MALTA

TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
PHILIP MANDUCA**

Seduta tat-13 ta' Ottubru, 2005

Talba Numru. 1434/2004

**Lloyds (Malta) Limited bhala rapprezentanti ex lege ghan-
nom tal-membri ta' Lloyds li jifformaw is-syndicates bin-
numri JAT1245, KLN0510, SDM0807, SAM0727, ATR0570,
ADV 780, SVB 2147, AML 2001, AFB 623 u AFB 2623 u
Rausi Insurance Agency Limited**

Vs

Stefan Zammit u Thomas Zammit

It-Tribunal

Ra l-Avviz li fih is-socjetajiet attrici talbu l-hlas ta' erba' mija u hmistax-il lira Maltin u tletin centezmu (Lm415.30c) rapprezentanti danni f'incident awtomobilistiku ghal liema

incident il-konvenuti kienu unikament responsabbli minhabba mprudenza, mperizja, negligenza u inosservanza tar-regolamenti.
Ra d-dokumenti esebiti.

Ra r-Risposta ta’ Thomas Zammit fejn qal li mhux responsabbli ta’ dan l-incident izda kien tort ta’ Stefan Zammit.

Ra r-Risposta ta’ Stefan Zammit fejn qal li mhux responsabbli ta’ dan l-incident izda kien tort ta’ Thomas Zammit.

Ra r-*Road Accident Report* fejn Stefan Zammit qal:

“Jiena kont wieqaf bl-indicator biex indur fuq ir-right side tieghi biex nidhol fid-drive-in tieghi u l-iehor gie minn warajja, qabizni u habat go fija.”

Thomas Zammit qal:

“Kont sejjer lejn Villa Arrigo u sibt lil tal-KA ma’ wicci ghax kien wieqaf u jien ippruvajt nevitah imma hbat mieghu u tlift il-kontroll. Nahseb li kien bla indicator.”

Edward Gatt bil-vettura DAJ 132 qal:

“Dik issuqha t-tifla tieghi Louise u l-bierah waqfitilha u pparkjata hemmhekk. Bhalissa qieghda Ghawdex.”

Il-verzjoni tal-pulizija kienet:

“No serious breach of the MVR was observed. None of the parties want any court action against Thomas Zammit. Declarations have also been signed. Thomas Zammit has also signed a declaration stating that he will make good for the damages caused to the bus stop sign. Naxxar office will be informed accordingly. A bus stop sign has been damaged in the incident by Thomas Zammit. Also a boundary wall was damaged to the detriment of Chris Warren and also Sebastian Mifsud. Damages were also sustained by Keith Cole. They were to call at the Naxxar

Police Station but have failed to do so as yet. On the 10th March, 2004 the Naxxar Local Council sent a letter to Thomas Zammit to inform him that damages made to the bus pole sign amounted Lm14 and to make good for the damages."

Il-verzjoni ta' l-assigurazzjoni kienet:

"Damages were sustained on various private properties owned by Chris Warren, Sebastian Mifsud and Keith Cole."

Ra x-xhieda ta' PS 321 Alan La Grasta fejn jikkonferma r-*Road Accident Report* u l-iskizz. Jghid ukoll illi ma kellux suspett ragunevoli fil-konvenuti u ghalhekk m'ghamel ebda breathalyser test.

Ra x-xhieda ta' Stefan Zammit fejn jikkonferma li qal fir-*Road Accident Report*. Jghid illi meta hares fir-*rear view mirror* ra l-KIA gejja fid-direzzjoni tieghu bi speed qawwi. Jghid ukoll li meta rah l-ewwel darba kien xi hmistax jew ghoxrin metru 'l boghod minnu.

Jikkonferma li kien wieqaf meta sar l-impatt. Jghid li meta ra lil Thomas Zammit minn warajh kien fil-lane tieghu. Ra lil Thomas Zammit meta hu kien diga' wieqaf sabiex jidhol fid-drive-in.

Qabel ma gara l-impatt jispjega li r-roti kienu diga' mdawwrin fuq il-lemin sabiex jaghmel il-manuvra u jidhol fid-drive-in. Jghid illi b'rizultat tal-habta, l-vettura tieghu daret u mxiet iktar minn sitt metri 'l quddiem mid-dar tieghu. Jaqbel ma' l-iskizz.

Fil-kontro-ezami l-ewwel jghid illi fejn waqaf hu, d-drive-in kien tul l-Awla darbtejn izda mbaghad jghid li waqaf ezatt biswit id-driveway.

Jikkonferma li dakinhar ta' l-incident kien gej lura minn San Giljan wara li ha zewg drinks ma' shabu.

