

Supreme Court of Appeal of South Africa

**MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal

Date: 22 March 2006

Status: Immediate

**TRANSNET LTD t/a METRO RAIL v LAZARUS TSHABALALA**

*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*

In a judgment delivered today, the Supreme Court of Appeal (the SCA) upheld an appeal by Transnet Ltd against the apportionment of damages by the Johannesburg High Court.

Mr Lazarus Tshabalala had sued Transnet in the High Court for damages arising out of an accident involving a train operated by Transnet. The claim was for the sum of R762 650. However the parties asked the High Court to first determine the issue of Transnet's liability and defer the determination of the quantum of damages for a later date.

After hearing evidence the High Court found that both parties were at fault. It held that Mr Tshabalala was negligent in attempting to board a moving train and that Transnet was also negligent in operating a train while the doors of its coaches were open. The High Court held that both

parties were equally negligent and reduced damages to which Mr Tshabalala was entitled by half.

On appeal, the SCA found that Mr Tshabalala, who was under the influence of liquor when he attempted to board the train, had been negligent in a substantially greater degree than that of Transnet and reduced his damages by two thirds.