



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: 29 August 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.

MUSEJIE VENNON MOTSWAI

v

ROAD ACCIDENT FUND

The Supreme Court of Appeal (SCA) today upheld an appeal by an attorney, Mr Wim Krynauw, against a finding of fraud made against him by the High Court (Johannesburg). The high court held that Mr Krynauw had instituted a false claim on behalf of his client against the Road Accident Fund (the Fund). The client had been injured in a motor vehicle accident. The attorneys claimed for a fractured ankle whereas hospital records showed that only a minor injury was sustained.

The high court found that by presenting the case in this way the attorney had fabricated the claim, misrepresented facts to the court and fraudulently set out to enrich himself and his firm from the funds intended to compensate road accident victims. His behaviour, said the judge, was 'legally untenable, iniquitous and

ethically unconscionable’.

The high court, therefore, refused to allow costs of the litigation to the attorney and referred the matter to the Law Society to consider disciplinary action against him.

The SCA, however, held that the high court judge had made these findings against the attorney in his absence and without holding a proper hearing in an open court or being aware of the facts. The proceedings that led to these findings were held to have been irregular and unfair.

The SCA further held that when the attorney instituted the claim on behalf of his client, he was unaware that the injury was not a serious one; he only became aware of the true nature of the injury when he received a medico legal report from an orthopaedic surgeon after summons was issued against the Fund.

The SCA thus set aside the findings of fraud and allowed the attorney to claim his fees and other costs from the Fund.