

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 1 October 2010
STATUS Immediate

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

v
(486/09) [2010] ZASCA 133 (1 October 2010)

Media Statement

An appeal from the Western Cape High Court dealing with the interpretation of an Occurrence and Exception Clause in an insurance contract has been dismissed. The respondent – SMD Telecommunications CC (SMD) had concluded an insurance contract with Mutual and Federal for cover for bodily injury or death caused solely by violent, accidental, external and visible means independently of any other cause. The Exception Clause specifically excluded cover for any occurrence consequent upon any pre-existing defect or infirmity.

Mr Compton-James, a CEO of SMD died 7 months after a motor vehicle accident. His death was precipitated by a plaque rupture causing myocardial infarction. The SCA upheld the decision of the Western Cape High Court and found that on a balance of probabilities, the death was a delayed consequence of the accident and that he would not have died in May, if it had not been for the motor vehicle accident. The Court further held that Mutual and Federal could not rely on the Exception Clause because it had not been pleaded.

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