



TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
PHILIP MANDUCA**

Seduta ta' l-10 ta' Gunju, 2005

Talba Numru. 1326/2001/1

Saviour sive Aldo Portelli

Vs

Gordon Borda

It-Tribunal

Ra l-Avviz li bih l-attur talab il-hlas ta' tlett mija u tlieta u sebghin lira Maltin u erbatax-il centezmu (Lm373.14c) rapprezentanti danni sofferti minnu f'incident tat-traffiku kif ahjar spjegat fl-Avviz.

Ra r-Risposta tal-konvenut li biha eccepixxa li l-incident ma garax tort tal-konvenut izda unikament htija ta' l-attur. Minghajr pregudizzju l-konvenut talab prova tad-danni.

Ra li wara l-incident il-pulizija li nvestiga l-incident kiteb li l-attur qal:

Kopja Informali ta' Sentenza

“I had stopped to buy the lottery tickets and when I opened the door the collision occurred.”

Il-konvenut qal:

“I had just loaded some passengers but I could not park close to the pavement due to the fact that the other vehicle was illegally parked there. When I was about to start moving the other driver opened the door and the collision occurred.”

Fit-22 ta' Marzu, 2001 l-attur cempel lill-pulizija u qal li l-verzjoni tieghu kif irrapportata ma kienetx korretta. Il-pulizija ghalhekk zied nota fuq ir-*Road Accident Report*.

“I had stopped to buy the lottery tickets and after I did I went back to enter into my car. The bus was still stationary and loading passengers. As I take some time to enter a car because of my recent hip replacement, the door of my vehicle was open for a while and when I was about to close it the bus drove and the collision occurred.”

Din l-ahhar verzjoni hi kkonfermata fl-Affidavit ta' l-attur. Meta xehed il-pulizija huwa kkonferma li dak li kiteb ezatt wara l-incident huwa dak li l-attur qallu originarjament.

Fir-*Road Accident Report* gie mnizzel li x-xarabank kellha “deep scratch on door and side” filwaqt li l-attur kellu “driver's door”.

Jesmond Cordina kkonferma li l-incident gara wara li l-attur xtara l-biljetti.

Meta xehed il-konvenut qal li ra l-vettura ta' l-attur bil-bieb maghluq. Ra ragel gol-karozza. Il-konvenut qal li beda miexi u seta' jara l-genb kollu tat-trakk billi kellu mirja fuq il-genb. Hekk iddiskriva l-incident:

“Kif skorrejt il-Mazda qbadt il-bieba bil-genb tat-trakk u rajt ragel hierieg u waqqaft it-trakk.”

Kopja Informali ta' Sentenza

Minkejja diversi tentattivi sabiex jigi ghall-kontro-ezami, l-konvenut naqas li jattendi l-Qorti.

Ikkunsidra

Illi meta kellem lill-pulizija ezatt wara l-incident il-konvenut ma kienx qal li ra l-Mazda bil-bieb maghluq u li seta' jara l-genb kollu tieghu.

Illi l-konvenut naqas li jattendi l-Qorti ghall-kontro-ezami.

Illi fis-sentenza **Cefai Vs Coleiro PA 25/6/1999** intqal:

“When a motor car is standing on the public road, the door on the side of the road should not be opened by anybody without first making sure that there is no vehicle coming which might come into collision with it.”

Roberto Rovinelli (Le Responsabilita' Civili e Penali per gli Incidenti della Strada (Vol. li. P. 51 decizjoni tal-Cass. Mass. Pen)) jghid:

“Aprire la portiere di un'autovettura ferma, mentre un motoveicolo si trova in fase di sorpasso, costituisce grave imprudenza.”

Illi certament kien l-attur li kellu jipprova n-negligenza tal-konvenut. Il-verzjoni ta' l-attur hija li l-bieb kien miftuh u li l-konvenut li kellu hafna nies bil-wieqfa baqa' diehel fil-bieb billi ma setax jara x'kien hemm fuq il-genb. Il-konvenut jghid li meta kien ghaddej minn magenb din il-vettura l-attur fetah il-bieb. Gie kkonfermat li l-incident gara wara li l-attur kien xtara l-biljetti.

Illi kontra l-verzjoni ta' l-attur hemm il-fatt li l-pulizija kkonferma l-ewwel verzjoni ta' l-attur u skond ir-rapport tal-pulizija l-konvenut ma kellux hsara fuq quddiem.

Fic-cirkostanzi, billi l-attur ma gabx provi bizzejjed biex juri li l-konvenut kien responsabli ghall-incident, jichad it-talba attrici bl-ispejjez.

Kopja Informali ta' Sentenza

< Sentenza Finali >

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