



SUPREME COURT OF APPEAL SOUTH AFRICA

MEDIA SUMMARY – JUDGEMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

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STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgement of the Supreme Court of Appeal.

ROAD ACCIDENT FUND v BUSUKU (Case no 1013/19) [2020] ZASCA 158

The Supreme Court of Appeal today confirmed a decision of the Full Court of the Eastern Cape Division of the High Court (the full court), which had upheld an appeal against the dismissal of Mr Busuku's claim for damages by the High Court, Mthatha (the high court).

Mr Busuku had been injured in a motor vehicle accident and had timeously lodged a claim for damages arising from his injury in the prescribed form under the Road Accident Fund Act 56 of 1996 (the Act). When completing the RAF 1 claim form he failed to complete the 'medical report' section. In its stead he submitted a complete set of the hospital records of the Mtahtha Hospital where he had been treated for his injuries to enable the Road Accident Fund (RAF) to investigate his claim and injuries. The RAF did not object to the form in which the claim was lodged. However, more than a year later, the RAF raised a special plea that

Mr Busuku had failed to submit a medical report as required by s 24(1) and (2)(a) of the Act and that his claim had therefore become prescribed.

The high court upheld the special plea and dismissed his claim. In an appeal the Full Court referred the matter back to the high court to consider whether the submission of the hospital records constituted substantial compliance with the provisions of the Act. The SCA found that the hospital records did constitute substantial compliance with the provisions of the Act in this case and, in any event, that the failure of the RAF to object to the form of the claim within 60 days of lodgment thereof rendered the claim valid in all respects in terms of s 24(5) of the Act. It accordingly dismissed the special plea.