

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CCT57/06

Renier Albertus Hermanus Engelbrecht v the Road Accident Fund and the Minister of Transport

Date of Judgment: 6 March 2007

MEDIA SUMMARY

The following media summary is provided to assist in reporting this case and is not binding on the Constitutional Court or any member of the Court.

This application for leave to appeal concerned regulation 2(1)(c) of the regulations made under the Road Accident Fund Act 56 of 1996. The Act established the Road Accident Fund, the object of which is the payment of compensation to persons (third parties) for personal injury caused by the driving of motor vehicles. Section 17 of the Act provides that people involved in hit and run cases have a claim against the Fund.

Regulation 2(1)(c) requires anyone claiming compensation for injury in hit and run cases to submit, if reasonably possible, within 14 days of being in a position to do so, an affidavit to the police in which the details of the accident in question are fully set out.

The applicant, Mr Engelbrecht, was involved in a motor vehicle collision with a truck on 22 February 2002. As the truck did not stop, he was not able to establish the identity of its owner or driver. He was injured in the collision and claimed compensation from the Fund. However, his affidavit in terms of regulation 2(1)(c) was not submitted within the stated period of time. The Fund refused to pay because Mr Engelbrecht had failed to comply with regulation 2(1)(c).

Mr Engelbrecht contended that regulation 2(1)(c) is in conflict with the provisions of section 34 of the Constitution and therefore invalid in that it imposes an unreasonable and unjustifiable limitation on his right of access to court.

Writing for a unanimous court, Kondile AJ held that the 14-day period stipulated by the regulation is too short and does not amount to a “real and fair” opportunity to exercise the right of access to courts as enshrined in section 34 of the Constitution. The Court accordingly declared regulation 2(1)(c) invalid.