MALTA

TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
PHILIP MANDUCA**

Seduta tad-19 ta' Frar, 2003

Talba Numru. 1832/2002

Elmo Insurance Agency bhala rapprezentanti tas-socjeta’ estera Royal & Sun Alliance Insurance Plc surrogata fid-drittijiet tal-assikurat taghha Attard Bros. Co. Ltd u l-istess Attard Bros. Co. Ltd

Vs

Raymond Mifsud

It-Tribunal

Ra l-avviz fejn is-socjeta’ attrici talbet il-hlas ta’ Lm759.95 (seba’ mija u disgha u hamsin lira Maltin u hamsa u disghin centezmu) rapprezentanti danni sofferti wara incident ta’ traffiku li gara fid-19 ta’ Jannar, 2002 kif spjegat fl-istess avviz.

Ra li l-konvenut pprezenta risposta fejn qal li ma kienx responsabbli ghal incident in kwistjoni.

Ra r-rapport tal-Pulizija u l-iskizz.

Ikkunsidra li d-driver tal-vettura FAJ 783 assikurata mad-ditta attrici qal li kien niezel u kien qed jaqla u sema hoss u waqaf. Id-driver qal li habat gol hadid li kien hemm fit-truck. Il-hadid ma kienx ra u caruta ma kienx hemm.

Il-konvenut qal li “l-iehor qabad il-hadid u baqa kaxkar. Il-hadid kien dritt”.

Illi mix-xhieda tal-Pulizija jirrizulta li l-hadid kien sporgut il-barra mit-truck.

Cristino Bonello li kien qed isuq il-vettura tas-socjeta’ attrici qal li x’hin kien qed jaqla lill-konvenut sema’ hoss ta’ daqqa u ma kienx jaf x’gara. Wara l-habta induna li fit-truck tal-konvenut kien hemm hadid li jisporgi l-barra.

Huwa l-attur li ghandu jipprova li l-konvenut kien responsabbli ghal incident. Illi l-attur isostni li billi l-konvenut kellu “iron rods” fuq it-truck tieghu liema rods kienu jisporgu l-barra mit-truck kien l-istess konvenut li kien responsabbli ghal incident.

Illi kull sewwieq ghandu jara dak li hemm “in plain view”. L-incident gara ghaliex is-sewwieq tal-karozza assikurata mad-ditta attrici ma kienx induna bil-hadid fuq it-truck ma gembu. Bingham – Motor Claims Cases – (5th ed. Page 3) jaghmel referenza ghal dak li qal Lord Uthwatt – “a driver is not bound to foresee every extremity of folly which occurs on the road. Equally, he is certainly not entitled to drive upon the footing that other users of the road, either drivers or pedestrians, will exercise reasonable care. He is bound to anticipate any act which is reasonably foreseeable, which the experience of road users teaches that people do, albeit negligently”.

Illi l-konvenut naqas meta kien qed isuq b’hadid jisporgi fuq il-gemb tat-truck. Is-sewwieq assikurat mad-ditta attrici naqas meta ma kienx ra dak li kien hemm quddiemu.

Id-danni ma gewx kontestati.

Ghaldaqsant it-tribunal jiddikjara li z-zewg sewwieqa kienu responsabbli b'mod ugwali ghal incident. Ghalhekk il-konvenut ghandu jhallas lill-atturi s-somma ta' Lm379.98 (tlettt mija u disgha u sebghin lira Maltin u tmienja u disghin centezmu).

Bl-imghax mid-data tas-sentenza.

Kull parti jhallas l-ispejjez tieghu.

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