MALTA

TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
PHILIP MANDUCA**

Seduta tal-25 ta' Marzu, 2004

Talba Numru. 393/2003

Citadel Insurance Plc kif surrogata sia bil-polza u sia bil-ligi fid-drittijiet tal-assigurat taghha, Joseph Deguara u l-istess Joseph Deguara

Vs

Gaetano Abela

It-Tribunal

Ra l-Avviz li fih l-atturi talbu li l-konvenut ihallas Lm848.00c (tmien mija u tmienja u erbghin lira Maltin) rapprezentanti danni wara incident tat-traffiku.

Ra r-Risposta tal-konvenut fejn sostna li l-incident ma garax tort tieghu.

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

Ra li wara l-habta l-attur hekk iddiskriva l-incident lill-pulizija:
“Driver stated that he was driving his car in Stabal Street, proceeding towards Qormi. When all of a sudden he went to overtake another vehicle which was being driven in front of him. But on doing so a car emerged from Imgieret Road and they collided.”

Il-konvenut qal lill-pulizija:

“Driver stated that he was approaching out of Stabal Street, from Imgieret Road, observed that another car that was coming in his direction slowed. Therefore he carried on to proceed in Stabal Street, when all of a sudden vehicle JDG 214 overtook the mentioned vehicle that had slowed and collided into him.”

Jirrizulta li l-attur ghamel manuvra ta’ surpass izda f’dak il-mument il-konvenut hareg minn triq laterali u saret il-habta. L-konvenut qal li hu waqaf fl-inkrocju u ra li kien gej traffiku mill-lemin tieghu izda dan kien il-boghod u haseb li seta’ johrog minghajr ma jostakola t-traffiku. Skond il-konvenut wara li gie ghad-dritt u kien nofs metru ‘l boghod mill-hajt tax-xellug giet il-vettura tal-attur u habat gol-bieba ta’ quddiem. L-attur gie mill-lemin. Il-konvenut ikkonferma li waqaf fuq stop sign u li kellu vizwali fuq il-lemin tieghu.

Il-partijiet qablu mal-iskizz.

Ikkunsidra li l-konvenut kellu l-obbligu li jieqaf fl-inkrocju u johrog biss meta ra li seta’ johrog minghajr ma jostakola t-traffiku fit-triq. Il-fatt li hareg u saret il-habta juri li jew ma kienx qed ihares bl-attenzjoni mehtiega fuq il-lemin tieghu jew li kkalkula hazin l-ispeed tal-vetturi fuq il-lemin. Il-konvenut ma kellux l-obbligu li jara biss l-ewwel vettura li kienet gejja fid-direzzjoni tieghu imma l-vetturi kollha.

Illi dan it-Tribunal ghandu jiddetermina l-fatturi rilevanti u determinanti ghall-habta u mhux diversi imperfezzjonijiet fir-regolamentazzjoni tas-sewqan. (Ara Mallia Vs Azzopardi PA 592/88).

Illi huwa veru li manuvra ta' overtaking "hu certament delikata u tali li tixhet fuq id-driver tal-vettura li jkun qieghed jissurpassa obligi aktar gravi (Pulizija Vs Zammit Imhallef W. Harding 14/2/1962 Appell Kriminali Inf).

Illi fil-kawza Pio Ebejer Vs Nazzareno Mamo (PA 11/7/1986) gie ezaminat incident simili hafna ghall-incident in kwistjoni fl-istess triq. F'din il-kawza l-Qorti kkonkludiet li l-incident gara ghaliex Mamo (li kien qieghed jaghmel manuvra ta' surpass) "ghazel li jissurpassa vettura li kienet quddiemu u b'hekk sab ruhu quddiem il-vettura ta' Ebejer (li kien hiereg minn fejn hemm l-istop sign) u saret il-habta." F'dik il-kawza kien hemm fattur ta' speed billi bid-daqqa l-karozza ta' Ebejer giet mdawra izjed minn 180 grad u sfat miksura "beyond ecomomical repair".

F'din il-kawza m'hemmx evidenza ta' speed da parti tal-attur. L-attur pero kien negligenti meta ghazel li jaghmel manuvra ta' surpass fejn inkrocju. L-attur spicca wrong side.

Illi ghalhekk iz-zewg sewwieqa ghandhom tort ghal din il-habta b'mod ugwali.
Id-danni ma gew kontestati. Gew esebiti d-dokumenti u jidhru ragunevoli.

Ghaldaqstant, jikkundanna lill-konvenut sabiex ihallas lill-atturi l-ammont ta' Lm424.00c (erba' mija w erbgha u ghoxrin lira Maltin). Bl-imghax mid-data tas-sentenza. Kull parti ihallas l-ispejjez tieghu.

< Sentenza Finali >

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