MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tal-11 ta' Mejju, 2006

Talba Numru. 834/2005

Joseph (ID 458091 G) u Nadia (ID17276 G) konjugi Camilleri
Vs.
Emanuel Sacco (8652 M)

It-Tribunal
Ra l-avviz li fih l-atturi talbu l-hlas ta' hames mija u seba u hamsin Liri Maltin u sitta u tletin centezmu (Lm557.36c) rappresentanti danni f'incident awtomobilistiku ghal liema incident l-konvenut kien unikament responsabbli minhabba imprudenza, imperizja, negligenza u inosservanza tar-regolamenti.

Ra r-risposta fejn l-konvenut fl-ewwel lok qal illi dan it-Tribunal mhux kompetenti illi jiggudika l-proceduri odjerni u dan stante illi l-kwistjoni titratta incident awtomobilistiku fejn l-ammont imsemmi fit-talba ta' l-atturi jeccedi l-ammont ta' Lm500 u ghalhekk dawn il-proceduri kellhom jigu intavolati fic-Centru Malti ghall-Arbitragg.

Fit-tieni lok il-konvenut qal illi mhux responsabbli ta’ dana l-incident.

Ra li l-ewwel eccezzjoni giet irtirata billi s-sorte gie ridott ghal Lm500.

Ra d-dokumenti esebiti.

Ra r-road accident report fejn il-konvenut qal:

“Kont gej mill-Imgarr, direzzjoni lejn il-Wardija. Kont gej bil-“bright” u kif wasalt fida-dawra ma’ rnexxielux u hbatna ma’ xulxin.”

A fol. 43 tal-process hemm dak li qal l-konvenut ezatt wara l-habta miktub u ffirmat. Dan jghid : “kif wasalt fid-dawra ma rajniex il-xulxin u hbatna”.

Bhala hsara kellhu “front right wing”.

Ra illi Nadia Camilleri qalet kif gej:

“Kont gejja mid-direzzjoni lejn l-Imgarr, x’hin wasalt fid-dawra ersaqt mall-hajt fuq sajdi biex nevita KAD229 imma kien bil-bright u ma’ stajtx nevitah u hbatna.”

Bhala hsara kella “front grill, front bumper, front right wing, bonnet, u front right headlight”.

Ra x-xhieda tal-konvenut fejn jghid illi hekk kif kien ser idur fuq ix-xellug, ra dawl gej ta’ karozza u waqaf. Jghid illi huwa haseb li l-vettura l-ohra kienet ser tidhol fi sqaq li jidher fuq l-iskizz. Il-konvenut jghid illi waqt li kien wieqaf, il-karozza l-ohra giet bis-sahha ghal fuqu u sar l-impatt.

Jikkonferma li t-triq hija wiesgha bizejjed sabiex jghaddu zewg karozzi.

Fil-kontro-ezami jikkonferma li kien qed isuq bil-bright izda hekk kif waqaf tefa l-istess dawl.

Jispjega x'ried ifisser bil-kliem "ma' rnexxielux" jghid illi l-attur baqa' gej fuqhu. Jghid illi meta tefa' l-bright, ntfielu kollox f'daqqa u sploda t-tyre wkoll.

Jikkonferma li wara l-incident talab lill-atturi sabiex jghinuh ibiddel it-tyre izda ma' tawh l-ebda ghajnuna. Jghid illi talab l-ghajnuna minhabba s-shock li kellhu. Fl-istess kontro-ezami jerga jghid "sa fejn naf jiena, jiena qlajtu u jien biddiltu".

Ra l-affidavit ta' Nadia Camilleri fejn tikkonferma li qalet fir-road accident report.

Tispjega illi l-konvenut baqa' diehel fil-karozza taghha u bid-daqqa l-istess vettura resqet lura.

Tghid ukoll illi l-konvenut meta hareg mill-vettura tieghu kellhu riha ta' xorb u prova jiehu r-raguni pero biddel fhemtu wara li gibdilu l-attenzjoni li kellhu riha qawwija ta' alkohol.

Tikkonferma li l-konvenut kellhu tyre mifqugh u beda jikkonfondi kif ser ibiddlu minhabba l-kundizzjoni li kien fiha. Ghalhekk Joeseph Ellis u Giovanni Saliba li kienu passigiera maghha biddlulu t-tyre.

Camilleri tghid illi meta gie il-warden avzawh sabiex jaghmel il-breathaliser test lil konvenut izda hu qalilhom li ahjar le.

Ra l-Affidavit ta' Sharona Refalo, Joseph Camilleri, Joseph Ellis u Giovanna Saliba fejn jikkonfermaw li qalet Nadia Camilleri.

Ra x-xhieda ta' Warden Clayton Frendo fejn jikkonferma r-road accident report u l-iskizz izda jghid illi l-iskizz li ghamel l-ufficju m'ghandux x'jaqsam ma' dak li ghamel fuq il-post ta' l-incident.

Frendo jghid illi ma' jiftakar xejn fuq dan l-incident u lanqas jiftakar il-kundizzjoni tal-konvenut kif ukoll dwar id-dawl tal-vetturi.

Jghid ukoll illi fejn gara l-incident ezatt ma' jghaddux zewg karozzi opposta ta' xulxin. Il-wara tal-vettura tal-konvenut kienet iktar mall-hajt u quddiem ta' l-istess vettura kienet iktar lejn in-nofs.

Ra x-xhieda ta' Nadia Camilleri fejn tikkonferma li qalet fir-road accident report kif ukoll l-affidavit taghha. Taqbel ma' l-iskizz. Izzied ukoll illi meta talbu lil warden sabiex jaghmel il-breathalyzer test fuq il-konvenut, hu qalilhom illi ahjar le w dan ghaliex illi jekk jaghmlu hekk l-insurance ma' kienetx thallashom.

Ra x-xhieda ta' Sharona Refalo u Joseph Camilleri.

Ikkunsidra li ma hemmx fuq l-iskizz point of impact u l-habta saret "on the crown of the road".

Charlesworth & Percy, - On Negligence (Sweet & Maxwell) 1997 para 9-221 – Collisions in center of road" jikteb: "When there is a collision between two motor vehicles in the highway and there is no evidence pointing to one driver being any more to blame than the other, the proper inference to be drawn is that they are both to blame (Baker vs. Market Harborough, Howard vs. Bemrose. So when there had been a collision in the center of crossroads of equal status and, after the accident the defendant said to a policeman "I was going along the road and we met in the middle" it was held that there was a prima facie case that both drivers were to blame. (France vs. Parkinson). Each driver who was involved in an un-witnessed and inexplicable head-on collision between two vehicles, is likely to be held equally to blame for negligence, even where there is some indication that one of them might have been on his wrong side of the road. (Howard vs. Bemrose (1973 RTR 32, CA)

Illi ghalkemm f'din il-kawza hemm xhieda u ghalkemm l-attrici tghid li resqet lejn il-hajt qabel il-habta, skond l-iskizz il-konvenut huwa 1.5 metres minn naha tax-xellug tieghu waqt li l-attrici hi 1.4 metres mix-xellug taghha. Ma

hemmx provi bizzejjed biex dan it-Tribunal jikkonkludi li l-konvenut kien wrong side.

Ghaldaqstant jiddikjara li l-partijiet huma t-tnejn risponsabbli b’mod ugwali. Id-danni mhux kontestati u jidhru ragjonevoli. It-Tribunal jikkundanna lil konvenut sabiex ihallas lil atturi l-ammont ta’ Lm250. L-ispejjes bla taxxa bejn il-partijiet.

< Sentenza Finali >

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