Jichad illi saq iktar mid-drive-in tieghu minhabba li kien ghajjien. Jghid illi meta rah l-ewwel darba hu kien qieghed jisslowja izda meta sar l-impatt hu kien wieqaf. Jghid ukoll li kien iktar vicin tal-hajt milli lejn ic-centru tat-triq.

Stefan Zammit jghid illi l-ewwel daqqa li ha kienet fuq ir-*right hand mudguard* fuq quddiem.

Ra x-xhieda ta' Thomas Zammit fejn jghid li meta ra l-ewwel darba lil Stefan Zammit kien tul l-Awla darba jew darba u nofs. Jikkonferma li Stefan Zammit kien miexi fuq ix-xellug.

Jghid li Stefan Zammit ibbrejkja f'salt u dar fuq il-lemin. Thomas Zammit hekk kif ra li ma kienux gejjin karozzi kemm minn warajh u kemm minn quddiemu fid-direzzjoni opposta mar biex jaqbzu. Jghid illi hekk kif mar biex jaqbzu Stefan Zammit dar, dahal go fih u sar l-impatt. Jikkonferma li baqa' diehel go Fiat Panda u go parapett.

Thomas Zammit jghid illi meta hareg mill-karozza tieghu ma ra l-ebda indicator mixghula fil-vettura ta' Stefan Zammit.

Ma jiftakarx b'liema speed kien ghaddej. Ma jiftakarx x'qal lill-pulizija wara l-incident. Thomas Zammit jghid illi Stefan Zammit waqaf, dar u malli mar biex jaqbzu dahal go fih. Jerga' jikkonferma li ra lil Stefan Zammit qabel il-habta. Jghid ukoll illi pprova jevitah billi resaq lejn il-lemin izda ghalxejn. L-ewwel daqqa bejn il-KIA u l-KA kienet fuq ix-xellug, *mudguard* ta' quddiem tal-KIA.

Ikkunsidra

Illi ezatt wara l-incident Thomas Zammit qal:

"Kont sejjer lejn Villa Arrigo u sibt lil tal-KA ma' wicci ghax kien wieqaf u jien ippruvajt nevitah imma hbatt mieghu…"
Illi hemm diversi sentenzi li jaghtu mportanza ghall-kliem li jintqal ezatt wara l-incident. Thomas Zammit qal li ma jiftakarx x'qallu lill-pulizija u li kien taht xokk.

Illi huwa maghruf li hija regola generali fil-kwistjonijiet ta' stharrig ta' responsabbilta' f'habta, li kull sewwieq irid ihares zewg regoli ewlenin:

a) Li jirregola s-sewqan tieghu skond ic-cirkostanzi, u

b) Li jzomm attenzjoni dwar dak li jkun qieghed isehh fil-qrib jew huwa mistenni li jsehh minnufih. (Ara **Formosa & Camilleri Vs Camenzuli - PA 26/4/2001 Citaz. Nru. 427/97**).

Illi hemm diversi sentenzi li jaffermaw il-principju li qabel ma ddur fuq il-lemin trid tassigura li m'hemmx traffiku li qieghed jaghmel manuvra ta' surpass. (Ara **Dobler Vs Caruana - Appell 5/10/1998**).

Illi filwaqt li Stefan Zammit jghid li kien wieqaf fil-mument tal-habta, Thomas Zammit jghid li ezatt kif kien qed jaghmel manuvra ta' surpass Stefan Zammit dar fuq il-lemin. Illi m'hemmx dubju li Thomas Zammit kien ghaddej bi speed esagerat u naqas li jirregola s-sewqan tieghu skond ic-cirkostanzi. Illi kien Thomas Zammit li kellu jipprova li Stefan Zammit dar fuq il-lemin u ma kienx wieqaf. Thomas Zammit qal lill-pulizija li Stefan Zammit kien wieqaf. Ghaldaqstant billi Thomas Zammit ma rnexxielux jipprova li Stefan Zammit dar lejn il-lemin jiddikjara li Thomas Zammit kien unikament responsabbli ghall-habta. Kieku Stefan Zammit dar lejn il-lemin qabel il-habta wiehed kien jippretendi li Thomas Zammit jinforma lill-pulizija b'dan il-fatt ezatt wara l-incident.

Id-danni mhux ikkontestati.

Ghaldaqstant jiddikjara lil Thomas Zammit unikament responsabbli ghall-habta u jikkundannah ihallas lis-socjetajiet attrici l-ammont ta' erba' mija u hmistax-il lira Maltin u tletin centezmu (Lm415.30c) bl-ispejjez u bl-imghax mid-data tas-sentenza.

< Sentenza Finali >

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