



**THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA**

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 2 April 2012
STATUS Immediate

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

***Long & another v Jacobs
(145/11) [2012] ZASCA 58 (2 April 2012)***

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

Today the Supreme Court of Appeal (SCA) dismissed an appeal by the appellant and upheld an order of the Western Cape High Court, Cape Town.

The first appellant is the headmaster of the Rhodes High School and the second appellant is the Member of the Executive Committee of Education in the Western Cape. The respondent, a Grade 8 educator at Rhodes High School, was attacked with a hammer by a 13 year old learner in her class. The respondent suffered serious bodily injuries as a consequence of the assault. The respondent instituted action in the high court against the appellants for damages. The court found for the respondent and granted judgment against the appellants jointly and severally in the sum of R1 114 685.53 and the second appellant was, as a result, held to be vicariously liable for the acts and omissions of the employees of the department at the school.

The central issues before the SCA were whether the high court erred in finding that the appellants and their servants owed the respondent a legal duty to act positively to ensure the safety and security of the person of the respondent; secondly whether the high court erred in finding that the first appellant's conduct was negligent and if so, whether such conduct was causally linked to the harm suffered by the respondent; thirdly, whether the high court in finding the respondent contributorily negligent, erred in determining the parties' respective degrees of fault and finally whether the trial court erred and misdirected itself in assessing the quantum of the respondent's damages to a degree that would warrant interference by this court.

The SCA held that the first appellant was aware of the death threats made by the learner against the respondent and therefore should have taken the elementary precaution in

keeping the learner under his supervision, as a reasonable possibility existed that the learner might attack the respondent.

The SCA held that it will only interfere with an award made by a trial court where there is a striking disparity between what the high court has awarded and what this court considers ought to have been awarded.

The SCA on the issue of contributory negligence, held that in assessing the degree of fault on the part of respondent, the court must determine to what extent the respondent's acts or omissions, causally linked with the damage in issue, deviated from the norm of the bonus paterfamilias and that the appellate court will not lightly interfere with the apportionment decided upon by the high court and in the event found that the trial judge took a broad view of the situation and made an apportionment he considered appropriate in the circumstances.

The SCA further held with regard to quantum that the learned trial judge gave comprehensive reasons as to what motivated him to award the amount he did, and as a result cannot be faulted. The appeal therefore fell to be dismissed.

--- ends ---