



TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
PHILIP MANDUCA**

Seduta tas-27 ta' Gunju, 2005

Talba Numru. 1219/2004

Raymond Attard ID No. 257656 M

Vs

Roseanne Borg 259480 M

It-Tribunal

Ra l-Avviz li fih l-attur talab li l-konvenuta thallas is-somma ta' hames mija u hamsin lira Maltin (Lm550) rapprezentanti danni sofferti minnu f'incident tat-traffiku ghal liema ncident il-konvenuta kienet unikament responsabbli.

Ra r-Risposta tal-konvenuta li biha eccepjet li l-incident gara unikament bi htija ta' l-attur.

Kopja Informali ta' Sentenza

Ra x-xhieda ta' Warden 155 Noel Buttigieg u d-dokumenti esebiti minnu.

Ra x-xhieda ta' l-attur li qal li kien qieghed isuq fid-direzzjoni tal-Medserv fuq in-naha tieghu tat-triq u l-konvenuta giet fuq in-naha tieghu u saret il-habta. Hu ma kellux hsara fuq quddiem.

Fil-kontro-ezami qal li kif ra lill-konvenuta gejjja hu resaq iktar lejn ix-xellug. Il-hsara fil-karozza tal-konvenuta kienet fix-xewka. Skond ir-*Road Accident Report* wara l-incident l-attur qal:

“Kont gej fuq side tieghi giet din is-sinjorina kif lemhitni tefghet fuq side panikjat u tefghet fuq is-side tieghi. N.B. Hi kienet gejjja bi speed qawwi.”

Fl-istess *Road Accident Report* gie rrapportat li l-konvenuta qalet:

“Jiena kont hierga mix-xoghol ghaxar metri 'l boghod kont ghaddejja fuq is-side tieghi u jidher car li kont ghaddejja fuq is-side tieghi mill-brake mark u mir-ritratti, sibt vettura gejjja head-on fuqi fuq in-naha tieghi. Kien jidher car li ma kienx ha jbidel id-direzzjoni biex jigi fuq in-naha tieghu u ghaldaqstant ma kellix ghazla ohra hlief li nipprova nevitah billi nersaq lejn il-lemin. N.B. Hu fl-ahhar sekondi nnotani gejjja u pprova jitfa' kollox fuq in-naha tieghu.”

Fl-Affidavit taghha l-konvenuta qalet li rat lill-attur gej fuq in-naha taghha tat-triq, ghafset il-*brake* u:

“...swerving to my right, since on the left side of the road there was a fence and straight ahead I would have inevitably crashed head-on...When he noticed my car he swerved completely to his left...”

Ikkunsidra

Il-lokalita' ta' l-incident li rrizulta mill-access.

Illi l-konvenuta hadet decizjoni hazina meta daret lejn il-lemin biex tipprova tevita l-incident. Illi mill-iskizz jirrizulta

li l-konvenuta kellha spazju fuq ix-xellug taghha u spiccat *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 unwitnessed 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 f'din il-kawza hemm provi mhux biss li l-konvenuta spiccat *wrong side* izda wkoll li hadet decizjoni hazina meta daret lejn il-lemin. L-attur kellu hsara biss fuq il-lemin u xejn fuq quddiem. Mill-iskizz hemm indikazzjoni ulterjuri li l-konvenuta kienet responsabbli.

Illi fic-cirkostanzi ghalhekk it-Tribunal jiddikjara li l-konvenuta kienet unikament responsabbli ghall-incident.

Id-danni m'humie x ikkontestati.

Ghaldaqstant jichad ir-Risposta tal-konvenuta, jilqa' t-talba attrici u jikkundanna lill-konvenuta biex thallas lill-attur is-somma ta' hames mija u hamsin lira Maltin (Lm550). Bl-ispejjez u bl-imghax mill-25 ta' Gunju, 2004.

Kopja Informali ta' Sentenza

< Sentenza Finali >

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