MALTA

TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
PHILIP MANDUCA**

Seduta tas-16 ta' Marzu, 2005

Talba Numru. 2240/2002

**GasanMamo Insurance Agency Limited u din ghan-nom u
in rappresentanza tas-socjeta' estera CGU Insurance plc
kif surrogata fid-drittijiet tal-assikurat taghha Odette Sarah
Birtles u l-istess Odette Sarah Birtles u b'Nota s-socjeta'
GasanMamo Insurance Limited assumiet l-atti tal-kawza
minflok is-socjeta' GasanMamo Insurance Agency Limited**

Vs

Guzmano Farrugia

It-Tribunal

Ra l-Avviz li fih l-atturi talbu l-hlas ta' mitejn u hamsa u hamsin lira Maltin u hamsa u ghoxrin centezmu (Lm255.25c) rapprezentanti danni f'incident awtomobilistiku ghal liema ncident il-konvenut kien unikament responsabbli minhabba mprudenza, mperizja, negligenza u inosservanza tar-regolamenti.

Ra r-Risposta fejn il-konvenut qal li mhux responsabbli ta' dan l-incident. Qal ukoll illi l-imsemmi ammont huwa esagerat.

Ra d-dokumenti esebiti.

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

"While he was driving his vehicle along Triq Nazzjonali, Blata l-Bajda, from the direction of Hamrun towards Valletta, at a moderate speed and on the second lane of the road, carrying patients from St Luke's Hospital towards Sir Paul Boffa Hospital, all of a sudden, car number DAP 846 which also was being driven along said street and from the same direction, came from behind and dashed into the right front side of his vehicle. He added that at that moment, he heard a noise but he did not realize that his vehicle was involved in a collision, so he continued on his way."

Is-sewwieq tal-vettura DAP 846 Mark Birtles qal:

"He was driving his vehicle along Triq Nazzjonali, Blata l-Bajda, from the direction of Marsa towards Valletta, at a moderate speed and on the third lane of the road. All of a sudden, an ambulance number GVN 345, which also was being driven along said street and from the same direction, came from behind, crossed to his lane and dashed into the left rear side of his vehicle. He added that he drove to the left side to stop and speak to the other driver regarding the collision but when he saw that the other driver continued on his way, he drove after him till Sir Paul Boffa Hospital Floriana."

Il-verzjoni tal-pulizija kienet:

"Both drivers reported, today 22/11/2000, at about 10a.m to Hamrun Police Station, that earlier around 8.45a.m, a collision occurred at Blata l-Bajda. From enquiries carried out it was established that both vehicles were being driven along Triq Nazzjonali, Blata l-Bajda, from the direction of Hamrun towards Valletta, with ambulance number GVN 354 on the second lane, coming from St Luke's Hospital, and car number DAP 846 on the third lane, coming from Marsa. On arriving at a certain point, both vehicles collided. The driver of the ambulance GVN 354 stated that he heard a noise but he did not realize that he was involved in a collision so he continued on his way to Sir Paul Boffa Hospital, Floriana. Both vehicles were removed from the place of impact so that no sketch was drawn up."

Ra x-xhieda ta' Mark Birtles fejn jikkonferma li qal fir-*Road Accident Report*. Jikkonferma wkoll li s-socjeta' attrici hallset id-danni ta' dan l-incident u hu hallas hamsa u ghoxrin lira Maltin (Lm25) *excess*.

Ra x-xhieda ta' PS 1212 Charles Zerafa fejn jikkonferma r-*Road Accident Report*.

Ra l-Affidavit tal-konvenut fejn jichad li dahal gol-vettura ta' Birtles. Il-konvenut qal hekk:

"X'hin wasalt l-Isptar Boffa gie jkellimni sid il-karozza DAP 846 fejn qalli li jiena kont dhalt go fih. Jien chadt li hbat mieghu ghaliex kieku hbat mieghu kien ikolli nieqaf u mhux nibqa' sejjer."

L-Affidavit tal-konvenut jikkontradixxi l-verzjoni tal-konvenut kif rapportat mill-pulizija. Il-konvenut qal lill-pulizija li Birtles:

"Came from behind and dashed into the right front side of his vehicle."

Jirrizulta li Birtles kellu hsara fil-*left rear door and left rear mudguard*. Fil-waqt li l-konvenut kellu hsara fil-*right door hinge*.

Illi mill-provi jirrizulta li kien hemm habta bejn iz-zewg vetturi. Li l-konvenut ma kienx attent tant li ghalkemm sema' l-habta qal li ma hasibx li kien involut f'incident. Il-fatt li l-karozza ta' l-attur kellha hsara fuq wara jindika li l-konvenut kellu d-dover li jara l-vettura ta' l-attur quddiemu.

Il-konvenut ma kienx kredibbli ghaliex ikkontradixxa l-verzjoni tieghu li ta lill-pulizija. It-Tribunal jikkonkludi li l-verzjoni ta' Birtles hija izjed verosimili u ghalhekk il-konvenut ghandu jigi ddikjarat unikament responsabbli ghall-incident in kwistjoni.

Ghaldaqstant jilqa' t-talba ta' l-atturi u jordna lill-konvenut sabiex ihallas is-somma ta' mitejn u hamsa u hamsin lira Maltin u hamsa u ghoxrin centezmu (Lm255.25c) bl-ispejjez u bl-imghax mid-data tan-notifika ta' l-Ittra Ufficjali.

< Sentenza Finali >

--------------------------------TMIEM--------------------------------