ACCIDENT FUND v NTOMBIZANELE FLORENCE TIMIS

On 26 March 2010 the Supreme Court of Appeal (SCA) upheld an appeal by the Road Accident Fund (the appellant) against a judgment of the Eastern Cape High Court, Port Elizabeth. That court had refused to deduct an amount of R14 690 in respect of child support grants received by Ms Ntombizanele F Timis (the respondent) on behalf of her two minor children after the death of their father, (the deceased) from the final award of damages made to the children in respect of the loss of support flowing from his death.

The deceased, the sole breadwinner in his family, was fatally injured in a motor vehicle accident. His widow, the respondent, applied for the benefit of their children for child support grants in terms of the Social Assistance Act 13 of 2004. That application was approved in November 2001. She also instituted action in the High Court, Port Elizabeth against the appellant for damages arising from the death of her husband, including loss of support in respect of herself and the children.

The merits having been conceded the High Court was confined to determining the quantum of the claim.. It had to decide, inter alia, whether the amount of the child support grants received by the respondent should be deducted from the damages to be awarded to her on their behalf. The trial court held that the child support grants were not received in consequence of the death of the deceased and they should therefore not be deducted from the final award of damages.

The SCA held that a plaintiff should not be precluded from obtaining the full measure of damages that he or she is entitled to but should, on the other hand, not receive double compensation. Furthermore, it held that the payment of the child support grants was directly linked to the death of the deceased. The moneys paid out in terms of the Road Accident Fund Act and the Social Assistance Act were funded by the public and to not deduct the child grant would amount to double recovery by the respondent at the expense of the taxpayer. The court held that the child support grants were deductible and accordingly ordered that the amount of R14 690 be deducted from the final award made to the children.

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