MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
ANTHONY ELLUL

Seduta tas-16 ta' Settembru, 2003

Talba Numru. 599/2003

Untours Insurance Agents Ltd ghall-Qatar Insurance Company surrogtai fid-drittijiet ta' Anthony Micallef u l-istess Anthony Micallef

Vs

Christopher Micallef.

Seduta tas-16 ta' Settembru, 2003.

It-Tribunal,

Ra l-avviz tat-talba li permezz tieghu l-atturi talbu l-hlas tas-somma ta' sitt mija u disghajn lira Maltija u hamsa u sebghin centezmu (Lm690.75) danni li gew kagunati f'incident tat-traffiku li sehh fl-1 ta' Lulju 2002 bejn

Peugeot 106 bin-numru BBJ 019 misjuqa mill-attur u l-vettura Peugeot 205 numru IAU 525 misjuqa mill-konvenut.

Ra r-risposta tal-konvenut li permezz taghha kkontesta t-talba tal-atturi.

Semgha x-xhieda u t-trattazzjoni.

Ra l-atti tal-kawza.

Ikkunsidra:-

1. Il-fatti rilevanti huma s-segwenti:-

(a) Iz-zewg vetturi kienu qeghdin jinstaqu fl-istess direzzjoni [dik tal-Floriana]. Il-vettura Peugeot 106 bin-numru BBJ 019 kienet qeghda tinstaq mill-attur filwaqt li l-vettura Peugeot 205 numru IAU 525 kienet misjuqa mill-konvenut wara dik tal-attur.

(b) Il-vettura tal-attur kienet iktar lejn nofs it-triq filwaqt dik tal-konvenut kienet iktar il-gewwa.

(c) F'hin minnhom il-vettura misjuqa mill-attur gibdet fuq ix-xellug sabiex tidhol fi Triq il-Punent, Valletta u sehh l-incident.

2. Meta wiehed jigi biex jibdel id-direzzjoni japplikaw dawn ir-regoli:-

(a) is-sinjali li tati persuna lil sewwieq ma jassolvux lil dan mid-dover tieghu li joqghod attent ghal sewwieqa ohra;

(b) hemm bzonn li s-sinjali jsiru fil-hin u fil-lok opportun biex jistghu jkollhom l-effett taghhom;

(c) Il-fatt li wiehed jixghel l-indicator ma jaghtihx li jaghmel li jrid;

(d) Min ikun ser idur ghal triq ohra jrid fl-ewwel lok jqies it-traffiku li gejn minn warajh.

(e) L-attur ighid li ghalkemm hares fil-mirja ma rax il-vettura tal-konvenut gejja minn warajh.

Kif ighid l-awtur Mazengarb, Negligence on the Highway [pagna 333]:- *"it is a grave fault in motor driving to turn a vehicle across the line of traffic without first seeing that there is a clear passage available. The act of turning across the line of traffic is one which imposes a special duty of care which is not necessarily discharged by giving the conventional signal of intention to deviate from one's course. In ordinary circumstances, if a driver turns out of and across the line of traffic, after giving the usual signal, he acts negligently unless he has at least reasonable ground, beside the mere fact of his warning, for believing that he can cut across without endangering other traffic. There is a heavy burden on the driver turning to establish an excuse for failure to see the other vehicle"*.

3. It-Tribunal jistqarr li m'huwiex moralment konvint li l-htija ghall-incident hija tal-konvenut. L-attur ma setax ighid x'manuvra ghamlet il-vettura tal-konvenut, ghaliex xehed li ghalkemm hares fil-mirja l-vettura Peugeot 203 numru IAU 525 ma rajhiex. Min-naha l-ohra l-konvenut ta deskrizzjoni ta' dak li effettivament gara. Xehed:- ***"jiena l-indicator rajtu jpetpet darba, jigifieri nifhem illi l-attur xeghlu proprju fit-tarf. Jiena din il-manuvra hasditni; ghalhekk jiena gbidt fuq ix-xellug tieghi iktar"***. It-Tribunal m'huwiex f'posizzjoni li jiddikjara li verzjoni wahda hija iktar kredibbli minn verzjoni ohra, u ghalhekk fic-cirkostanzi jemmen li l-konvenut ma rnexxielux jaghti prova li l-htija ta' l-incident hija tal-konvenut.

Ghal dawn il-motivi t-Tribunal qieghed jaqta' u jiddecidi l-kawza billi jichad it-talba ta' l-atturi.

Spejjez ghak-karigu tal-atturi.

Avukat Dr. Anthony Ellul
Gudikatur.

< Sentenza Finali >

---------------------------------TMIEM---------------------------------