



THE SUPREME COURT OF APPEAL REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY - JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

Mpahla v Road Accident Fund (698/16) [2017] ZASCA 76

From: The Registrar, Supreme Court of Appeal

Date: 1 June 2017

Status: Immediate

Please note that the media summary is 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 against a judgment in the Western Cape Division, Cape Town.

The issue on appeal concerned the interpretation of regulation 3(3)(dA) of the Road Accident Fund Regulations (the regulations). The provision relates to a claim for general damages which requires the Road Accident Fund (the Fund), within 90 days from the date of receiving the Serious Injury Assessment Report (SIA report), to accept or reject the SIA report or to direct the third party to submit himself or herself to a further assessment.

The appellant argued that on a proper construction of regulation 3(3)(dA), the Fund is deemed to have accepted that the appellant has sustained a serious injury because it did not reject the SIA report or direct the appellant to submit a further assessment within 90 days of delivery of the report.

The Fund, however, disagreed that regulation 3(3)(dA) is capable of such interpretation. It argued that if within 90 days of delivery of the SIA report, no decision is made to accept or reject the report, or to refer the appellant for further assessment, the appellant's remedy lies in s 6(2)(g) of the Promotion of Access to Information 3 of 2000 (PAJA), for judicial review of an administrative action of a failure to take a decision.

The SCA upheld the judgment of the high court finding that in the absence of a constitutional challenge, the notion of requiring a court to read into the regulation a deeming provision seeks impermissibly to arrogate to the courts a law-making function.

The appeal was accordingly dismissed with costs.

--- ends ---