

Tourism industry welcomes SCA dismissal of Santam's appeal against Ma-Afrika

The Supreme Court of Appeal (SCA) has upheld the High Court decision that insurance company Santam will need to pay out the full 18-month indemnity period to Ma-Afrika, a hospitality establishment that was heavily affected by the Covid-19 pandemic.



The decision means that Santam is obligated to pay Ma-Afrika Hotels for the full 18-month period of its policies, and provides certainty for the finalisation of outstanding claims for businesses in the tourism and hospitality sector, who have had to wait more than 18-months for valid claims to be settled.

On 27 August, Santam appeared in the Supreme Court of Appeal (SCA) in Bloemfontein to challenge an aspect of the Ma-Afrika judgment handed down in November 2020. The appeal focussed on the 18-month indemnity period, with Santam maintaining that losses for contagious and infectious diseases are limited to three months only.

According to the Western Cape High Court ruling, the full indemnity period under the business interruption (BI) policy is applicable to Covid losses.

Rosemary Anderson, Fedhasa chairperson commented on the ruling saying: "We are thrilled to hear that justice has finally been served and that companies like Ma-Afrika Hotels will receive what they honestly contracted with Santam for – business interruption cover for 18 months."



Santam loses appeal in coronavirus case with hotel group Ma-Afrika

Emma Rumney 7 Oct 2021



Anderson says that Fedhasa was saddened by the number of companies which could not hold on any longer and were forced to close because Insurers did not pay out their business interruption cover when they should have. "The very term 'business interruption cover' means you will be paid out while there is interruption. Santam and others like them did not honour this."

Satib – a specialist broker in the tourism and leisure industry – executive head, Dewald Cillie also commented saying: "Although we have not managed to study the judgement in full as yet, the ruling is very welcome news for all SATIB customers with a similar business interruption policy wording to Ma-Afrika."

As Cillie explains, the ruling brings both clarity and certainty in terms of the finalisation of claims, but also closure to what has been a frustrating and protracted process: "It's a bittersweet moment because we know that it has been (and continues to be) a long, hard road for many in the tourism sector. We're satisfied with the judgement, pleased to receive clarity, and relieved to see an end to what has been an extraordinary 18 months."

Santam has responded with the acceptance of the SCA's decision on business interruption and aims to finalise the remaining CBI claims as quickly as possible.

"We recognise that Covid-19 has had a devastating effect on the economy and in particular on businesses. We also understand that our clients were affected by the process of attaining legal certainty on this one remaining CBI matter. We are however very pleased that this judgment allows us to proceed to finalise all impacted CBI claims as soon as possible in line with the ruling of the SCA," says Lizé Lambrechts, Santam Group CEO.

Santam has furthermore commented that it has already begun putting measures in place to ensure that the wording of its business interruption policies is as clear as possible to avoid uncertainty about cover.

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