

# **SUPREME COURT OF APPEAL OF SOUTH AFRICA**

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

### **MEDITERRANEAN SHIPPING CO (PTY) LTD v TEBE TRADING (PTY) LTD CASE NO 204/06**

**From :** The Registrar, Supreme Court of Appeal

**Date:** 20 March 2007

**Status:** Immediate

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

The Supreme Court of Appeal upheld an appeal from a judgment of a full Court of the Pietermaritzburg High Court which had held the appellant, a ship's agent, liable for damage to a consignment of litchis carried on board the ship, *MSC Spain*, from Durban to Dubai. Following a fire in the engine room of a sister ship, the Geneva operated shipping line directed the *MSC Spain* to deviate from its planned route and to call at Maputo in order to pick up cargo off-loaded from the stricken ship. As a result of the deviation the litchis, although in a refrigerated container, deteriorated to the extent that they were unsaleable in the Middle East. The consignor claimed that the appellant, the local agent, on learning of the proposed deviation, should have informed it of what was intended so as to afford it the opportunity of removing the litchis from the ship and possibly selling them on the local market. However, in terms of the bills of lading, which evidenced the contract of carriage, the carrier was entitled to deviate from the advertised route. In these circumstances the SCA held that the appellant owed no legal duty in

delict to the consignor to afford it the opportunity of removing the litchis from the ship. The court held that such a duty would be in conflict with the agent's contractual obligation which it owed to its principal.

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