MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tat-22 ta' Gunju, 2005

Talba Numru. 2250/2003

Korporazzjoni Enemalta

Vs

Alfred Schembri

It-Tribunal

Ra l-Avviz li fih il-Korporazzjoni attrici talbet il-hlas ta' tlett mija w erbatax-il lira Maltin u hamsa u hamsin centezmu (Lm314.55c) rapprezentanti danni minnha sofferti f'arblu tad-dawl proprjeta' taghha liema danni gew ikkawzati mill-konvenut.

Ra r-Risposta fejn il-konvenut qal li mhux responsabbli ghall-incident. Fir-raba' lok qal illi t-talba ghall-hlas ta' l-imghax ghandha tkun respinta, stante li, jekk l-imghax huwa dovut dan ghandu jiddekorri mid-data tan-notifika ta'

l-Avviz u mhux mid-data ta' l-incident (Art. 1141[2] tal-Kap. 16 tal-Ligijiet ta' Malta).

Ra d-dokumenti esebiti.

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

"He was driving his vehicle in the Lapsi parking area. In lieu to leave and whilst he was driving, his view was obstructed by the sunset. When all of a sudden he collided in a concrete electric pole with the consequence that the said pole broke up in two and fell on his vehicle. He also said that he is not familiar with the area and did not know about the pole which is situated in the middle of the parking area."

Il-verzjoni tal-pulizija hija:

"The Police together with Enemalta personnel and Civil Protection personnel had to call on site in lieu to eliminate the danger from any electric shock and Civil Protection to remove the remains of the pole from the middle of the parking area. The driver together with his son looked unharmed. However, they called at St Luke's hospital for any necessary treatment. However no certificates were handed over to the police. Mr Joseph Formosa SDTO with the Luqa district was also present on the spot regarding the damages.
Mr Alfred Schembri was summoned at Zebbug Police Station on the 20/04/03 and he stated that he was not going to sign any declarations to make good for the damages caused to the pole. He is to be arraigned in court as soon as the Police have GT an estimate for the damages."

Ra x-xhieda ta' Eric Montfort prodott mill-Korporazzjoni attrici fejn jikkonferma li l-ammont mitlub ghadu dovut.

Ra x-xhieda ta' PS 238 Michael Carter fejn jikkonferma r-*Road Accident Report*. Jikkonferma wkoll li dak il-hin is-*sunset* taghmillek il-vizjoni difficli mmens.

Jghid ukoll illi meta twahhal l-arblu ma regax twahhal fl-istess post.

Ra x-xhieda ta’ Joseph Formosa li huwa l-*foreman* tal-Korporazzjoni attrici fejn jikkonferma li l-Korporazzjoni attrici soffriet danni ta’ tlett mija w erbatax-il lira Maltin u hamsa u hamsin centezmu (Lm314.55c).

Jikkonferma li qatt ma saret talba biex jitnehha l-arblu minfejn kien.

Ra x-xhieda tal-konvenut fejn jikkonferma li qal fir-*Road Accident Report*. Jghid ukoll illi fil-proceduri kriminali huwa hareg illiberat. Il-konvenut hekk iddiskriva l-habta:

“Jiena kont ghaddej *free*. Jiena tlajt it-telgha u gejt ghall-wita. Allura qtajtha *free* u l-karozza baqghet timxi. Split of a second kien hemm xemx qawwija u waqaft ma’ xi haga…Qabel l-incident ma kontx rajt l-arblu…l-arblu kien f’nofs il-lane tieghi.”

Ra xhieda ohra ta’ Joseph Formosa fejn jikkonferma li l-arblu kien fil-karreggjata tat-traffiku. Wara l-incident l-arblu gie mnehhi sabiex jitpogga f’post *safe*.

Gie kkunsidrat li fejn kien l-arblu qabel l-imsemmi ncident kien perikoluz ghat-traffiku. Illi l-*foreman* tal-Korporazzjoni attrici kkonferma dan.

Fil-kawza **Untours Vs Saliba - PA 29/1/2004** gie ddikjarat:

“Illi huwa maghruf li hija regola generali li fi kwestjonijiet ta’ stharrig ta’ responsabbilta’ f’habta, li kull sewwieq irid ihares zewg regoli ewlenin, jigifieri (a) li jirregola s-sewqan tieghu skond ic-cirkostanzi kollha ta’ l-inhawi fejn ikun (maghduda maghhom il-konfigurazzjoni tat-triq, il-hin u l-kundizzjonijiet atmosferici) u (b) li jzomm attenzjoni *(proper lookout)* dwar dak li jkun qieghed isehh fil-qrib jew huwa mistenni li jsehh minnufih”. (Ara wkoll **Formosa & Camilleri Limited et Vs Joseph Camenzuli (PA - RCP 26/4/2001**).

Illi ghalkemm l-arblu in kwistjoni ma kienx f'post fejn kellu jkun xorta l-konvenut kellu l-obbligi hawn fuq imsemmija.

Illi jekk il-konvenut kellu x-xemx f'ghajnejh kellu jsuq bi prudenza u jekk ma setax jara missu waqaf. Illi t-Tribunal jikkonkludi li ghalkemm l-arblu ma kienx fejn suppost kellu jkun, l-incident gara ghaliex il-konvenut ma kienx qed izomm *a proper lookout*. Mir-ritratti jirrizulta li dan mhux xi arblu zghir.

Ghalhekk jiddikjara li l-konvenut kien responsabbli ghall-incident u jikkundanna lill-konvenut ihallas lill-Korporazzjoni attrici s-somma ta' tlett mija w erbatax-il lira Maltin u hamsa u hamsin centezmu (Lm314.55c) bl-imghax mid-data tan-notifika ta' l-Avviz (15 ta' Novembru, 2003) u bl-ispejjez kontra l-konvenut.

< Sentenza Finali >

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