

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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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

Bulelwa Nonkwali v Road Accident Fund

In a judgment delivered today, the Supreme Court of Appeal has upheld an appeal brought against a judgment of the Mthatha High Court which upheld a special plea raised by the Road Accident Fund against a claim brought in terms of s 17 of the Road Accident Fund Act 56 of 1996 (the Act), for compensation for injuries sustained by Ms Nonkwali in a motor vehicle collision.

The special plea was upheld on the basis that Ms Nonkwali's claim form did not meet the requirements of s 24 of the Act for failure to list a head injury sustained in the collision which was discovered about three years after the collision, after the claim had been lodged. Ms Nonkwali had however amended her pleadings to include the injury upon its discovery. The high court further held that even if she had a valid claim in respect of this injury, it had prescribed by reason of the provisions of s 23 of the Act.

The Supreme Court of Appeal held that it was not necessary to amend the claim form to include the additional injury and that amending the summons in that regard sufficed. The Supreme Court of Appeal further held that the claim in respect of the additional injury did not introduce a new cause of action and was merely an additional item to her original cause of action.