



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

Case No: 567/2013

Reportable

In the matter between:

ROAD ACCIDENT FUND

Appellant

And

FONESCA RUI FERNANDO FARIA

Respondent

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 19 May 2014
STATUS Immediate

RAF v Faria (567/13) [2014] ZASCA 65 (19 May 2014)

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

Heard: 5 May 2014
Delivered: 19 May 2014

Today the Supreme Court of Appeal (SCA) upheld an appeal by the Road Accident Fund against an award by the South Gauteng High Court of general damages of R350 000.

The SCA found that under the new scheme established under the Road Accident Fund Act 56 of 1996 as amended, read with Regulations promulgated under the Act a 'serious injury' is to be determined in accordance with procedure prescribed in Regulation 3 of the Regulations and that the RAF is not bound by the determination of a 'serious injury' by its own expert.

More particularly, the SCA held that the amended Road Accident Fund Act, read together with the Regulations, had introduced two 'paradigm shifts' that are relevant to the determination of the appeal: (i) general damages may only be awarded for injuries that have been assessed as 'serious' in terms thereof and (ii) the assessment of injuries as 'serious' has been made an administrative rather than a judicial decision. In the past, a joint minute

prepared by experts chosen from the contending sides would ordinarily have been conclusive in deciding an issue between a third party and the RAF, including the nature of the third party's injuries. This is no longer the case. The assessment of damages as 'serious' is now determined administratively in terms of the prescribed manner and not by the courts.

The SCA concluded that the high court had wrongly awarded the plaintiff general damages. It upheld the appeal and set aside the award for general damages.