



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: 16 April 2014
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.

PITHEY V ROAD ACCIDENT FUND

The Supreme Court of Appeal (SCA) today handed down their unanimous decision to set aside the judgment of the North Gauteng High Court, Pretoria upholding the respondent's special plea against a claim made against it for compensation for damages arising from a motor vehicle collision.

The appellant, Ms Johanna Christina Pithey, instituted an action against the Road Accident Fund (the Fund) for damages she suffered as a result of a motor vehicle collision which occurred on 29 November 2004. The appellant was unable to establish the identity of either the owner or the driver of the vehicle which she claimed was the sole cause of the said collision. This was thus a claim for compensation in terms of s 17(1)(b) of the Road Accident Fund Act 56 of 1996 (the Act). Her claim, however, was submitted in the form of a claim under s 17(1)(a) of the Act, which error the Fund seized upon to raise a special plea disputing their liability to compensate the appellant under this claim. In essence the special plea contended that the appellant failed to lodge a claim form with the Fund in respect of an unidentified motor vehicle as required by s 17(1) of the Act and therefore was unenforceable.

The crisp issue that arose from determination was therefore whether a claim for compensation lodged with the Fund is rendered invalid because the claim form apparently conveys that it is a claim under s 17(1)(a) of the Act whereas it is evident from the accompanying documents that such a claim is in terms of s 17(1)(b) of the Act. The South Gauteng High Court, as court of first instance, upheld the special plea and dismissed the action with costs. It found that the appellant's claim form did not relate to an unidentified motor vehicle but to the motor vehicle specified in the claim form. The North Gauteng High Court dismissed the appellant's appeal to it.

The SCA determined that, while it is true that there is a fundamental distinction between a claim under s 17(1)(a) and one under s 17(1)(b) of the Act, this cannot be taken to mean that even when the Fund is in possession of information which, when read in tandem with the claim form reveals that the claim really relates to an unidentified vehicle, the Fund is entitled to repudiate the claim on the basis that no valid claim had been made. Nor ought the Fund to benefit from its own failure to clarify with minimal time, effort and expense, whatever confusion the claim form and attached documentation revealed. This is particularly so when, as in the present case, information was supplied to the Fund in relation to the claim in terms of s 17(1)(b). Consequently the SCA held that to uphold the Fund's special plea would be to: (a) elevate form above substance; (b) the rigidly technical against a just result; and (c) subvert the objects of the Act.

In the result the SCA upheld the appeal and substituted the order of the South Gauteng High Court upholding the special plea with one dismissing the special plea with costs.