

**NOTICE 374 OF 2008**



**CONSTITUTIONAL COURT OF SOUTH AFRICA**

**CASE CCT 57/06**

**RENIER ALBERTUS HERMANUS ENGELBRECHT**

**Applicant**

**versus**

**THE ROAD ACCIDENT FUND**

**First Respondent**

**THE MINISTER OF TRANSPORT**

**Second Respondent**

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**ORDER OF COURT DATED 06 MARCH 2007**

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**KONDILE AJ:**

*Order*

[47] In the result the following order is made:

- i) The application for leave to appeal is granted.
- ii) The appeal is upheld with costs including the costs of two counsel.
- iii) (i) Regulation 2(1)(c) of the regulations made in terms of section 26 of the Road Accident Fund Act 56 of 1996, published in Government Gazette 17939 of 25 April 1997, is declared to be inconsistent with section 34 of the Constitution and accordingly invalid.

- (ii) Such declaration of invalidity will apply to and govern all claims instituted or to be instituted under the Road Accident Fund Act, 56 of 1996, which at the date of this order have neither prescribed, nor been finally determined by judgments at first instance or on appeal or by settlement duly concluded.
- iv) The order of the High Court is set aside and replaced with the following:  
The special plea is dismissed with costs including the costs consequent upon the employment of two counsel.
- v) The present case is remitted to the Cape High Court for the determination of the claim.

**M S STANDER  
SNR REGISTRAR  
CONSTITUTIONAL COURT**

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