



MALTA

## TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.  
PHILIP MANDUCA**

Seduta tas-16 ta' Gunju, 2005

Talba Numru. 949/2004

**Middlesea Insurance plc kif surrogata fid-drittijiet  
tal-assikurata taghha Maria Antonia sive Tania  
Bonello sija bil-polza u sija bil-ligi u l-istess Maria  
Antonia sive Tania Bonello**

**Vs**

**Johann Spiteri**

### **It-Tribunal**

Ra l-Avviz li fih l-atturi talbu li l-konvenut jigi kkundannat ihallas is-somma ta' elf mitejn u tlieta u tmenin lira Maltin u sebgha u disghin centezmu (Lm1,283.97c) rapprezentanti danni f'incident tat-traffiku kif ahjar spjegat fl-Avviz.

Ra r-Risposta tal-konvenut li sostna li mhux responsabbli ghall-incident u li d-danni huma kkontestati.  
Sema' x-xhieda u ra d-dokumenti esebiti.

Kopja Informali ta' Sentenza

Ra li Paul Bonello li kien qed isuq il-vettura ta' l-attrici hekk iddiskriva l-incident skond ir-Rapport tal-pulizija:

*"I was proceeding down towards Sliema when on the opposite direction a van was coming by, same drove over a large pot hole and whilst proceeding side by side the driver of same hit me."*

Illi skond l-istess Rapport il-konvenut qal:

*"I was proceeding from Mrabat Street towards the direction of San Gwann when at one point there was a large deep pot hole and whilst driving slowly over same accidentally hit the other car which was driving the opposite way."*

Illi ma sar ebda skizz ghaliex il-vann kien tmexxa wara l-incident. Illi l-pulizija qal li wara xi erbat ijiem il-konvenut kien infurmah li mhux veru li kien qallu li kien laqat il-karozza l-ohra. Il-pulizija qal li rega' ra n-noti tieghu u kkonferma li nizzel dak li qallu l-konvenut originarjament.

Fil-fatt wara li kien cempillu l-konvenut il-pulizija kiteb fuq ir-Road Accident Report:

*"Ref to quote (accidentally hit same) driver called today 11/12/2002 and stated that he does not know how the other car collided with him."*

Meta xehed quddiem it-Tribunal il-konvenut qal li kien ghaddej bi speed ta' hmistax (15) jew ghoxrin (20) kilometru fis-siegħa, kienet ix-xita u kien hemm distanza ta' pied bejn il-vettura tieghu u l-bankina. Il-konvenut qal li l-vettura l-ohra kienet gejjja fuq is-side tieghu w allura naqqas l-ispeed.

Johann Spiteri qal li kien hemm hofra li kienet fonda erbat iswaba l-aktar hamsa. Il-hofra kienet fuq is-side tieghu. Qabel ma dahal fil-hofra ma kienx induna biha.

Kopja Informali ta' Sentenza

Paul Bonello qal li kien sejjer fid-direzzjoni opposta ghall-konvenut. Hu kien fuq is-side tieghu. Bonello hekk iddiskriva l-incident:

*“Kien hemm hofra fl-art. Biex jevita din il-hofra, Johann Spiteri kiser l-istearing u baqa’ jiskiddja fuqi.”*

Bonello qal li ezatt wara l-incident Spiteri accetta li kien it-tort tieghu.

### **Ikkunsidra**

Illi hemm diversi sentenzi li jaghtu mportanza ghall-kliem tal-partijiet ezatt wara l-incident. Illi l-konvenut qal *“there was a large deep pot hole and whilst driving slowly over same accidentally hit the other car”*. Illi huwa veru li wara erbat ijiem il-konvenut cempel lill-pulizija u cahad li qal dawn il-kliem.

Illi dwar il-verzjoni ta’ Paul Bonello t-Tribunal jikkunsidra li ezatt wara l-habta Bonello ma qalx li l-konvenut gie wrong side minhabba l-pot hole izda biss li *“whilst proceeding side by side the driver of same hit me”*.

Il-konvenut ghalkemm ried jikkorregi r-Road Accident Report ma qalx li Bonello gie wrong side.

**Charlesworth & Percy - On Negligence (Sweet & Maxwell) 1997 para. 9-221 - Collisions in Center of Road** jikteb:

*“When there is a collision between two motor vehicles in the highway and there is no evidence pointing to one driver being any more to blame than the other, the proper inference to be drawn is that they are both to blame (Baker Vs Market Harborough, Howard Vs Bemrose). So when there had been a collision in the center of crossroads of equal status and, after the accident the defendant said to a policeman “I was going along the road and we met in the middle” it was held that there was a prima facie case that both drivers were to blame. (France Vs Parkinson). Each driver who was involved in an un-*

Kopja Informali ta' Sentenza

*witnessed 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 RTR 32, CA))”*

Illi ghalkemm kien hemm pot hole fuq in-naha tal-konvenut ma jirrizultax li b'rizultat ta' dan il-konvenut mar wrong side. Illi fic-cirkostanzi z-zewg sewwieqa huma ugwalment responsabbli ghall-incident.

Gew esebiti l-ircevuti u jidhru ragunevoli.

Ghaldaqstant it-Tribunal jaqta' u jiddeciedi billi jiddikjara li Paul Bonello u l-konvenut kienu ugwalment responsabbli ghall-incident in kwistjoni u jikkundanna lill-konvenut sabiex ihallas lill-atturi s-somma ta' sitt mija u wiehed u erbghin lira Maltin u disgha u disghin centezmu (Lm641.99c) bl-imghax mid-data tas-sentenza. L-ispejjez ghandhom jinqasmu bin-nofs bejn il-partijiet.

**< Sentenza Finali >**

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