



## SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**FROM** The Registrar, Supreme Court of Appeal  
**DATE** 29 November 2017  
**STATUS** Immediate

***C Septoo obo J M Septoo & another v The Road Accident Fund  
(058/2017)[2017] ZASCA 164 (29 November 2017)***

*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.*

The Supreme Court of Appeal (SCA) handed down the judgment today in an appeal from the Eastern Cape Local Division of the High Court, Port Elizabeth. The matter concerned the question whether the appellant and her minor children were entitled to claim compensation for loss of support from the Road Accident Fund (the RAF) in circumstances where the deceased breadwinner was the sole cause of the collision; second, whether the common law should be developed to include such claims.

The appellant instituted a claim for loss of support against the RAF for herself and on behalf of her minor children. The court a quo, dismissed their claims on the basis that the RAF was not legally liable to compensate the appellant and her minor children for loss of support, which they suffered as a result of the death of her husband due to his own negligence.

The SCA recognised that the Road Accident Fund Act 56 of 1996 (the Act) codifies the common law position, which recognises that compensation for loss of support can only arise from the unlawful killing of a breadwinner by another person. Section 19(a) of the Act expressly excludes liability in certain cases. Therefore in the present case, the dependants of the deceased, who died as a result of his own negligence and in a single vehicle, do not have a cause of action for damages for loss of support.

On the question whether the common law should be developed, the SCA held that the major engine for law reform should be the legislature and not the judiciary.

The SCA held further, that the effect of such a development would amount to jettisoning an essential element of the law of delict, i.e. wrongfulness. The common law position is the correct approach and is still applicable to all cases of this nature.

The SCA accordingly dismissed the appeal.

**~~ ends~~**