

TRIBUNAL GHAL TALBIET ZGHAR (GHAWDEX)

GUDIKATUR : Dr. Grazio Mercieca LL.D.

Seduta ta' nhar it-Tnejn, 13 ta' Mejju 2002

Avviz numru : 25/2002GT(GM)

Salvu u Salvina konjugi Mercieca

vs

Frankie Grima

It-Tribunal ,

Ra l-avviz tat-talba li jghid hekk :

“Ghid int konvenut ghaliex ma ghandekx tigi kkundannat thallas is-somma ta' mitejn u tlieta u hamsin lira Maltin (Lm 253), danni u hsara sofferti mill-atturi minhabba incident stradali illi gara fil-25 ta' Mejju 2000 fi Pjazza San Giusepp, Qala meta inti bil-vettura tieghek Ford Fiesta IBA 992 hbatt mal-vettura Datsun numru BAA 254 misjuqa minn u propjeta tal-atturi; ghal liema incident tahti unikament u esklussivament inti Grima minhabba illi nqast tosserva r-regolamenti tat-traffiku billi nqast izzomm a proper look out u invadejt il-karreggjata proprja tal-mittenti oltre illi kont issuq b'velocita eccessiva.

Hallas ukoll tlett liri (Lm3.00) spejjez tal-iskizz tal-pulizija.

Bl-ispejjez tal-ittra gudizzjarja ta' Dicembru 2001.

Bl-interessi mid-data tal-25 ta' Mejju 2000 sal-effettiv pagament.”

Ra r-risposta:

“Billi ghall-incident kien unikament responsabbli s-sewwieq tal-vettura BAA 254.

Bl-ispejjes.”

Sema l-provi u ezamina d-dokumenti esibiti

Ikkunsidra

Illi l-habta saret fin-nofs ta' triq li hemm fil-pjazza San Guzepp, Qala, magemb il-Knisja. Iz-zewg vetturi habtu ma' xulxin ras-imbras. Fuq naha kien hemm ic-cint bil-ballavostri taz-zuntier tal-knisja filwaqt li fuq in-naha l-oħra kien hemm zewg karożzi pparkjati. Il-parti karreggjabbli li kien fadal ma kellha l-ebda sinjali tal-karreggjata, u kienet wiesa' bizzejjed biex jghaddu zewg karożzi mexjin f'direzzjonijiet differenti, jew fl-istess direzzjoni.

Illi z-zewg sewwieqa setghu jaraw lil xulxin tajjeb, u kienu mexjin ferm bil-mod, tant illi l-ebda vettura ma halliet brake-marks, u l-hsara kienet wahda relattivament zghira.

L-attrici *a tempo vergine* qalet lis-surgent li mar jaghmel l-iskizz u r-rapport dwar l-incident li l-konvenut kien ghaddej b'velocita' qawwiya; izda dan mhux ikkorroborat mill-fattispecie tal-incident. Min-naha l-oħra l-anqas ma jista' jitwemmen il-konvenut li qal li l-attrici gibdet ghan-nofs, qabel l-incident, billi l-karożza taghha ma kinitx angolata, kif l-anqas kienet angolata dik tal-konvenut.

Quddiem it-Tribunal, l-attrici xehdet li daqget il-horn; izda dan gie michud mill-konvenut. *A tempo vergine*, l-attrici ma semmietx horn.

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.).

Illi fl-istanti, m'hemmx dubbju li z-zewg sewwieqa huma ugwalment responsabbli għall-incident.

Għaldaqstant, it-Tribunal jaqta' u jiddeciedi billi jiddikjara lill-attrici u lill-konvenut ugwalment responsabbli għall-incident de quo u

ghaldaqstant jikkundanna lill-konvenut ihallas lill-attribici s-somma ta' LM126.50c.

Spejjez inkluzi d-drittijiet tal-avukati li ppatrocinaw lill-partijiet kontendenti, ghandhom jinqasmu nofs bin-nofs bejn il-partijiet.

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

Vera Kopja

Ghar-Registratur