

Implications of SCA ruling on insurance policies

By [George Herbst](#)

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A recent decision of the Supreme Court of Appeal, handed down on 13 April 2021, will have a material impact on South Africa's insurers, requiring them to review their policies.



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The [*King Price Insurance Company Ltd v Concise Consulting Services \(Pty\) Ltd*](#) case focused on the rejection of any insurance claim on the basis that a person who is not the policy holder (such as the regular driver, or persons covered under the relevant policy) provided false, incorrect or dishonest information to the insurer.

In 2013, a company vehicle that was insured by King Price was damaged in a late evening collision whilst driven by the insured company's employee – a person who was noted as the regular driver on the policy documents. The policy holder (director) reported the claim but did not have personal knowledge of the facts of the incident. When King Price interviewed the employee who drove the vehicle, he supplied false information about his movements and intoxication - which were relevant to the incident. As a result, King Price rejected the claim on the basis that the insured or anyone acting on its behalf, must provide true and complete information at all times.

However, the Court found that for an insurer to rely on the clause "anyone who acts on your behalf", they would have to prove that this person was an agent of the insured, within the legal meaning of agency. The SCA regarded the clause as ambiguous and that the benefit of the ambiguity should go to the insured. Therefore the court found that the claim should be paid because the insured itself (its director) was not dishonest and considered the regular driver to be a "third party" and witness only.

Insurers will, no doubt, view the ruling as unnecessarily harsh on the insurer as it may severely diminish an insurer's ability to reject patently dishonest claims. As such, insurers should review and amend their policies to cater for the implications of this ruling. They will now need to include reference to those individuals who will be regarded as agents for the insured, or that anyone who is a person covered in terms of the policy has the same duty as the policy holder.

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