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BACKGROUND

The deceased, Mr Simphiwe Robert Makutoana was an employee of Multipurpose Terminal situated at Cape Town Harbour. The deceased had the duties of a stevedore¹. On the day that this tragic incident occurred, the deceased, a pedestrian collided with a vehicle known as a Reach Stacker operated by Mr Eugene Andrea. The incident caused the death of the deceased. Ms Thandiswa Linah Mbele (**the “Respondent”**), being the deceased’s common law spouse instituted a claim against the Road Accident Fund (**the “Appellant”**) for patrimonial loss in terms of loss of support for her and her four minor children. The Appellant argued that a Reach Stacker was not a motor vehicle in terms of the Road Accident Fund Act². This legislation describes the rules and regulations pertaining to compensation regarding motor vehicle accidents.

LEGAL ISSUE

The legal issue, in this case, was to establish whether the definition of a motor vehicle included a Reach Stacker. The court a quo in the trial hearing ruled in favour of the Appellant as the conclusion was that a Reach Stacker was not a motor vehicle in terms of the Act. The legal issue presented to the Full Bench of the High Court was whether the Respondent may be compensated for the death of her spouse in terms of the Road Accident Fund Act based on the definition of a motor vehicle contained in the Act.

COURT HELD

To determine whether a Reach Stacker was a motor vehicle in terms of the Act, the Supreme Court of Appeal discussed the requirements of a motor vehicle to qualify as such in terms of the Act. The requirements for a motor vehicle are as follows:

- a. Must be driven with the use of electricity, gas, or fuel. The vehicle must be able to move with the use of gas, electricity or fuel.
- b. Designed for propulsion which means that the vehicle must be moved forward.

c. The motor vehicle must be on a road. The vehicle can operate on an ordinary road that is used by other motor vehicles.

The SCA held in terms of the first requirement that this vehicle can be propelled by diesel fuel. Thus, in terms of the evidence presented, this vehicle transported containers within the port premises. Further thereto, the SCA held that an objective enquiry must be used to determine whether a vehicle, such as a Reach Stacker, is intended to be used for road usage. The enquiry involves a question of whether a reasonable person seeing the Reach Stacker would make an inference that the vehicle would not pose any danger to society while in use on a public road.

In terms of the second requirement as well as the third requirement, the court held that the Reach Stacker would not be a difficult vehicle to operate on a road used by pedestrians. This is because the Reach Stacker has the features of a normal motor vehicle. Due to the vehicle being operated on a terminal premise, it had to be registered and was done so in terms of road traffic legislation.

Based on the above, the SCA concluded that a Reach Stacker is a motor vehicle in terms of the scope of the Road Accident Fund Act and the Appeal was dismissed. Therefore, judgment was granted in favour of the Respondent and the Appellant was ordered to pay for the costs of the application.

VALUE

This case outlines the broad interpretation of the *Road Accident Fund Act to include all types of vehicles including a Reach Stacker*.

[1] Road Accident Fund v Mbele 2020 (6) SA 118 (SCA) para 2 (hereafter 'Road Accident Fund v Mbele').

[2] 56 of 1996.

RAF v Mbele [Download](#)