



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 1 June 2018
STATUS Immediate

Road Accident Fund v Khathutshelo Gladys Masindi (586/2017) [2018] ZASCA 94
(1 June 2018)

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

The SCA today dismissed an appeal by the Road Accident Fund which had unsuccessfully raised a special plea of prescription in terms of s23 (3) of the Road Accident Fund Act 66 of 1956 as amended by the Road Accident Fund Amendment Act 19 of 2005 read with s 4 of the Interpretation Act 33 of 1957 and regulation 1 under the Road Accident Fund Act.

The Road Accident Fund appealed against the judgment and order of the Gauteng Local Division of the High Court, Johannesburg (Mbongwe AJ, sitting as a court of first instance) which dismissed the special plea of prescription it had raised in a claim for damages. The appeal concerned the question of how the five year prescription period applicable to the respondent's claim should be computed, in circumstances where the last day of the five year period, strictly calculated, falls on a day when the court is closed so that summons cannot be issued and served.

The SCA, relying on English authorities *Pritam Kaur v S Russel & Sons* and *Nottingham City Council and Calverton Parish Council* with reference to the decision of the House of Lords in *Mucelli v Government of Albania* [2009] UKHL 2; [2009] 1 WLR. 276 where Lord Neuberger in paras 83-84 specifically endorsed *Pritam Kaur*, held that, on a proper interpretation of s 23(3) of the RAF Act - where the five year period for bringing a claim ends on a day when the court office is closed, so that summons cannot be issued and served on that day - the five year period should end on the next working day.