MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tat-22 ta' Ottubru, 2003

Talba Numru. 725/2002/1

GasanMamo Insurance Agency Limited u din ghan-nom u in rappresentanza tas-socjeta' estera CGU Insurance Plc hekk kif surrogati fid-drittijiet tal-assikurat taghha Joseph Gasan sija bil-polza u sija bil-ligi u l-istess Joseph Gasan

Vs

Roderick Borg

It-Tribunal

Ra l-Avviz li fih l-atturi talbu l-hlas ta' Lm150.19c (mija u hamsin lira Maltin u dsatax-il centezmu) rappresentanti danni fl-incident tat-traffiku kif ahjar deskritt fl-Avviz.

Ra r-Risposta tal-konvenut fejn qal li l-incident ma sehx b'tort tal-konvenut izda tort ta' Ivan Emile Grech li kien qed isuq il-vettura propjeta' ta' Joseph Gasan.

Sema’ x-xhieda u ra d-dokumenti esebiti.

Ikkunsidra li Ivan Grech qal li kien qed isuq f’Saint Andrews Road, kien fil-lane ta’ barra, wieqaf sabiex jikser fuq il-lemin tieghu. Kien hemm karozzi weqfin warajh. Grech qal: “Malli stajt naqsam biex nidhol go Falaise Road qsamt. Malli qsamt u ksirt il-lines tan-nofs dahal fija mutur… dan il-mutur kien gej warajja…fuq in-naha tal-lemin tieghi…l-incident sehh fil-lane tal-oncoming traffic”.

Fil-kontro-ezami Ivan Grech qal li qabel ma ghamel il-manuvra ma kienx hares fir-rear view mirror. Hu hareg meta ra li ma kienx hemm “oncoming traffic”.

Meta ddiskriva l-incident lil Pulizija ezatt wara l-incident Grech qal:

“I was turning to the right to Falaise Road when motorcycle GOL tried to overtake from the right but collided in my car. I had the indicator on.”

Il-konvenut qal:

“I was driving towards St. Andrews when car KBD 354 which was to turn to the right it hit me”.

Meta xehed il-konvenut qal li kien sejjer fid-direzzjoni ta’ Bugibba. Hu waqaf fit-traffic lights. Kien hemm karozza fuq ix-xellug tieghu li riedet iddur ghal fuq il-lemin fid-direzzjoni ta’ Luxol Grounds. Borg qal li din il-karozza daret u laqtitu.

Borg qal li hu ma ra ebda indicator. Borg qal li Grech dar fejn hemm “continuous lines” u mhux fejn hemm id-“dotted white lines”. Meta gara l-incident, Borg qal, li huma kienu diga mexjin.

Ikkunsidra li qabel ma dar fuq il-lemin tieghu Grech ma kienx hares warajh. Il-Motor Vehicle Regulations jipprovdu (Art. 63) li “when altering direction or course, or slowing down or stopping …every driver shall exercise due care

and attention, and shall indicate his intention by hand signal and by traffic indicator or indicator light”.

Il-Highway Code jipprovdi (art. 67) “before changing direction, you must invariably signal your intention to turn well in advance and make sure that it is safe to do so by looking in the mirror”.

Wilkinson, f’Road Traffic Offences jghid:

“The driver’s duty is not confined to making signals: he must see, so far as he can, that they have been understood and he may be guilty of careless driving if he drives on after making one without seeing.”

Fil-kawza Vella Vs Bezzina 14 ta’Jannar 1985 (PA) intqal:

“Anki jekk stess il-konvenut xeghel l-indicator tieghu, nibqa l-fatt li l-manuvra tieghu kienet wahda li tigbed fuqu l-aktar attenzjoni da parti tas-sewwieq…. Mhux kemm jaghti sinjali, imma ghandu necessarjament izomm “a proper look out” il-hin kollu.

Mazengarb fil-ktieb “Negligence on the Highway” jghid li l-obbligu ta’ “due care and attention” mhuwiex necessarjament osservat “by giving the conventional signal of intention to deviate from one’s course.” Dan l-awtur ikompli biex jghid li tali sewwieq ikun negligenti jekk ma jkollux “at least reasonable ground besides the mere fact of his warning for believing that he can cut across without endangering other traffic”.

Il-fatt li wiehed jixghel l-indicator ma jaghtihx xi dritt li jaghmel li jrid (ara f’dan is-sens is-sentenza Il-Pulizija Vs J. Bartolo Deciza mill-Qorti tal-Appell Kriminali VOL. XXXVIII. iv. 868).

L-obbligu ta’ Grech ma kienx sempliciment li jixghel l-indicator u jara li ma hemmx traffiku quddiemu imma li jaccerta ruhu li dak is-sinjal setgha jiftiehem mit-traffiku li gej minn wara. Jidher li Grech ma hax dawn il-prekawzjonijiet meta gie biex ibiddel direzzjoni.

Mill-iskizz jidher li Grech beda jdur b'mod negligenti wkoll billi beda jdur fejn hemm continuous white line. Grech kellu l-obbligu li jsuq iktar il-quddiem, jara li ma kien hemm xejn fuq il-lemin tieghu, xejn quddiemu u f'dawn il-waqt seta jaqsam.
Illi f'dawn ic-cirkostanzi ma jistax jinghad li l-atturi ppruvaw li l-konvenut kien responsabbli ghall-incident.

Ghaldaqstant, jichad it-talba tal-atturi bl-ispejjez kontra taghhom.

< Sentenza Finali >

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