

TRIBUNAL GHAL TALBIET ZGHAR (GHAWDEX)

GUDIKATUR : Dr. Grazio Mercieca LL.D.

Seduta ta' nhar il-Hamis, 21 ta' Marzu, 2002

Avviz numru : 9/2002GT(GM)

Alfred Attard

vs

Andrew Portelli

It-Tribunal;

Ra l-avviz tat-talba li jghid hekk :

“Ghid int konvenut ghaliex ma ghandekx tersaq ghall-likwidazzjoni u hlas ta' danni sofferti minnu per konsegwenza tal-incident stradali illi gara fit-2 ta' Marzu 2001 bejn il-vettura Rover 214 ISA100 misjuqa minnek, u il-vettura BBF096 Peugeot propjeta u misjuqa minnu, liema incident gara unikament tort u htija tieghek minhabba illi inqast tosserva r-regolamenti tat-traffiku, peress illi nqast izzomm a proper look out u invadejt il-karreggjata proprja tal-mittenti u ghaliex int kont qieghed issuq bi speed u b'velocita eccessiva ghal-lokal fejn gara l-incident.

Ghalkemm interpellat diversi drabi thallas dan l-ammont, inti bqajt inadempjenti.

Bl-ispejjez tal-ittra interpellatorja tat-8 ta' Novembru 2001.”

Ra r-risposta:

“Billi ghall-incident awtomobilistiku de quo kien unikament responsabbli l-attur stess minhabba imprudenza.

Bl-ispejjez.”

Sema l-provi u ezamina d-dokumenti esibiti.

Ikkunsidra

Illi l-habta saret waqt li l-vetturi kienu mixjin f'direzzjoni opposta fin-nofs ta' triq fil-kampanja, f'liwja, bil-parti karreggjabbli taghha ta' wisa' irregolari izda generalment bilkemm wiesa' bizzejjed biex jghaddu zewg karozi; l-art tat-triq tinstab fi stat dilapitat.

Illi l-attur isostni li l-konvenut kien qiegħed isuk bi speed qawwi. Billi jirrizulta mill-iskizz Dok AA-10 li l-konvenut halla brake-marks ta' 6.3 metri jirrizulta li ma setax kien geġ bi speed ta' iktar minn 32 kilometru fis-siegha, u aktarx li l-speed kien inqas minhabba li d-distanza generali biex tieqaf vettura miexja bi speed partikolari kienet iktar minn dik mistennija fuq triq asphaltata u fi stat tajjeb, billi, kif diga' nġhad, l-istat tat-triq huwa wieħed hazin u anke kien hemm iz-zrar fil-parti karreggjabbli tat-triq. Il-vettura tal-attur, li hija pickup u ferm iktar tqila mil-light car tal-konvenut, halliet zewg brake-marks, wahda ta' 4.5 metri u l-oħra ta' 5.25 metri li jfisser li kienet għaddejja bi speed massimu ta' tmienja u ghoxrin kilometru fis-siegha.

Illi meta jitqiesu l-fatturi kollha, jirrizulta li z-zewg vetturi kienu għaddejjin bi speed simili għal xulxin li kien wieħed ferm baxx ikkunsidrat illi l-massimu tal-speed regolamentari konsentit f'inhawi mhux mibnija huwa ta' tmenin kilometru fis-siegha.

Illi l-hsarat rizultanti mid-daqqa kienu simili f'kull vettura u cioe migbura principalment fil-front right; l-ispot of impact kienet pressapoko f'nofs il-parti karreggjabbli tat-triq.

Illi kif osservat il-Prim'Awla tal-Qorti Civili, in re *Aaron Scicluna vs Paul Azzopardi*, 15 ta' Jannar, 1993 – Onor J Said Pullicino, sewwieq fi triq tal-kampanja twila u mserrpa għandu jsuq b'attenzjoni mill-iktar kbira. Il-Qorti qalet li bit-tidwir li kien fiha t-triq, is-sewwieqa ma setax ikollhom veduta cara tat-traffiku li jkun geġ fuqhom. Kellhom jagħmlu uzu tajjeb mill-horn tagħhom. It-triq bilkemm kienet wiesa' bizzejjed biex jghaddu zewg karozi. Il-qorti qalet li ma setgħetx tistabbilixxi l-htija billi tiffissa l-linja medjana sal-aħhar millimetru. L-anqas kien possibbli li jigi stabbilit min kien fuq innaha hazina tat-triq, in vista tal-konfigurazzjoni partikolari u d-djuq tal-istess triq. Għalhekk, ir-responsabilita' għall-incident giet spartita mill-qorti nofs bin-nofs.

Illi kif jirraporta c-Charlesworth & Percy, *On Negligence*, (*Sweet & Maxwell, 1997*) para 9-221 – “Collisions in centre of road”: *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 v Market Harborough Industrial Co-operative Soc (1953) 1. WLR 1472,*

Howard v Bemrose (1973) RTR 32, C.A.) So, when there had been a collision in the centre 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 there was a prima facie case that both drivers were to blame (France vs Parkinson (1954) 1 WLR 581). Each driver who was involved in an unwitnessed 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 v Bemrose (1973) RTR 32, C.A.).

Ghaldaqstant, billi fuq l-iskorta tal-premess, fl-istanti m'hemmx dubbju li z-zewg sewwieqa huma ugwalment responsabbli ghall-incident, it-Tribunal jaqta' u jiddeciedi billi jiddikjara lill-attur u lill-konvenut ugwalment responsabbli ghas-sinistru u jikkundanna lill-konvenut ihallas lill-attur nofs is-somma ta' LM193 ammont totali ta' danni minnu sofferti u cioe' LM96.50c.

Spejjez inkluzi dawk tal-ittra interpellatorja tat-8 ta' Novembru 2001 u d-drittijiet tal-avukati li ppatrocinaw lill-partijiet kontendenti, ghandhom jinqasmu nofs bin-nofs bejn il-partijiet.

**Avukat Grazio Mercieca
Gudikatur**

Deputat Registratur

- (ft) **Grazio Mercieca**
Gudikatur
- (ft) **Mary Jane Attard**
Deputat Registratur

Vera Kopja

Ghar-Registratur

