



FIT - TRIBUNAL GHAL TALBIET ZGHAR
SMALL CLAIMS TRIBUNAL

GUDIKATUR: DR PHILIP MANDUCA, LL.D.

SEDUTA TA' NHAR It-TNEJN 16 TA' SETTEMBRU, 2002

Avviz Nru: 535/02 PM

**Atlas Insurance Agency Ltd. u dawn
bhala agenti ta' AXA Insurance PLC
ga' Guardian Royal Exchange
Assurance PLC kif surrogati bil-ligi
u bil-polza fid-drittijiet tal-assikurat
taghha Norman Cutajar**

vs

B O Magne Jassund

It-Tribunal

Ra l-avviz li fih is-societa attrici qalet li l-konvenut kien unikament risponsabbli ghal incident ta' traffiku li gara fil-24 ta' Marzu 2001. Is-societa attrici talbet l-ammont ta' Lm639 bhala danni resultat ta' dan l-incident.

Ra li l-konvenut pprenta risposta fejn sostna li ma kienx
risponsabbli ghal incident in kwistjoni.

Sema x-xhieda tal-partijiet.

Ikkunsidrat li Martha Cutajar qalet li : “I was driving in the
tunnel of Regional Road in the direction of Swieqi, I was
approaching the end of the tunnel when a white car came from
my left...I pressed my horn and started to brake... the white car
emerged into the main road and stopped. There were two cars
stopped in front of the white car.”

Il-konvenut xehed hekk: “I was driving from the side road that
comes from St. Julian, there was a small white car in front of me.
This white car stopped at the stop sign. I stopped behind this car.
The white car proceeded forward towards Regional Road and I
followed it. I looked to my right before proceeding to follow the
white car and saw a car at the end of the tunnel. This was about
60 or 70 metres away from me. ...the car in front of me just

stopped...I had just accelerated and had to stop instantly. I stopped and stood still, I looked in my rearview mirror and saw the car being driven by Martha Cutajar coming towards me. The car hit the rear right.... I emerged from a stop sign. I drove about 15 to 20 metres before the accident occurred. I state that I had ample space to emerge on to the main road even though I saw the car of Mrs. Cutajar approaching.

Illi certament il-konvenut kellu jieqaf fl-istop sign u jassikura li seta johrog minghajr ma jostakola l-karozzi fil-main road. Illi il-konvenut ra li l-assigurata tas-societa attrici kienet fuq il-main road izda ikkalkola li seta' johrog. Probabilment jekk baqghu miexjin l-karozzi ta' quddiemu hu kellu bizzejjed hin biex johrog izda gara li huma waqfu, hu waqaf u saret il-habta.

“Il-Pulizija vs. Giuseppe Galdes” (App. 30/5/1953) "Side road user ghandu d-dritt li jidhol gol-main road, imma ghandu jidhol meta l-main road tkun talment libera li hu jista jghaddi ghal go fiha bla ma jiehu riskju li driver prudenti ma ghandux jiehu.

“Il-Pulizija vs. Nazzareno Borg” (12/11/1960): "Driver fuq is-side road jew minor road hu onerat bl-obbligu li, x'hin japprossima l-crocerija, jesplora bl-aktar attenzjoni qabel ma jiddeciedi jittraversaha. Is-side road user ghandu d-dritt li jaqsam il-main road meta bid-debita prudenza ikun accerta ruhu li din hi libera."

Il-Pulizija vs. Pawlu Borg (VolXXXVI-I-797): “Ghalkemm driver ghandu joqghod attent sija jekk ikun fuq it-triq dritta, hemm ukoll jekk ikun sejjer jidhol fiha, huwa intuitiv, u hu principju affermat f’diversi decisjonijiet tal-Qrati Inglizi illi driver li sejjer jidhol fi triq, minn triq ohra ghandu obbligu akbar minn dak id-driver fuq it-triq dritta, ghas-semplici raguni li hu jkun sejjer jaqsam li “stream of traffic” li jkun hemm fuq it-triq dritta.”

Il-Pulizija vs. Anthony Galea Appell Krim 5/9/53 “Id-driver li jkun diehel minn ‘side road’ ghal go ‘main road’ ghandu certi doveri x’josserva, fosthom li jcedi ghat-traffiku fuq il-main road, li jesplora tajjeb il-main road qabel ma johrog fiha, u dak li jmexxi dead slow, u jwaqqaf sakemm jaccerta ruhu li jista’ johrog bla hsara.”

Joseph Randolph Camilleri propio et nomine vs. Raymond Tabone
Qorti Civili 5/10/94: “Hu ovvju wkoll li jinkombi fuq l-attrici bhala
side road user illi fil-punt fejn jiltaqghu z-zewg toroq tieqaf zobtu
biex tesplora xi traffiku jkun gejj fuq it-triq principali u kienet
obbligata li ma tazzardax tifrex fuq din it-triq qabel ma tkun accertat
ruhha li setghet taghmel hekk bla perikolu ghaliha u ghall-vetturi
ohra.”

Camilleri vs. Demicoli Qorti tal-Appell (27/7/81): “Il-grad ta’
diligenza u prudenza u attenzjoni li l-utenti tat-triq laterali obligat
jezercita huwa li jcedi ghat-traffiku li jkun ghaddej fil-main road
(ghaliex dan it-traffiku ghandu d-dritta) li jesplora tajjeb it-triq li ser
johrog fiha u sahansitra jieqaf biex u sakemm jaccerta ruhu li ser
johrog bla hsara.”

Macintosh and Seoble (Negligence in Delict pg.369) “The driver
approaching a stop sign must look and listen in both directions in
order to apprehend fully what vehicles are approaching, how far they
are away, at what speed they appear to be progressing and then,

only if quite satisfied that it is safe for him to enter the intersection may he proceed further.”

Franco v. King intqal obiter minn Tindell J. li “The driver in the thorough street is entitled to expect the driver approaching the Stop Sign to stop.”

John Gauci Maistre vs. Colin Galea (Prim' Awla 23/2/94)
“Certament is-side road user li jkun ra vettura fuq il-main road ma jistax u ma ghandux jibda jaqsam inkrocju qabel ikun ghamel valutazzjoni korretta tal-velocita li jkun qed isuq il-main road user. Din il-valutazzjoni, is-side road user jaghmilha riskju tieghu, fis-sens li kalkolu hazin, generalment irid ibati l-konsegwenzi tieghu hu.”

Illi fid-dawl tax-xhieda u tas-sentenzi hawn fuq imsemmija t-Tribunal jikkonkludi li l-konvenut kien unikament risponsabbli ghal incident in kwistjoni billi ma kienx prudenti bizzejjed meta hareg.

Id-danni ma gewx kontestati u jidru ragjonevoli.

Ghaldaqstant jichad r-risposta tal-konvenut, jilqa it-talba attrici bl-ispejjes u bl-imghax mid-29 ta' Mejju 2001.

Av. Philip Manduca-

Gudikant

