

**MEDIA STATEMENT – CASE HEARING IN SUPREME COURT OF APPEAL**

## **Transnet Ltd t/a Metro Rail v Lazarus Tshabalala**

**Supreme Court of Appeal -151/2005**

**Hearing date:** 27 February 2006

**Judgment date:** 22 March 2006

Contributory negligence – apportionment of fault – Appeal court’s assessment differing substantially with that of the trial court.

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### **Media Summary of Judgment**

In a judgment delivered today, the Supreme Court of Appeal (the SCA) upheld an appeal by Transnet Ltd against the apportionment of damages by the Johannesburg High Court.

Mr Lazarus Tshabalala had sued Transnet in the High Court for damages arising out of an accident involving a train operated by Transnet. The claim was for the sum of R762 650. However the parties asked the High Court to first determine the issue of Transnet’s liability and defer the determination of the quantum of damages for a later date.

After hearing evidence the High Court found that both parties were at fault. It held that Mr Tshabalala was negligent in attempting to board a moving train and that Transnet was also negligent in operating a train while the doors of its coaches were open. The High Court held that both parties were equally negligent and reduced damages to which Mr Tshabalala was entitled by half.

On appeal, the SCA found that Mr Tshabalala, who was under the influence of liquor when he attempted to board the train, had been negligent in a substantially greater degree than that of Transnet and reduced his damages by two thirds.