MALTA

# TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
PHILIP MANDUCA**

Seduta tat-12 ta' Gunju, 2003

Talba Numru. 215/2002/1

**Montaldo Insurance Agency Limited**

**Vs**

**Jane Genovese**

**It-Tribunal**

Ra l-Avviz li bih is-socjeta' attrici talbet li l-konvenuta tigi ddikjarata responsabbli ghall-incident tat-traffiku msemmi fl-Avviz u kkundanata thallas l-ammont ta' Lm1,128.10c (elf, mija u tmienja u ghoxrin lira Maltin u ghaxar centezmi).

Ra r-Risposta tal-konvenuta li ddikjarat li mhijiex responsablli ghall-incident.

Sema' x-xhieda u ra d-dokumenti.

Ikkunsidra li skond il-Pulizija ezatt wara l-incident d-driver tal-karozza assikurata mas-socjeta' attrici qal:

“Whilst driving through the B’Kara Bypass coming from the direction of Msida at a speed not more than 40 miles an hour vehilcle no. JAD 531 suddenly emerged from the stop sign from Tumas Fenech Road and collided into me. I tried to avoid her and applied the brakes”.

Il-konvenuta qalet:

Whilst emerging from Tumas Fenech Street to the roundabout in the B’Kara Bypass together with another vehicle car no. CAB 812 came at a very high speed from the Bypass direction and collided into me and turned round into the wall.

Fix-xhieda taghha quddiem it-Tribunal il-konvenuta qalet:

“Kont se naqbad il-Bypass ta’ B’Kara. Hrigt u kif wasalt fejn ir-roundabout nisma brake qawwi. Jiena harist, rajt karozza gejja b’velocita qawwija. Jiena meta harist rajt lil Joseph Zammit kien qed isuq bla dawl”.

Il-konvenuta qalet li minn fejn giet hi kien hemm give way sign. Il-konvenuta qalet li waqfet fil-give way sign, ma rat xejn u harget.

Joseph Zammit qal li kellu d-dawl mixghul. Hu qal:

“Kif wasalt kwazi mar-roundabout harget il-konvenuta minn naha tax-xellug tieghi”.

Il-hsara fil-karozza ta’ Zammit kienet fuq quddiem filwaqt li l-hsara fil-karozza tal-konvenuta kienet – “front bonnet, left front mudguard, left front tyre, bumper u headlamp”.

Illi kien dover tal-konvenuta li tara li qabel ma tohrog minn fejn hemm give way sign tara li tista taghmel hekk minghajr ma tostakola t-traffiku fil-main road. Illi fix-xhieda taghha l-konvenuta l-ewwel qalet li harget u kif waslet fejn ir-roundabout semghat brake imbaghad qalet li qabel ma harget waqfet u ma rat xejn. Illi minn fejn harget il-konvenuta hemm vizwali sostanzjali fuq ix-xellug.

Illi Joseph Zammit halla brake marks ta’ iktar minn tletin (30) metru.

Illi bhal ma intqal fil-kawza Mallia Vs Azzopardi PA 27/2/1990 huwa “importanti biex tigi stabbilita r-responabbilita ghad-danni huma l-fatturi rilevanti u determinanti ghall-habta u mhux id-diversi imperfezzjonijiet fir-regolamenti tas-sewqan da parti tas-sewwieqa li ma jkollhom ebda incidenza fuq id-determinazzjoni tal-htija”.

Illi l-konvenuta kellha obbligu li qabel ma tidhol fil-main road tkun certa li l-manuvra taghha tista taghmilha minghajr ebda xkiel ghal dawk li qeghdin jsuqu fit-triq principali.

Illi l-konvenuta tallega li dige kienet fuq ir-roundabout meta grat il-habta. Illi d-danni fil-karozza taghha mhumiex principalment fuq ix-xellug izda aktar fuq quddiem tal-karozza taghha . Dan juri li ma kienetx waslet sar-roundabout.

Illi l-incident gara ghaliex il-konvenuta naqset li tara lil karozza assikurata mas-socjeta’ attrici qabel ma harget jew ma kienetx qieghda zzomm a proper look out.

Illi d-danni gew ikkonfermati bil-gurament u jidhru ragjonevoli.

Ghaldaqstant jichad ir-Risposta tal-konvenuta u jiddikjara li l-konvenuta kienet unikament responsabbli ghall-incident in kwistjoni u jikkundanna lil konvenuta sabiex thallas lis-socjeta’ attrici l-ammont ta’ Lm1,128.10c (elf, mija u tmienja u ghoxrin lira Maltin u ghaxar centezmi) bhala danni. Bl-ispejjez u bl-imghax mit-2 ta’ Mejju, 2002.

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