MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tal-5 ta' Mejju, 2004

Talba Numru. 2096/2002

Generoso Busuttil

Vs

Chairman Korporazzjoni Enemalta
u Paul Duca

It-Tribunal

Ra l-Avviz fejn l-attur talab is-somma ta' Lm1,500 (elf u hames mitt lira Maltin) rapprezentanti danni wara ncident tat-traffiku.

Ra r-Risposta fejn il-konvenut, ic-Chairman ta' l-Enemalta cahad li kien nvolut f'incident tat-traffiku in kwistjoni.

Ra r-Risposta ta' Paul Duca fejn qal li l-incident gara tort ta' l-attur.

Ra li Paul Duca pprezenta Kontro-Talba fejn talab li l-attur jigi ddikjarat responsabbli ghall-incident.

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

Illi l-kawza fil-konfront tac-Chairman tal-Korporazzjoni Enemalta ghandha tigi michuda bl-ispejjez kontra l-attur billi huwa ma kienx involut f’dan l-incident.

Illi dwar il-habta l-attur qal li kien ghaddej minn Birzebbuga fid-direzzjoni ta’ Marsaxlokk. Kien hemm *stop sign* u l-attur qal li hareg minn *stop sign* u mexa mija u hamsin (150) pied. L-attur qal: “imbaghad gie il-vann misjuq mill-konvenut u tajjarni.” L-attur sostna li l-vann gie *wrong side*.

L-attur esebixxa stima minn Lepo Garage ghall-ispare parts, stima biex jinkera vann u survey li jikkonkludi li d-danni huma ta’ Lm409.28c (erba’ mija u disa’ liri Maltin u tmienja u ghoxrin centezmu).

Il-pulizija li nvestiga l-incident hekk kiteb fir-Road Accident Report:

“Driver of van no. ENE 182 stated that he was proceeding in Triq S. Cachia Zammit coming from the direction of Marsaxlokk going towards Triq Feretti when all of a sudden van no. EAA 848 coming from Triq S. Cachia Zammit collided into him.”

L-attur qal: “he was coming from Triq S. Cachia Zammit going towards Marsaxlokk. Stopped on the *give way sign* and on seeing the road clear continued on proceeding when all of a sudden van ENE 182 coming from the opposite direction collided into him.”
Il-pulizija li nvestiga l-incident qal li meta ra l-vetturi dawn kienu “kwazi f’nofs it-triq”.

Il-pulizija kkonferma li l-attur kellu *give way sign* qabel ma gie l-incident.

Il-konvenut qal li kien qed isuq meta f’daqqa ra l-vettura l-ohra mieghu.

Illi Charlesworth & Percy (On Negligence para 9 – 221 – Collisions in center of the road) ighid:

"When there is a collision between two motor vehicles in the highway and there is no evidence pointing to one driver being more to blame than the other, the proper inference is to be drawn that they are both to blame (Baker Vs Market harborough Industrial Co-Operative Soc. (1953)….Each driver who was involved in an unwitnessed and inexplicable head on collision between two vehicles is likely to be held equally to blame for negligence even where there is some indication that one of them might have been on his wrong side of the road (Howard Vs Bemrose (1973)."

Illi mill-provi prodotti jirrizulta li z-zewg sewwieqa kellhom tort ghaliex naqsu li jsuqu b'attenzjoni mehtiega.

Illi dwar id-danni sofferti mill-attur jirrizulta li l-attur esebixxa stima fl-ammont totali ta' Lm533.41c (hames mija u tlieta u tletin lira Maltin u wiehed u erbghin centezmu) ghall-parts u survey li jindika l-ammont ta' Lm409.28c (erba' mija u disa' liri Maltin u tmienja u ghoxrin centezmu) bhala *labour and spray*. It-Tribunal mhux se jikkunsidra l-*compliment slip* esebit in konnessjoni ma' kiri ta' Ford Escort billi m'hemmx provi sufficjenti dwar dan . It-total ta' danni ta' l-attur huwa ghalhekk Lm942.69c (disa' mija u tnejn u erbghin lira Maltin u disgha u sittin centezmu).

L-ammont mitlub mill-konvenut huwa Lm568.27c (hames mija u tmienja u sittin lira Maltin u sebgha u ghoxrin centezmu) kif jirrizulta minn Dok JL1.

Illi ma kienx hemm kontestazzjoni dwar id-danni.

Ghalhekk filwaqt li jichad it-talba attrici fil-konfront tac-Chairman tal-Korporazzjoni Enemalta bl-ispejjez kontra l-attur, jiddikjara li z-zewg partijiet kienu ugwalment responsabbli ghall-incident in kwistjoni. Jikkundanna lill-konvenut sabiex ihallas lill-attur l-ammont ta' Lm471.34c (erba' mija u wiehed u sebghin lira Maltin u erbgha u tletin

centezmu) u jikkundanna lill-attur li jhallas lill-konvenut Lm284.14c (mitejn u erbgha u tmenin lira Maltin u erbatax-il centezmu).

Hlief ghall-ispejjez diga decizi, kull parti jhallas l-ispejjez tieghu tal-kawza.

< Sentenza Finali >

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