



TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
PHILIP MANDUCA**

Seduta tat-2 ta' Gunju, 2003

Talba Numru. 2210/2002

Daniel u Miriam konjugi Azzopardi

Vs

Francesco Saverio Rapinett

It-Tribunal

Ra l-Avviz li fih l-atturi talbu l-hlas ta' Lm254.70c (mitejn u erbgħa u hamsin lira Maltin u sebghin centezmu) rapprezentanti danni kkagunati f'incident awtomobilistiku bejn il-vettura Hyundai Atos IBF 729 propjeta' ta' l-atturi u l-vettura DAC 167 tal-konvenut, liema incident sehh unikament tort tal-konvenut minhabba traskuragni, imperizja u nuqqas ta' osservanza tar-regolamenti tat-traffiku.

Ra d-dokumenti esebiti.

Kopja Informali ta' Sentenza

Ra r-Risposta fejn saret offerta ta' spartizzjoni ta' responsabilita 50:50 li ma gietx accettata mill-kontro-parti. Saret ukoll referenza ghal decizjoni ta' dan it-Tribunal diversament presedut fl-ismijiet 'Salvu Mercieca et Vs Frankie Grima' (Avviz Nru 25/02 GM).

Ra r-Road Accident Report u sketch.

Ikkunsidra li ezatt wara l-habta l-attrici Miriam Azzopardi qalet li kienet "entering the road and all of a sudden saw the other vehicle in the middle of the street, I braked and the other vehicle collided in same".

Illi l-konvenut qal "was coming in the middle of the street and due to vehicles parked on both sides of the streets, braked as I saw the other vehicle and collided in same".

Fix-xhieda taghha l-attrici qalet li ezatt wara l-habta l-konvenut ammetta maghha li l-brakes tieghu ma jahdmux. Il-pulizija ma rraportax diskors f'dan is-sens. L-attur jghid li martu qalet lil Pulizija li l-konvenut kien qal li ma kellux brakes.

Il-konvenut qal li qabel il-habta pprova jdur fuq ix-xellug tieghu biex jevita lil attrici. Dan ifisser li l-konvenut kien iktar fuq n-naha hazina tat-triq qabel ma gara l-habta.

Il-konvenut ghamel referenza ghal kawza 'Mercieca Vs Grima (25/2002GM – Deciza 13/5/2002' f'dik il-kawza hemm referenza ghal Charlesworth & Percy , On Negligence (Sweet & Maxwell 1997) Para 9-221 – Collisions in the center 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..... Each driver who was involved in an unwitnessed and inexplicable 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 vs. Mebrose 1973).

Kopja Informali ta' Sentenza

Illi jirrizulta li l-habta saret f'nofs it-triq. Iz-zewg sewwieqa kellhom jirregolaw is-sewqan skond ic-cirkostanzi. It-tnejn kellhom ostakolu fuq in-naha taghhom. F'dawn ic-cirkostanzi z-zewg sewwieqa kienu responsabbli ghal incident.

Id-danni ma gewx ikkontestati, jidhru ragjonevoli u gew ikkonfermati bil-gurament.

Ghaldaqstant, jaqta' u jiddeciedi billi jiddikjara lill-attrici u l-konvenut ugwalment responsabbli ghal-incident in kwistjoni u ghaldaqstant jikkundanna lil konvenut sabiex ihallas lil atturi l-ammont ta' Lm127.35c (mija u sebgha u ghoxrin lira Maltin u hamsa u tletin centezmu) lill-atturi. Kull parti jhallas l-ispejjez tieghu.

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