



REPUBLIC OF SOUTH AFRICA

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 30 May 2008
STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

HERMANUS FRANCOIS ENSLIN

v

NGKAKA JACOB NHLAPO
(Case No 533 / 07)

Media Statement

Today the Supreme Court of Appeal ('SCA') dismissed an appeal by Mr Hermanus Enslin, the owner of the farm Holfontein, against a judgment of the Bloemfontein High Court holding him liable to Mr Ngkaka Nhlapo for such damages, as may in due course be proved, arising out of a collision between the latter's motor vehicle and a Brahman bull. During the course of the evening of 9 February 2002, Mr Ngaka Nhlapo was driving his Toyota Venture when he came upon a small herd of cattle alongside Holfontein on the R26, the main tarred road between Petrus Steyn and Heilbron. He was unable to avoid them and collided into a young Brahman bull. He sued Mr Enslin in the Petrus Steyn Magistrate's Court for the damages he had sustained in consequence of the collision. He alleged that the cattle belonged to Mr Enslin, alternatively, that they were under his control. The alleged grounds of negligence were, amongst others, that Mr Enslin had failed to prevent the cattle from straying onto the public road.

The issues of liability and quantum were separated and the matter proceeded to trial solely on the former. The plaintiff's claim was dismissed by the trial court. It succeeded on appeal to the Bloemfontein High Court. The SCA accepted that the bull in question did not belong to Mr Enslin. It found however that he had exercised control over the grazing camp in which the bull had been allowed to roam freely unsupervised. According to the SCA, in addition to the two gates which had been erected, but had obviously been left open by unknown persons, Mr Enslin should have utilised a padlock to secure one of the gates or installed a cattle grid. Those easy and relatively inexpensive measures would have prevented the cattle from

straying onto the public road. It followed, according to the SCA, that Mr Enslin had been negligent.

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