MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tas-27 ta' Ottubru, 2003

Talba Numru. 2424/2002

GasanMamo Insurance Agency Limited u din ghan-nom u in rappresentanza tas-socjeta' estera CGU Insurance Plc kif surrogata fid-drittijiet tal-assikurat taghha Carmen Muscat

Vs

Carmela Micallef

It-Tribunal

Ra t-talba tas-socjeta' attrici fejn qalet li l-konvenuta hija debitrici tal-atturi fis-somma ta' Lm580.70c (hames mija u tmenin lira Maltin u sebghin centezmu) rappresentanti danni li sofrew f'incident kif spjegat fl-Avviz, liema incident hija ghalih unikament responsabbli l-konvenuta stante u li s-sewqan taghha kien wiehed negligenti u traskurat.

Ra r-Risposta tal-konvenuta fejn hija qalet li l-incident de quo gara unikament bi htija ta' Carmen Muscat li kienet

qed issuq il-vettura Numru EAQ 414 assikurata mis-socjeta' attrici u li ghalhekk m'hemmx danni x'jigu llikwidati favur is-socjeta' attrici. Fi kwalunkwe kaz u bla pregudizzju ghall-premess, is-socjeta' attrici ghandha ggib prova tad-danni.

Ra d-dokumenti esebiti. Illi fir-Road Accident Report il-Pulizija li nvestiga l-incident kiteb:

"Driver ta' AAA 145 (il-konvenuta) qalet li kienet hierga minn triq il-Kanun bil-mod meta l-ohra kisret fuqa".

"Driver EAQ 414 (Muscat assikurata mad-ditta attrici) qalet li hi kienet tiela minn triq il-Kanun, waqfet u meta cedewla biex tohrog fit-triq harget u hasset il-vettura ticcaqlaq".

Sema' x-xhieda ta' Carmen Muscat (EAQ 414) li qalet hija kienet hierga minn Canon Road Hal-Qormi biex tmur fil-bypass meta habtet maghha l-karozza tal-konvenuta.

Sema' x-xhieda ta' Carmela Micallef il-konvenuta (AAA 145) fejn qalet li hija kienet f'wahda minn zewg lanes tat-traffiku meta kienet hierga ghal bypass minn Canon Road izda x'hin hasset id-daqqa l-karozza taghha kienet wieqfa. Hija qalet ukoll li kienet fuq il-lane tax-xellug, ppruvat tohrog bil-mod u li ma ratx il-karozza tal-konvenuta gejja ghal fuqha.

Illi skond Davies "The Law of Road Traffic" (3rd Edition p. 159 et sek): "Before moving off… Look round, even after looking in the mirror, to see no one is about to overtake. Make the proper signal, and only move off when it is safe to do so and other road users are not inconvenienced. Give way to passing and overtaking vehicles." Davies jghid ukoll "Do not jump the queue in traffic hold ups….Make sure to get into the appropriate lane well before reaching a junction… Do not overtake at a road junction".

Il-Highway code (151) jipprovdi: “Before you move off, look round, even though you may have looked in the mirror, to see no one is about to overtake you….only move off when you can do so safely and without inconvenience to other road users”.

L-istess Highway Code jipprovdi (180) “Choose the correct lane for your exit as soon as you can. Do not change lanes suddenly. Unless road signs or markings indicate otherwise, you should use the left-hand lane when going left.”

L-assikurata mad-ditta attrici riedet iddur fuq ix-xellug. Hi ma kienitx fuq il-lane tax-xellug. Ghalhekk kellha timxi bi prudenza kbira billi ma kellha karozza fuq ix-xellug taghha li ukoll riedet tohrog ghal fuq il-main road u l-karozza l-ohra kienet fil-lane kif suppost.

Ghalhekk ma jistax jinghad li l-konvenuta kienet responsabbli ghall-incident.

Ghaldaqstant jichad it-talba attrici bl-ispejjez kontra s-socjeta’ attrici.

< Sentenza Finali >

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