



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
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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

Neutral citation: *Posthumus v The Road Accident Fund* (20024/2014) [2015] ZASCA 40 (25 March 2015)

The appellants, respectively the administrators of the estates of the late Mrs Petronella Posthumus and her husband Mr Pierre Posthumus, appealed to the Supreme Court of Appeal against an order dismissing a claim for damages suffered by Mr and Mrs Posthumus in a motor vehicle accident that occurred on 20 May 2003.

On the date in question Mr and Mrs Posthumus had been passengers in a minibus that was being driven on the N14 national road near Sannieshof when it left the road and capsized. They subsequently instituted action for damages for the bodily injuries that they sustained in this accident, the claim having been brought under the provisions of the Road Accident Fund Act 56 of 1996. It was common cause that the accident had been due in part to the negligence of the driver of the minibus in which they were travelling, a Mr Maritz. If he had been solely to blame, their claims were limited by the provisions of s 18(1)(b) of that Act. However, they alleged that there was no such limitation as Mr Maritz had been blinded by the headlights of a stationary motor vehicle parked alongside the roadway that had negligently been allowed to shine towards oncoming traffic. This version had been rejected by the trial court which found that no such motor vehicle had been on the scene.

Mr and Mrs Posthumus had appealed to a full court at the Gauteng Division, Pretoria. All three members of that court had concluded that a motor vehicle had been parked alongside the roadway. But a majority held that a causal link between its lights shining into the road and the accident had not been established. The minority judgment held that headlights of the stationary vehicle had blinded Mr Maritz and had contributed towards the accident.

On appeal to the Supreme Court of Appeal, the view of the minority of the full court was accepted. The court concluded that there was no reason to disbelieve Mr Maritz's testimony that he had been dazzled, he having been corroborated by his wife as well as by an affidavit

by the driver of the other motor vehicle. The court considered that the other driver had been negligent in allowing his lights to shine into the roadway as he did. It therefore held that the appeal had to succeed as the claims of Mr and Mrs Posthumus were not limited by the provisions of s 18(1)(b) of the Act.

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