MALTA

TRIBUNAL GHAL TALBIET ZGHAR MALTA

GUDIKATUR DR. MANDUCA PHILIP

Seduta ta' 23 ta' Settembru, 2002

Talba Numru. 1796/2001/1

Citadel Insurance plc

Vs

Joan Spiteri

It-Tribunal

Ra l-avviz li fih s-societa attrici tablet li l-konvenuta thallas Lm502.77 rappresentanti danni kagjonati f'incident ta' traffiku li gara fit-8 ta' Gunju 2000.

Ra r-risposta li fiha l-konvenuta ddikjarat li l-incident sehh unikament tort ta' Mariella Tanti.

Sema x-xhieda.

Ra id-dokumenti.

Ikkunsidra li Mariella Tanti assikurata mad-ditta attrici hekk iddiskreviet l-incident ezatt wara l-habta:

“Driver of Car Reg. CAF 712 stated that she was proceeding in Triq il-Valeran Fgura and all of a sudden vehicle No. EAQ673 emerged from Triq il-Kuluvert and dashed into her”.

Il-konvenuta qalet:

“Driver of vehicle with registration no. EAQ674 stated, that she was proceeding in Triq il-Kuluvert Fgura and when entered in Triq il-Veleran Fgura all of a sudden came vehicle CAF 712 and collided into her”.

Fix-xhieda taghha l-konvenuta qalet li hi kellha stop sign fit-triq il-Kuluvert. Illi l-konvenuta kellha ukoll vettura ipparkjata fuq ix-xellug taghha fil-main road. Illi ghalhekk hi harget bil-mod. Il-konvenuta tghid:

“Jiena waqaft fuq l-istop sign, qabel ma hrigt. Jiena kelli diffikolta biex nittawwal izjed ghaliex kien hemm freezer fuq il-main road fuq ix-xellug tieghi. Jiena hrigt tikka biex nittawwal, kont wiefa u bid-daqqa mxejt lura”.

Illi fil-kawza “Il-Pulizija vs. Giuseppe Galdes” (App. 30/5/1953) gie ritenut: "Side road user ghandu d-dritt li jidhol gol-main road, imma ghandu jidhol meta l-main road tkun talment libera li hu jista jghaddi ghal go fiha bla ma jiehu riskju li driver prudenti ma ghandux jiehu.

“Il-Pulizija vs. Nazzareno Borg” (12/11/1960): "Driver fuq is-side road jew minor road hu onerat bl-obbligu li, x'hin japprossima l-crocerija, jesplora bl-aktar attenzjoni qabel ma jiddeciedi jittraversaha. Is-side road user ghandu d-dritt li jaqsam il-main road meta bid-debita prudenza ikun accerta ruhu li din hi libera."

Il-Pulizija vs. Pawlu Borg (VolXXXVI-I-797): “Ghalkemm driver ghandu joqghod attent sija jekk ikun fuq it-triq dritta, hemm ukoll jekk ikun sejjer jidhol fiha, huwa intuintiv, u hu principju affermat f’diversi decisjonijiet tal-Qrati Inglizi illli driver li sejjer jidhol fi triq, minn triq ohra ghandu obbligu akbar minn dak id-driver fuq it-triq dritta, ghas-semplici

raguni li hu jkun sejjer jaqsam li “stream of traffic” li jkun hemm fuq it-triq dritta.”

Il-Pulizija vs. Anthony Galea Appell Krim 5/9/53 “Id-driver li jkun diehel minn ‘side road’ ghal go ‘main road’ ghandu certi doveri x’josserva, fosthom li jcedi ghat-traffiku fuq il-main road, li jesplora tajjeb il-main road qabel ma johrog fiha, u dak li jmexxi dead slow, u jwaqqaf sakemm jaccerta ruhu li jista’ johrog bla hsara.”

Joseph Randolph Camilleri propio et nomine vs. Raymond Tabone Qorti Civili 5/10/94: “Hu ovvju wkoll li jinkombi fuq l-attrici bhala side road user illi fil-punt fejn jiltaqghu z-zewg toroq tieqaf zobtu biex tesplora xi traffiku jkun gej fuq it-triq principali u kienet obbligata li ma tazzardax tifrex fuq din it-triq qabel ma tkun accertat ruhha li setghet taghmel hekk bla perikolu ghaliha u ghall-vetturi ohra.”

Camilleri vs. Demicoli Qorti tal-Appell (27/7/81): “Il-grad ta’ diligenza u prudenza u attenzjoni li l-utenti tat-triq laterali obbligat jezercita huwa li jcedi ghat-traffiku li jkun ghaddej fil-main road (ghaliex dan it-traffiku ghandu d-dritta) li jesplora tajjeb it-triq li ser johrog fiha u sahansitra jieqaf biex u sakemm jaccerta ruhu li ser johrog bla hsara.”

Macintosh and Seoble (Negligence in Delict pg.369) “The driver approaching a stop sign must look and listen in both directions in order to apprehend fully what vehicles are approaching, how far they are away, at what speed they appear to be progressing and then, only if quite satisfied that it is safe for him to enter the intersection may he proceed further.”

Franco v. King intqal obiter minn Tindell J. li “The driver in the thorough street is entitled to expect the driver approaching the Stop Sign to stop.”

John Gauci Maistre vs. Colin Galea (Prim’ Awla 23/2/94) “Certament is-side road user li jkun ra vettura fuq il-main road ma jistax u ma ghandux jibda jaqsam inkrocju qabel ikun ghamel valutazzjoni korretta tal-velocita li jkun qed isuq il-main road user. Din il-valutazzjoni, is-side road

user jaghmilha riskju tieghu, fis-sens li kalkolu hazin, generalment irid ibati l-konsegwenzi tieghu hu.”

Illi t-Tribunal jaghmel riferenza ukoll ghal kawza Jason Montebello vs. Rita Muscat deciza mill-Magistrat D. Montebello fit-13 ta’ Ottubru 2000 u ghal kawza Fogg Ltd. vs. Jesmond Vella deciza mill-Qorti tal-Appell fid-19 ta’ Novembru 2001 fejn intqal:

“hi zbaljata l-affermazzjoni ta’ l-appellant illi l-fatt biss illi sewwiq ikun qieghed isuq fuq in-naha hazina tat-triq, kien prova konkluziva tal-htija ghas-sinistru. Il-principju ormai stabbilit fil-gurisprudenza hu propju l-kontra. L-utent tat-triq seta’ jutilizza t0triq kollha sakemm dan ma kienx jikkostitwixxi perikolu ghall-utenti l-ohra tat-triq u dana sakemm dak is-sewqan ikun prudenti, mehtieg u sufferit fic-cirkostanzi.”

Illi l-konvenuta stess tghid li harget minn fuq stop sign u li bid-daqqa giet imbuttata lura. Illi minn dan jirrisulta li l-kawza prossima u immedjata tal-incident kienet l-mod inkonsult li l-konvenuta harget minn Stop sign minghajr ma rat it-traffiku fuq il-main road.

Illi d-danni ma gew bl-ebda mod kontestati u jidhru ragjonevoli.

Ghaldaqstant jichad ir-risposta tal-konvenut.u jilqa t-talba attrici bl-ispejjes u bl-imghax mid-data tan-notifika tal-ittra ufficjali datat 12 ta’ Novembru 2001.

Av. Philip Manduca
Gudikant