MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tal-11 ta' Mejju, 2005

Talba Numru. 651/2003

Anthony Mercieca

Vs

Kenneth Zammit

It-Tribunal

Ra l-Avviz li fih l-attur talab li l-konvenut jigi kkundannat ihallas is-somma ta’ erba’ mija w erbatax-il lira Maltin u sebgha u tletin centezmu (Lm414.37c) rapprezentanti danni f’incident awtomobilistiku kif spjegat ahjar fl-Avviz.

Ra r-Risposta tal-konvenut fejn qal li ma kienx responsabbli ghall-incident. Il-konvenut eccepixxa wkoll li l-ammont pretiz huwa eccessiv.

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

Li skond ir-*Road Accident Report* ezatt wara l-incident l-attur (Vauxhall LAG 415) qal:

"I was proceeding slowly on my lane at Triq il-Ferrovija Santa Venera from the direction of Birkirkara towards Hamrun and as I was approaching the roundabout I saw the FIAT proceeding speedy from the opposite direction and suddenly same skidded and swerved into my lane and although I tried to swerve to the extreme right to avoid collision same dashed into my front right side."

Il-konvenut (FIAT AAP 019) gie rrapportat li qal:

"I was proceeding from the direction of the roundabout towards Birkirkara and as I proceeded into Old Railway Track I found the Vauxhall proceeding from the opposite side on my lane and consequently collision occurred."

Ix-xhud Massimo Magri gie rrapportat li qal:

"I was proceeding from the roundabout towards Birkirkara some distance in front of the FIAT and I saw the Vauxhall proceeding from the opposite direction in the middle of the road and as I avoid same I saw the FIAT colliding with the Vauxhall from the rear view mirror."
Meta xehed quddiem it-Tribunal Massimo Magri qal li ra l-vettura ta' l-attur gejja fid-direzzjoni opposta ghalih fuq in-naha tieghu tat-triq. Ix-xhud immarka **X** fuq l-iskizz fejn gara l-incident.

L-attur xehed li kienet il-vettura tal-konvenut li baqghet diehla go fih wara li skiddja u gie fuq il-*lane* tieghu. L-attur qal li d-*debris* li waqa' b'rizultat ta' l-incident baqa' fl-istess post fejn immarkaw il-pulizija bhala fejn sehh l-incident.

Xehed PS 1330 Alexander Schembri li qal li kkonkluda fejn kien l-i*spot of impact* ghaliex sab it-trab fejn is-soltu jkun hemm ezatt fejn jigri l-incident. PS 1330 Alexander Schembri qal li xi jiem wara l-incident il-konvenut kien gie l-ghassa u lmenta li l-i*spot of impact* ma kienx fejn muri fl-iskizz. PS 1330 Alexander Schembri kkonferma li l-iskizz

hu korrett. Bejn il-hin tal-habta sakemm gew il-pulizija ghaddew xi siegha u kwart.

Il-konvenut xehed li hu kien fuq il-*lane* tieghu u l-attur gie *wrong side* u b'hekk saret il-habta. Il-konvenut cahad li l-i*spot of impact* kien dak muri fl-iskizz.

Illi l-verzjonijiet tal-partijiet jikkontradixxu lil xulxin.

Illi x-xhieda ta' PS 1330 Alexander Schembri hija cara u kredibbli. Illi l-fatt li l-pulizija mmarka l-i*spot of impact* fuq in-naha ta' l-attur jindika li l-verzjoni li ta l-attur hija iktar verosimili.

Billi hemm provi sufficjenti biex turi li l-attur kien fuq in-naha tieghu tat-triq u li l-konvenut mar *wrong side* u b'hekk grat il-habta, t-Tribunal jiddikjara li l-konvenut kien unikament responsabbli ghall-incident.

Illi gew esebiti l-ircevuti u jidhru ragunevoli.

Ghaldaqstant jichad ir-Risposta tal-konvenut, jiddikjara li l-konvenut kien unikament responsabbli ghall-incident u jikkundanna lill-istess konvenut sabiex ihallas is-somma ta' erba' mija w erbatax-il lira Maltin u sebgha u tletin centezmu (Lm414.37c) lill-attur. Bl-ispejjez u bl-imghax mid-data tan-notifika ta' l-Ittra Ufficjali datata 21 ta' Frar, 2003.

< Sentenza Finali >

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