MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta ta' l-20 ta' April, 2005

Talba Numru. 1676/2003

GasanMamo Insurance Limited hekk kif surrogata fid-drittijiet tal-assikurat taghha Lawrence Paul Bajada sija bil-polza u sija bil-ligi u l-istess Lawrence Paul Bajada

Vs

Brian Abela

It-Tribunal

Ra l-Avviz li fih l-atturi talbu l-hlas ta' seba' mija w erba' liri Maltin u hmistax-il centezmu (Lm704.15c) 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. Il-konvenut qal ukoll li l-attur ghandu jipprova sodisfacentement l-entita' tad-danni.

Ra d-dokumenti esebiti.

Ra r-*Road Accident Report* fejn Catherine Bajada li hija s-sewwieqa tal-vettura AAJ 447 qalet:

"She was proceeding along Zejtun Road, M'Xlokk from the direction of Bir id-Deheb towards M'Xlokk. As she was going to reach the roundabout at said street, she observed that from her left side of the road vehicle number ABE 527 emerged. She applied the brake to avoid a collision but to no avail. The collision occurred."

Il-konvenut qal:

"He was proceeding from the direction of Triq il-Melqat, M'Xlokk towards Bir id-Deheb. As he reached the roundabout of the said road, he stopped before emerged the roundabout to Zejtun Road. After he looked to his left and right side and observed no traffic, he emerged and vehicle number AAJ 447 came from his right side and the collision occurred."

Ra x-xhieda ta' PS 359 Carmelo Abdilla fejn ikkonferma r-*Road Accident Report* u l-iskizz. Zied ukoll illi l-vetturi li gejjin min-naha ta' Bir id-Deheb sejrin lejn M'Xlokk iridu jzommu fuq ix-xellug u ghalhekk il-vettura AAJ 447 qieghda f'pozizzjoni tajba. Ikkonferma li fejn hi mmarkata bhala *roundabout* fuq l-iskizz hija fil-fatt *roundabout*.

Ra x-xhieda ta' Catherine Bajada fejn ikkonfermat li qalet fir-*Road Accident Report*. Tghid ukoll illi r-*roundabout* hija *central strip*. Bhala *speed* kienet ghaddejja b'erbghin jew hamsin. Izzid ukoll illi mbaghad bdiet tnaqqas l-i*speed* minhabba li l-istess triq kienet ghan-nizla.

Ra x-xhieda ta’ Lawrence Paul Bajada fejn ikkonferma li s-socjeta’ attrici hallset id-danni u hu hallas l-*excess* ta’ hamsa u ghoxrin lira Maltin (Lm25).

Ra x-xhieda ta’ Christopher Schembri fejn ikkonferma li ma kienx xhud ta’ dan l-incident.

Ra x-xhieda tal-konvenut fejn ikkonferma dak li qal fir-*Road Accident Report*. Jghid li l-vettura ta’ Bajada kienet gejja b’velocita’ qawwija. Ikkonferma wkoll illi waqaf qabel ma hareg. Jghid li d-daqqa kienet fejn kellu t-tank tad-diesel izda mbaghad qabel ma’ l-iskizz u jghid illi t-tank tad-diesel huwa fejn gie muri fl-iskizz jigifieri hdejn il-bieba tal-lemin ta’ quddiem.

Il-konvenut jghid illi fil-vettura mieghu kien hemm habib tieghu izda la jiftakar x’jismu u lanqas fejn joqghod.

Illi kien id-dover tal-konvenut li ried isuq fid-direzzjoni ta’ Bir id-Deheb li jara li mhux gejjin karozzi minn fuq il-lemin tieghu. Fil-fatt il-konvenut jghid li waqaf qabel ma hareg izda ma ra lil hadd. Illi dan ifisser li ma kienx qieghed izomm *a proper lookout*. Il-konvenut kellu vizwali fit-tul jekk hares fid-direzzjoni fejn kienet gejja Bajada.

Illi fl-**Artikolu 213** tal-**Highway Code** ghandu jigi kkunsidrat:

“At an intersection or junction of a major road and a minor road, traffic on the latter should give way to traffic on or coming off the major road.”

M’hemm ebda dubju illi Zejtun Road, M’Xlokk hija *major road*.

Mill-iskizz jirrizulta li l-konvenut kien hareg ftit fuq il-*main road*. Il-konvenut kellu l-obbligu li jaghti precedenza ghat-traffiku li kien ghaddej mill-*major road*. Kellu l-obbligu li jara dawk il-vetturi fuq il-*major road* u johrog biss meta seta’ jaghmel hekk minghajr ma jostakola vetturi ohra. (Ara **Attard Vs Zammit (PA 16/4/1993)**, **Bianchi Vs**

Patinott (PA 18/5/1995) u **Fogg Vs Vella (Appell 2141/95)**).

Gew esebiti s-*survey report* u kopji ta’ l-ircevuti u jidhru ragunevoli.

Ghaldaqstant it-Tribunal jilqa’ t-talba ta’ l-atturi, jiddikjara li l-konvenut kien unikament responsabbli ghall-incident in kwistjoni u jikkundanna lill-konvenut ihallas seba’ mija w erba’ liri Maltin u hmistax-il centezmu (Lm704.15c) bl-ispejjez u bl-imghax mid-data tan-notifika ta’ l-Ittra Ufficjali tat-3 ta’ Settembru, 2002.

< Sentenza Finali >

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