

NGWANE v PRASA (35036/2016) [2019] ZAGPJHC 245 (27 MAY 2019)

Abstract:

In this case a student was injured as a result of the Defendant changing the train platforms. The Defendant also failed to ensure that the train doors were closed and kept closed. Therefore, the Defendant ought to have foreseen that in those circumstances, that a passenger could have been injured seriously.

Facts:

This matter is an action for damages arising out of a train accident that occurred on 3 March 2015. The Plaintiff sued the Defendant for negligence for injuries sustained at the time he attempted to board a train owned and operated by the Defendant, who conducts rail transportation as its core business.

Plaintiff who was a student boarded a full train on his way home. On one of the interleading trains there was an announcement made to for everyone to change over to a train on another platform. He was the last person that got onto the changeover train when he pushed inside to enter and he did not notice if there was anyone behind him, he then lost balance and fell onto the ground as the doors to the train were not closed. The court found that the Defendant should have foreseen such conduct materialising and should have averted harm by directing the plaintiff not to disembark at an “all change” platform and the metro owed a duty to ensure all the doors were closed, however the court also highlighted that a reasonable man in the position of a prospective passenger would have foreseen the danger of boarding a train after it had started to move and would have refrained from doing so. Therefore, the court found that the Plaintiff is only entitled to 50% of his proven damages.

Judgement:

The evident placed before the court being witnesses and expert evident led the court to make the following Judgement.

The following was ordered;

Both the plaintiff and defendant were therefore negligent.

In the result, I grant the following order for the plaintiff against the defendant:

1. the plaintiff is entitled to recover 50% of his proven damages from the defendant;
2. the defendant is ordered to pay the plaintiff`s costs of action;

3. the issue of quantum is postpone sine die.

Read full case at: <http://www.saflii.org/za/cases/ZAGPJHC/2019/245.html>

The importance of this case highlights the need to be vigilant and take precautionary measures. The reason being that even though in this case the Defendant made the decision to change platforms and the Defendant failed to ensure that the doors of the train were closed. The Plaintiff was still 50% contributorily negligent as a reasonable man would have foresaw the danger.