



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
Date: 15 August 2019
Status: Immediate

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.

AN v MEC for Health, Eastern Cape (585/2018) [2019] ZASCA 102 (15 August 2019)

Today the Supreme Court of Appeal dismissed an appeal from the Mthatha High Court. Damages were claimed for a baby which had suffered brain damage during the birth process. The issue was whether the clearly negligent conduct of the hospital staff at the All Saints Hospital, Engcobo, had caused the brain damage. The court a quo found that causation was not proved and dismissed the claim.

The mother and foetus were grossly inadequately monitored during the birth process. The blood supply to the foetus, delivered via the umbilical cord during the birth process, was interrupted. The interruption was sudden, total and persistent, resulting in a complete lack of oxygen to the foetal brain. The majority of four upheld the finding of the court a quo that, on the facts of the matter, this interruption was without warning and occurred at a time when intervention by way of an emergency delivery could not have been performed in time to avert the damage. A minority judgment differed from this finding, was of the view that causation had been proved and would have upheld the appeal.

Both judgments strongly deprecated the negligence of the hospital staff. It was noted that a number of matters emanated from this department showing gross and unpardonable negligence. This matter had been pertinently brought to the attention of officials in the department without any clear improvement resulting. The Supreme Court of Appeal directed that the judgment be forwarded to the respondent, and the National Minister under whom health services fall, in the hope that this situation would be urgently addressed.