



**THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA**

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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

ALEX ROUX v RYAND KAREL HATTINGH

The Supreme Court of Appeal (SCA) today dismissed an appeal by Mr Alex Roux against an order of the Western Cape High Court, Cape Town, declaring that he was delictually liable for the neck injuries sustained by Mr Ryand Hattingh during a rugby match between Laborie High School and Stellenbosch High School.

The evidence established that Ryand had complained about Alex's conduct prior to the conduct that resulted in the injuries. As the forwards were forming a scrum Alex had shouted the word 'jack-knife' and had then blocked the channel into which Ryand's head was meant to go. Because his channel had been blocked, Ryand's head was forced down under Alex. This resulted in Ryand's neck being broken. The hooker who had replaced Ryand had also complained about similar conduct against Alex. The latter had denied any wrongdoing on his part. Faced with two conflicting versions, the high court had accepted the evidence of Ryand and rejected that of Alex. It had found that Alex had acted

intentionally when he first shouted the word 'jack-knife' before blocking Ryand's channel and that Alex's conduct was wrongful as it was deliberate, extremely dangerous and a serious violation of the rules of the game. Alex then appealed to the SCA against the order of the high court.

Before the SCA there were three issues. First, whether the credibility and other factual findings made by the high court could be assailed. The SCA found that the findings of the high court could not be faulted and that its conclusion that Alex had acted deliberately was unimpeachable. Second, whether Alex's conduct was indeed wrongful. In respect of this issue, the SCA held that the conduct was wrongful. It reasoned that the 'jack-knife' manoeuvre executed by Alex was in contravention of the rules as well as contrary to the spirit and conventions of the game; that because it had a code name, the manoeuvre must have been planned and it was consequently also executed deliberately; that it was extremely dangerous; and that Alex must have foreseen that the manoeuvre was likely to cause injury to Ryand but proceeded to execute it nonetheless. Third, whether, in the event of the high court's factual findings being accepted and the conduct being regarded as intentional and wrongful, all of Ryand's injuries were caused by Alex. The SCA came to the conclusion that all the injuries were caused by Alex and dismissed an expert's suggestion to the contrary as having no factual foundation. The SCA then considered the legal principles which would apply to delictual claims arising from injuries sustained during a game such as rugby. It concluded that only conduct which constitutes a flagrant contravention of the rules of rugby and which is aimed at causing serious injury or which is accompanied by full awareness that serious injury may ensue, will be regarded as wrongful and attract legal liability for the resulting harm.