



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, 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.

Madalane v Van Wyk (87/15) [2016] ZASCA 25 (18 March 2016)

Today the Supreme Court of Appeal (SCA) dismissed an appeal from the Gauteng Division of the High Court, Pretoria and confirmed the judgment of the high court upholding a special plea of lack of locus standi in judicio

The issue before the SCA was whether the appellant, a mother of an adult daughter, had locus standi to institute action on her behalf for the recovery of the damages she sustained in a motor vehicle accident when she was still a minor.

On 17 December 2003 the appellant's daughter was injured in a motor vehicle accident while she was a passenger on a trailer towed by a vehicle driven by the respondent on the basis that the accident was caused by the respondent's negligence. At the time of the accident the daughter was 12 years old and in terms of the Age of Majority Act, the law governing status at the relevant time, she would have become a major when she turned 21 years. On 1 July 2007 the Age of Majority Act was repealed and replaced by s 17 of the Children's Act 38 of 2008 which reduced the age of majority from 21 years to 18 years.

On 20 September 2010 her mother in a representative capacity caused summons to be issued against the respondent on her behalf. The appellant's claim was met with a special plea of lack of locus standi in which it was contended that the daughter should have instituted a claim in her own name because at that time she had already attained majority. The high court upheld the special plea of lack of locus standi.

On appeal, the SCA dismissed the appeal. It held that the allegation in the summons that the daughter was still a minor, was factually inaccurate and bad in law in that at the issue of the summons she was already a major and therefore did not have to be assisted by her legal guardian.

