## 7 ta Gunju, 19 àz. Impallef:

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## Trafiku - Kollizjoni - 'Brake Martze' "Res Ipsa Loquitur".


 "Res Ipsa Loquitur".
Min ikn ixuq, ghalkemm mo joghtuelir tereh ithulkodi matematici li huma melitiega bins fil-Qorti jigi apprezeat " judikat il-kas, ghan-
 nanzi th l-kodizjonijiet huma itwistjom; ta' sukondi u ghandu- p̈rregola l-ghemil tieghu fis-sewqun konformement.
Jekf ma jaghmels helid, hura jirrendi rutu hati to' traskumgni imputabili kriminalment.
B'sentenza tal-Qorti Kriminali tal-Magistrati ta' Malta tal-lo ta Dicembru 1951, l-imputat gie misjub hati talli minfrabba nuqqas ta' othaqul, traskuragni, u inosservanza tar-regolamenti, waqt li kien isuq motor-van minn St. Mary Street, Haż-Zebbug, habat ma" truck u gbamillu haara ghad-danna ta: l-Awtoritajiet Militari, u gie liberat tatt id-dispożizzjonijet ta' l-art. 23 Kap. 12 ;

L-impetat appella kontra din id-dikjarazajoni ta' reitd;
Trattat l-uppell tieghu, din il-Qorti kkunsidrat;
Il-fat't huma sufficjentement rikapitolati fis-sentenza appellata, u d-Difiza u l-Prosekuzzjoni ghamlu riferenza gialibom (ara verbal tol. 12) ; biss l-apprllant rega" xehed, fuq talba tiegha, biex jaghti xi skjarinenti. Fost affarijiet ohra he qal li, meta żbokka fit-triq maggeri, ra karrozza tal-Militur boghod minnti 150 jardu. Fis-sentenza appellata hernm I50 pied. I-imputat kompla juhid li hu, wara, kien kejjel id-distanza bil-passi, u abha ta' 172 pass. Issa, pass vwoldiri pass regolari, ossija pass militari, $u$ hu risaput li kull pass militari jitqies żewğ piedi 17 sitt pulzieri; kosikkè 172 pas: ifissru 145 jarda;

Issa, hu fatt li t-truck misuq minn Borg (ko-imputat fiewwel istanza, li nstab hati wkoll minhabba sewqan negliFenti u ma appellax) halla "brake marks" ta' 27 pied u tliet
pulzieri. Il-"momerinum" tat-truck lanqas spices wara din ifthistanza, ghaliex it-trucb kaxkar il-van ta' l-appellant ghal silt piedi o tliet pulzieri;

Din hi waltdii minu dawk ić-citkustanzi li, f'materja ta' kiwzi tat-traffikn, tisesjah "res ipsa loquitur". L-Imhallef s.denti, wara li kkunsidra x-xorta ta' l-art fil-post in kwistjoni. "Goe affaltia, ix-xorta tat-tyres ta' truck simili ghal dik li hija "road adhevion", il-fatt li l-art ma kienetx imxarrba, a t-tkaxkita tal-van wara l-"brake-marks", u wara li ikkonsulta dak li jinghad fuq "braking distances", bhala indikativi tal-velocitit, fit "Thables" publikati minn Forrodo Limited fl-1 940 , fil-publikazzjoni dwar il-materja ta' l-espert Philip Ruskin fil-"Popular Mechanics Magazine 1947", u t"Tables" Li hemm fil-ktieb "How to Drive a Car' (Temple Press, London, p. 125), g̀iẹ :九hall-konklużjoni illi t-truck kien miexi almenu bi speed, kuntrarjament ghal dak li qal iddriver Bory, ta' Hetin mil fis-siegba - speed perikoluż relativament ghaci-cirknstanzi tal-lokalità; ughalhekk Borg gie kundannat;

Issa ghandu jịi realizatet illi, meta vettura tkun sejra bitua mil fis-siegta, dan ifisser li tkun qieghda taghmel kważi $\hbar$ mistax-il iardar fis-sekonda;

Anki kiekir, meta l-imputat beda jaqsam, it-truck kien ghadu bstid 150 jarda, dan ifisser li $\mathrm{f}^{\prime} \mathrm{gh}$ haxar sekondi kien jasal f:q il-van;

Akta.x li, kif qal Borg, id-distanza bejnu u l-light car, li semma l-imputat u li kienet ghaddiet qabel, kienet ta' xi 25 jarda biss. Borg ammetta li kien qieghed jipprova jilhaq il-light car: Ghalhekk it-truck lahaq fuq il-van proprju fiftit sekondi. Laћqu meta l-van kienet kwaži qasmet. Vwoldiri illi 1-'margin:' biex wiehed jaqsam kien taht ić-Cirkustanzi 'margin" prekariu ta' ftit sekondi;

Issa, min iscq, ghalkcmm ma jaghmelx dawn il-kalkoli matematici, li huma mettiega biex fil-Qrati jiği apprezzat u gudikat il-każ, ghandu, pero, ikun jaf u jirrealizza li fis-sewgan awtomobilistiku distanz: u kolliżjonijiet huma kwistjoni ta', kif jingtiad, "a split second", u ghandu jirregola l-ghemil tieghn fis-sewgan konformement. Jekk ma jagtimilx
hekk. ikun ged jirrendi ruhu hati ta' traskuragni imputabili kriminalment :

Jin il Qorw, athathekk, taqbel mal-fehma tal-Magistrat illi l-imputat kiell imprudenti, taht ić-cirkustanzi tal-każ, meta prova jaqsam ['salib, it-toroq bl-isperanza azzardata li jarthmel il-manevra "a tempo", jew li d-driver tat-truck jirrallenta li speed tiegtin biex itiallih pataddi; "molto piu'" meta wiehed jirvifletti li l-imputat kien fuq triq sekondarja:

Id-driver tat-truck żbalja metre saq b'dak li speed irragjonevoli ficecirkustanzi tal-post, u ghalhekk gie kundannat inill-Magistrat: imma li speed irragjonevoli tieghu kien, vis-i-ris l-imputat, fattur li kien jimponilu grät akbar ta' diligenza. Hiwfa utili, a propozitu, li wiehed ifakkar dak li qai Lord Dunedin fil-kawża "Macandrew vs. Titlard' (1909) Scottich Cises (117) 78. "The driver', qail dan l-Im末allef Skoecié, "knew that he was going to cross at right angles to a very frequented and main thoroughfave; and if there is one rule more than another that it is necessary to lay down for the practical ronduct of traffi", it is that it is the business of those who are on the cross road and going to cross the main road to look out when they enter the main road, and to give way to all traffic which is coming along the main road. Of course, there is a degree in everything......... they have a right to cross the main road............ ; but where there is any possibility at all of collision, it is the business of the peraon on the side road to give way to the person on the main 'ond'". S'intendi, din ir-"rule" ma fassolvix lill-"main mad" driver", li anki hu javvicina 1 "'entrance"' ghac "aide mads" h'attenzjoni; u ghathekk anki Borg gie dikjarat hati:
( F hal dawn ir-rağunijiet din il-Qorti tiddećidi;
Billi tichiad l-appell u tikkonforma s-sentenza appellata.

