



THE 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

STATUS Immediate

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

Hendrik Johannes Pitzer v Eskom (336/2011) [2012] ZASCA 44 (29 March 2012)

The Supreme Court of Appeal (SCA) upheld an appeal against an order made by the South Gauteng High Court, Johannesburg. The appellant, Hendrik Johannes Pitzer, was injured by an electric shock sustained inside a live chamber of an electrical substation operated by the respondent, Eskom. As a result the appellant instituted action for damages in the court a quo. Moshidi J dismissed the claim holding that the appellant's injuries were caused solely as a result of his own negligence and that there had been a voluntary assumption of risk.

The appellant claimed that the entrance to the live chamber should have been closed and that the respondent was, as a result, negligent and therefore liable. The SCA held that it was reasonably foreseeable to the respondent that if the premises were left open the appellant might enter and accidentally be electrocuted. The Court found that the person acting on behalf of the respondent was negligent in not performing his duties in this regard.

The SCA further held that a causal link exists between Eskom's conduct in failing to properly secure the dangerous premises and the appellant's injuries.

However, the SCA found the appellant to be contributorily negligent as some of his actions did not accord with those of a reasonable person.

For the reasons above the SCA made the following order:

1. The appeal succeeds with costs.
2. The order of the court a quo is set aside and the following order substituted:

'It is declared that the defendant is liable for fifty per cent of the plaintiff's proven or agreed damages.'