

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

Road Accident Fund v Vusumzi Mdeyide (with the Minister of Transport Intervening)

CCT 70/06

Decided on: 4 April 2007

MEDIA SUMMARY

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

The respondent, Mr Vusumzi Mdeyide, who is blind, illiterate and innumerate, was involved in a motor vehicle collision on 8 March 1999. His claim for compensation from the Road Accident Fund was lodged on 11 March 2002, three years and three days from the date of the collision.

Section 23(1) of the Road Accident Fund Act stipulates that the right to claim compensation prescribes three years after the date upon which the cause of action arose.

In the High Court Mr Mdeyide claimed that prescription only commenced running against him on 17 September 1999, when he first consulted with his attorneys and became aware that he had a right to claim compensation from the Fund; further that given his personal circumstances and because he has no concept of time and space, he was entitled to lodge his claim beyond the three-year period.

Notshe AJ held that the problem with section 23(1) of the Act was that it imposed a complete bar, irrespective of how worthy, unusual or exceptional particular circumstances might be, or that a claimant may in a particular instance have been unaware of the basis of the claim or the identity of the debtor. He consequently declared the section unconstitutional and referred the order to this Court for confirmation.

The Fund appealed the decision and the Minister of Transport, who was admitted as an intervening party in this Court, made common cause with it.

Navsa AJ, writing for a unanimous Court, held that the fundamental problem in this case was the lack of proper inquiry into Mr Mdeyide's mental capacity before and during the trial. It appeared from the evidence that the respondent's attorney had experienced difficulty in extracting information from him during consultations. Furthermore, his medical records indicated that he had sustained a head injury as a result of the collision and on two occasions displayed signs of confusion. Moreover, he testified that he had been mentally affected as a result of the collision. All of this ought to have suggested to all the protagonists that something was badly amiss.

If Mr Mdeyide had indeed been of unsound mind, that called into question the validity of the proceedings in the High Court. An inquiry into his capacity to litigate and manage his own affairs should therefore be conducted. The result might enable Mr Mdeyide to seek refuge in section 13(1)(a) of the Prescription Act which provides that prescription does not run against a person of unsound mind.

Because the High Court had not considered Mr Mdeyide's capacity to litigate and manage his own affairs, its order was premature, and for that reason the order of invalidity could not be confirmed. The matter is remitted to the High Court for an inquiry into Mr Mdeyide's capacity. Should the High Court establish that Mr Mdeyide was at material times of sound mind and reinstate its original order, the Fund would be entitled to re-enrol the matter in this Court for a decision on the merits.