MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tad-19 ta' Frar, 2003

Talba Numru. 325/2002/1

Michael Privitera

Vs

Michael Orland u Alfred Mifsud

It-Tribunal

Ra l-avviz li fih is-socjeta' attrici talbet il-hlas ta' Lm1,500.00c (elf u hames mitt lira Maltin) rapprezentanti danni kkagunati f'incident awtomobilistiku tal-24 ta' Novembru, 2000 bejn il-vettura CAH-412 u l-vetturi CAE-281 u EBB721 liema incident sehh unikament tort taghkom minhabba traskuragni, imperizja u nuqqas ta' osservanza tar-regolamenti tat-traffiku.

Ra r-Risposta ta' Alfred Mifsud fejn jghid li t-talbiet tal-attur ghandhom jigu michuda bl-ispejjez kontra tieghu stante li huma nfondati fil-fatt u fid-dritt, peress li l-kollizjoni in

kwistjoni ma gratx minhabba negligenza da parti tal-konvenut.

Ra r-Risposta ta’ Michael Orland fejn jghid li t-talbiet ta’ l-attur ghandhom jigu michuda filwaqt li jghid ukoll li l-vettura tieghu CAE-281 kienet wieqfa u li sefghet milquta mill-vettura CAH-412 misjuqa mill-attur.

Ra s-seduta mizmuma fit-13 ta’ Mejju, 2002 fejn xehed PS 1212 Carmel Zerafa. PS 1212 xehed li dak in nhar kien hemm ix-xita. L-verzjonijiet tal-partijiet kienu differenti.

Ezatt wara l-incident l-partijiet taw il-verzjonijiet taghhom u hekk gew rapportati mill-Pulizija;

L-attur qal:

“he was driving his vehicle along Santa Venera By Pass from the direction of Marsa towards Sliema at a moderate speed, on the proper side of the road, in the outer land, suddenly …Car No. CAE -281 which was also being driven along the same road and from the same direction but just in front of his vehicle, lost control of his vehicle, skidded and turned around and stopped sideways blocking his way. In the meantime another vehicle no. EBB-721 which was also being driven along the said street from the same direction but in the inner land of the road ..skidded …dashed into the rear side of his vehicle and pushed his vehicle on to CAE-281.

Il-konvenut Orland qal:

… “ on arriving near the tunnels leading to Santa Venera, he lost control of his vehicle, skidded, turned around and stopped sideways blocking the outer lane. Then car CAH-412, which was also being driven along said street, from the same direction and also in the outer lane, just behind his vehicle, dashed into the rear right mudguard of his vehicle.”

Il-konvenut Mifsud qal:

"…he was driving his vehicle along Santa Venera By Pass from the direction of Marsa towards Sliema in the inner lane of the road. On arriving near the tunnels leading to Santa Venera, car no. CAE-281 which was also being driven along road and from the same direction, but in the outer lane of the road, started to overtake him and when almost overtook half of his vehicle, then all of a sudden, said vehicle no. CAE-281 skidded, turned around and stopped sideways in the outer lane. In the meantime car no. CAH- 412 which also was being driven in the outer lane, came from behind and dashed into the rear right side of his vehicle.

Ikkunsidra li dak in-nhar tal-incident kien ix-xita u ghalhekk l-partijiet kellhom jirregolaw is-sewqan taghhom skond ic-cirkostanzi (ara Debono vs. Camilleri Appell 23/2/1962). Il-konvenut Michael Orland tilef il-kontrol tal-karozza tieghu u b'rizultat ta' dan saret il-habta. L-konvenut Orland qala' l-konvenut l-iehor Mifsud u mbaghat tilef il-kontrol tal-karozza tieghu.

Il-konvenut l-iehor Mifsud ammetta li kif l-karozza tieghu bdiet tiskidja qabel l-incident. Mifsud qal li uza l-hand brake biex jevita l-habta mal-karozza tal-konvenut Ordland. Mifsud qal li dejjem baqa' fuq l-inner lane izda fil-fatt iz-zewg karozzi l-ohra kienu fuq l-outer lane.

Il-verzjoni tal-incident li ta l-attur huwa kredibbli.

Illi fl-eccezzjoni tieghu l-konvenut Orland jallega li ma kienx responsabbli ghaliex kien wieqaf meta gara l-habta. Illi fil-fatt il-konvenut Orland kien responsabbli ghal incident ghaliex waqt li kien qed jaqla l-attur tilef il-kontrol tal-vettura tieghu u waqaf kif jidher fl-iskizz. B'rizultat ta' dan gara l-incident. Il-fatt li Orland kien wieqaf ma jfissirx li ma kienx responsabbli ghal incident. (ara Grech vs. Attard Appell 29/10/1999)

Illi l-konvenut Mifsud ukoll tilef il-kontrol tal-karozza tieghu u habat fil-karozza tal-attur.

Illi l-htija ghandha tinqasam hekk: hamsa u sebghin fil-mija (75%) lil konvenut Orland u hamsa u ghoxrin fil-mija (25%) lil konvenut Mifsud.

Illi d-danni ma gewx kontestati u jidhru ragjonevoli. L-ammont ta' danni huwa Lm721 kif jirrizulta minn Dok MP1.

Ghalhekk il-konvenut Orland ghandu jhallas lill-attur Lm540.75 (hames mija u erbghin lira Maltin u hamsa u sebghin centezmu) filwaqt li l-konvenut Mifsud ghandu jhallas lill-attur l-ammont ta' Lm180.25 (mija u tmenin lira Maltin u hamsa u ghoxrin centezmu). L-ispejjez tal-kawza jinqasmu bl-istess mod u cioe 75% (hamsa u sebghin fil-mija) ghal konvenut Orland u 25% (hamsa u ghoxrin fil-mija) ghal konvenut Mifsud. L-imghax jibda jiddekorri mid-data tas-sentenza.

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