



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 May 2007

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*

**DR C J VAN DER MERWE**

**v**

**ROAD ACCIDENT FUND**

The Supreme Court of Appeal today decided that the Road Accident Fund may not plead prescription against a supplier's claim for the costs of accommodation, treatment, services or goods of medical services where a third party's claim itself has not prescribed or been finalised through judgement or settlement. This is because the supplier's claim is dependent upon, and accessory to, the third party's.

The appeal arose against the following background. The appellant, an anaesthetist, rendered medical treatment to a Mr Grundlingh following injuries Grundlingh had sustained in a motor vehicle collision on 2 October 1998. The treatment was administered on 20 February 2002, more than three years after the collision. The appellant sought to recover this amount directly from the Fund by submitting a claim to it on 27 June 2002. The Fund did not respond and the appellant caused a magistrates' court summons to be served on the Fund for payment of this amount in February 2003. The Fund raised a special plea of prescription averring that the claim had become prescribed because it had been submitted beyond the three-year period set in the Road Accident Fund Act 56 of 1996. It was common cause that when the appellant submitted his claim to the Fund on 27 June 2002, the Fund had not yet finalised Grundlingh's claim and his claim had not yet become prescribed. The Fund subsequently settled Grundlingh's claim without taking the appellant's into account.

The SCA held that s 17 (5) of the Road Accident Fund Act 56 of 1996 (the Act) gives a supplier the right to claim directly from the Fund the third party's costs of

accommodation or treatment or service rendered or goods supplied by the supplier. Such a claim, being dependent on and accessory to the third party claim cannot therefore become prescribed where the third party's has either not prescribed or otherwise been finalised. It held further that the interpretation which the Fund sought to place on this section, that the supplier was obliged to submit his or her claim within three years of the cause of action having arisen, was illogical as it effectively negates the supplier's claim.