MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tat-28 ta' Jannar, 2005

Talba Numru. 2094/2003

Untours Insurance Agents Limited (C5655) ghal Qatar Insurance Company surrogati fid-drittijiet ta' Roberta Falzon u l-istess Roberta Falzon (ID85880M)

Vs

David George Bonnici

It-Tribunal

Ra l-Avviz li fih l-atturi talbu l-hlas ta' Lm717.39c (seba' mija u sbatax-il lira Maltin u disgha u tletin centezmu) rapprezentanti danni f'incident awtomobilistiku ghal liema ncident il-konvenut kien unikament responsabbli minhabba mprudenza, mperizja, negligenza w inosservanza tar-regolamenti.

Ra r-Risposta fejn il-konvenut qal li mhux responsabbli ta' dan l-incident.

Ra d-dokumenti esebiti.

Ra r-*Road Accident Report* fejn il-konvenut qal:

"He was proceeding along Main Street, St Julians coming from Balluta leading Spinola, suddenly driver of vehicle number ROB 858 came with an excessive speed from opposite direction, dashed into the right side of Coach and went on the pavement. Mr Bonnici further added that apparently heavy vehicles were parked due to works are carried out in the road, thus the other driver had enough space in the square before entering in the narrow road."

Roberta Falzon qalet:

"On reaching the curve driver of Coach Reg ACY 912 who at the time he was on my side hit my car."

Ra x-xhieda ta' PS 1113 Emanuel Aquilina fejn jikkonferma r-*Road Accident Report* u l-iskizz. Jikkonferma wkoll illi dakinhar ta' l-incident kien hemm xi xoghlijiet ghaddejjin u ghalhekk it-triq kienet aktar dejqa mis-soltu. Jispjega illi zewg vetturi zghar kienu jghaddu izda vettura kbira w ohra zghira ma setghux jghaddu.

Ra x-xhieda ta' Mario Mifsud li huwa *supervisor* ghas-socjeta' attrici fejn jikkonferma l-prospett esebit.

Ra x-xhieda ta' Tonio Mizzi li huwa s-*surveyor* fejn jikkonferma s-*survey* li ghamel hu stess.

Ra x-xhieda ta' Roberta Falzon fejn tghid illi dakinhar ta' l-incident waqt li kienet ghaddejja mit-Triq il-Kbira, San Giljan il-Coach qabzet il-*lane* fis-sens li giet ir-*wrong side* taghha u baqghet tkaxkar il-genb tal-lemin tal-vettura taghha.

Tghid li hi kienet ghaddejja maximum ta' hamsa u tletin jew erbghin u l-Coach kienet gejja bi speed naqra gholi.

Tghid li meta rat il-Coach kienet se tibqa’ tippersisti fuqha, hi waqfet.

Ra x-xhieda tal-konvenut fejn jikkonferma li qal fir-*Road Accident Report*.

Fil-kontro-ezami jghid illi meta ra l-vettura ta’ Falzon l-ewwel darba kien tul ta’ karozza jew inqas. Jghid li hu waqaf qabel il-habta. Meta kellem lill-pulizija ezatt wara l-incident il-konvenut ma qalx li waqaf qabel il-habta.

Wara qal illi kif raha l-ewwel darba kienet tul ta’ trakk u cjoe’ erbghin pied ‘il boghod minnu.

Illi l-konvenut kellu ostakolu fuq in-naha tieghu tat-triq u ghalhekk kellu jsuq bi prudenza u mhux jinsisti li ghandu d-dritta. Illi gie sottomess li skond il-*Highway Code* kienet l-attrici li kellha taghti dritta lill-konvenut.
L-**Artikolu 220** jipprovdi:

“When two vehicles going in opposite directions meet in a narrow stretch of road, unless signs indicate otherwise, the one nearest to the wider part of the road MUST reverse to let the other vehicle pass.”

Illi dan it-Tribunal mhux konvint li dan l-Artikolu jfisser li l-attrici ghandha tort f’din il-habta ghaliex dan l-Artikolu jipprovdi direzzjoni fuq liema mill-partijiet ghandu jirriversja u mhux min kellu jieqaf.

L-**Artikolu 220** jipprovdi:

“Adapt your driving to the appropriate type and condition of road you are on...take the road and traffic conditions into account.”

Fil-kawza deciza fis-16 t’April, 1993 fl-ismijiet **Edward Attard Vs Joseph Zammit ((PA) JSP)** – gie ddikjarat li:

“Car entering from the wider part to the narrow part must be more attentive.”

Fil-ktieb **The Trial of Motor Car Accident Cases (3rd edit. p. 64)** Gibb jikteb:

“If the highway is wide enough for two cars to pass each other in safety and if each driver keeps to his side of the road, no collision should occur. It follows from this that the driver who is on the wrong side of the highway in violation of the rule of the road is generally the cause of the collision ....In these cases the basic point is which of the two cars was being driven on the wrong side of the road.”

Skond il-Qrati Inglizi:

“Keeping a proper lookout means more than looking straight ahead. It includes awareness of what is happening in one’s immediate vicinity. A motorist shall have a view of the whole road, from side to side....”

Illi mill-iskizz jirrizulta li l-konvenut spicca *wrong side*. Illi l-fatt li driver ikun *wrong side* ma jfissirx necessarjament li kellu tort ta’ l-incident **(Kollez. XLVII PII. P966)**. Il-partijiet kellhom l-obbligu li jirregolaw is-sewqan skond ic-cirkostanzi u li jzommu *a proper lookout*. Billi l-konvenut kellu l-ostakolu fuq in-naha tieghu tat-triq hu kellu l-obbligu li jieqaf jekk kien hemm karozza ghaddejja fuq in-naha opposta. L-attrici wkoll kellha l-obbligu li tara dak li kien hemm *in plain view*. Jirrizulta li z-zewg partijiet setghu jaraw li ma setghux jghaddu t-tnejn li huma u ghalhekk kellhom l-obbligu li jieqfu. Ghalhekk iz-zewg sewwieqa ghandhom jigu ddikjarati responsabbli ghall-incident b’mod ugwali. L-attrici tghid li rat il-Coach l-ewwel darba meta kienet fil-*lane* taghha. F’dak il-mument l-attrici kellha d-dover li tieqaf ghaliex kellha d-dover li tinduna li ma kienetx se tghaddi. Meta ddiskriva l-incident ezatt wara l-habta l-konvenut ma qalx li waqaf qabel il-habta. Kien biss fil-kontro-ezami li qal hekk. Illi ghalhekk billi z-zewg drivers naqsu li jirregolaw is-sewqan taghhom skond ic-cirkostanzi t-tnejn ghandhom tort.

Illi d-danni ma gewx ikkontestati.

Ghalhekk jiddikjara li l-konvenut kien in parti responsabbli ghall-incident u jikkundanna lill-konvenut ihallas lill-atturi l-ammont ta’ Lm358.70c (tlett mija u tmienja u hamsin lira Maltin u sebghin centezmu). Kull parti jhallas l-ispejjez tieghu.

< Sentenza Finali >

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