



THE SUPREME COURT OF APPEAL REPUBLIC OF SOUTH AFRICA

**MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal

Date: 1 December 2023

Status: Immediate

***The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgment of the Supreme Court of Appeal.***

*City of Cape Town v Mtyido* (Case no: 1272/2022) [2023] ZASCA 163 (1 December 2023)

---

Today the Supreme Court of Appeal handed down judgment dismissing an appeal from the full court of the Western Cape Division of the High Court.

The respondent in the appeal, Ms Nqulelwa Mtyido, alleged that while walking along a public road within the municipal area of the appellant, the City of Cape Town, she stepped into an open manhole. This resulted in her sustaining injuries to her right ankle. She sued the appellant in the Western Cape Division of the High Court (the trial court) for damages arising from her injuries. The trial court separated the issue of liability from damages. It found that employees of the appellant wrongfully and negligently failed to take steps to prevent the respondent from being injured by the open manhole. It accordingly declared the appellant liable for the damages, if any, that the respondent had suffered in consequence of the incident, and also directed that it must pay her costs.

The appellant appealed against the judgment of the trial court to the full court of the Western Cape Division of the High Court (the full court). That appeal was

dismissed with costs. The appellant then appealed to the SCA against the judgment of the full court.

The SCA held that the full court had not erred in dismissing the appeal from the high court, that the respondent was injured when she stepped in to the open manhole, and that her injuries were caused by the wrongful and negligent conduct of employees of the appellant who had failed to take steps to prevent such injury to the respondent after the existence of the open manhole had previously been reported to a responsible employee of the appellant and he had undertaken to have the hole closed, but this was not done. The appellant was also directed to pay the costs of the appeal, such costs to include the costs of two counsel where employed.