MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta ta' l-4 ta' Frar, 2004

Talba Numru. 1155/2002/1

Elmo Insurance Agency Limited ghan-nom tal-kumpanija estera Royal and Sun Alliance Insurance Plc bhala surrogata fid-drittijiet tal-assikurat taghha Philip Ransley u l-istess Philip Ransley

Vs

Avukat Dr Hubert Dalli

It-Tribunal

Ra l-Avviz fejn is-socjeta’ attrici talbet il-hlas ta’ Lm152.50c (mija u tnejn u hamsin lira Maltin u hamsin centezmu) rappresentanti danni fl-incident tat-traffiku msemmi fl-istess Avviz.

Ra r-Risposta tal-konvenut fejn gie ddikjarat li l-istess konvenut ma kellux tort ghall-incident izda l-istess incident sehh unikament minhabba traskuragni u nuqqas ta’ proper look out tal-attur.

Ra d-dokumenti esebiti.

Ra li skond ir-rapport tal-pulizija l-assigurat tal-attur qal:

“Was proceeding through the War Memorial roundabout from the inner lane, towards Castille Place, Valletta, when all of a sudden came the other vehicle from the outer lane towards Floriana and dashed onto my vehicle”.

Illi skond l-istess rapport il-konvenut qal:

“Was proceeding through the roundabout of the War Memorial towards Floriana from the outer lane and all of a sudden the other vehicle came on my car and dashed on my rear part”.

Ra s-seduta tas-26 ta’ Novembru, 2002 li fiha xehed il-Maggur Joseph Mula, prodott mis-socjeta’ attrici, fejn ikkonferma li Philip Ransley kien inxurjat fully comprehensive mas-socjeta’ attrici u illi l-assigurazzjoni kienet hallset l-ammont.

Sema’ x-xhieda ta’ PS1338 Noel Apap, prodott mis-socjeta’ attrici, fejn jikkonferma li nvestiga dana l-incident u jikkonferma wkoll l-iskizz.

Sema’ x-xhieda ta’ Philip Ransley li qal li kien fuq l-inner lane meta waqaf minhabba li kienet hierga ‘bus’. Jghid li f’daqqa wahda ghaddiet il-karozza tal-konvenut minn fuq ix-xellug tieghu u laqtu u waqaf. Jikkonferma li ma kienx ghaddej bi speed minhabba t-traffic. Ransley ma jaqbilx tal-iskizz, ighid li meta waqaf ma kienx daqshekk il-barra. Jghid ukoll illi l-intenzjoni tieghu kienet li jmur fid-direzzjoni tal-Belt u mhux lejn il-Furjana. Ransley qal li l-konvenut ghadda bejn ix-xarabank u l-karozza tieghu u jghid li dak il-hin ma kienx hemm traffic. Illi jghid li hu kien gej minn Triq St. Anna u kien fuq l-outer lane ta’ din it-triq.

Sema’ x-xhieda ta’ Pat Ransley, prodotta mis-socjeta’ attrici, li kkonfermat li kienet front seat passenger ma’ Philip Ransley. Tikkonferma wkoll li qal Philip Ransley.

Fil-kontro-ezami Pat Ransley qalet li huma waqfu fil-hin tal-habta.

Sema' x-xhieda ta' Dr Hubert Dalli li qal hareg mar-roundabout minn fejn il-fosos u baqa' jdur fuq il-lane ta' gewwa u cioe fuq ix-xellug u mhux fuq il-lane vicin tar-roundabout. Qal ukoll li kien hemm diversi karozzi u jaqbel mal-iskizz.

Fil-kontro-ezami Dr Dalli qal li hu ma harisx fuq il-lane ta' gewwa ghaliex baqa' fuq il-lane tieghu.

Ikkunsidra

Bhala principju f'roundabouts: "Priority is given to the vehicle on the right….traffic entering the roundabout is to give way to traffic on the roundabout, and the traffic on the roundabout is to give way to traffic leaving the roundabout". (Ara l-Artikolu 19 tal-Driver Fault Chart (Version 7). Ara wkoll Dr R Galea Debono noe Vs Raymond Gelanze (PA 12/4/1994) fejn hemm iddikjarat: "Jekk l-assigurata tal-attur nominee kienet qeghda ddur mar-roundabout allura din in relazzjoni mal-coach misjuq mill-konvenut kienet traffiku li gej minn fuq il-lemin u allura l-konvenut kellu l-obbligu illi jieqaf u jaghtiha d-dritta. Il-Highway Code jipprovdi…In general there are no rights of way at roundabouts and the first come first served rule applies. However in the case of two vehicles negotiating the same section of the roundabout simultaneously, priority should be accorded to the vehicle on the right. (In other words, other things being equal, traffic entering the roundabout should give way to the traffic already on the roundabout, and traffic on the roundabout should give way to traffic leaving the roundabout. Ara wkoll England Vs Dimech (12/4/1996 PA).

Illi l-konvenut li kellu l-assigurat tal-attur fuq il-lemin tieghu ghalhekk kellu joqghod attent qabel ma jkompli jdur fid-direzzjoni ta' Floriana. L-konvenut jargumenta li hu baqa' fuq il-lane ta' barra u l-attur kellu jarah quddiemu. T-Tribunal izda, fid-dawl tal-ligi u l-gurisprudenza jikkonkludi

li l-konvenut kellu jara t-traffiku li kien hemm fuq il-leminn tieghu u qabel ma jkompli fid-direzzjoni ta' Floriana kellu jassikura li ma kienx hemm vetturi fuq il-lemin tieghu li kellhom dritt ta' precedenza.

Ghaldaqstant, jichad ir-Risposta tal-konvenut u jilqa' t-talba tal-atturi u jikkundanna lill-konvenut sabiex ihallas lill-atturi s-somma ta' Lm152.50c (mija u tnejn u hamsin lira Maltin u hamsin centezmu) bl-imghax mid-data tan-notifika tal-ittra ufficjali kontra l-konvenut u bl-ispejjez.

< Sentenza Finali >

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