MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PETER BORG COSTANZI

Seduta tal-15 ta' Lulju, 2005

Talba Numru. 294/2004

Middlesea Insurance p.l.c. (C5553) kif surrogata fid-drittijiet tal-assikurat taghha Marianus sive Mario Grech sija bil-polza u sija bil-ligi u l-istess Marianus sive Mario Grech (ID 12448G)

Vs

Neil Pace (ID 581885M)

It-Tribunal

Ra l-Avviz tat-talba li bih l-atturi talbu li l-konvenut jigi kkundannat ihallas is-somma ta' hames mija u tmienja u sebghin lira Maltin u sitta w erbghin centezmu (Lm578.46c) rapprezentanti danni sofferti mill-atturi f'incident stradali ta' l-20 t'April, 2003 fi Triq il-Wied, Msida / Birkirkara bejn iz-ziemel misjuq mill-konvenut u l-vettura

bin-numru ta’ registrazzjoni ACM 413 misjuqa minn u proprjeta’ ta’ l-attur Marianus sive Mario Grech.
Ra r-Risposta tal-konvenut li biha wiegeb illi d-domandi attrici huma nfondati fil-fatt u fid-dritt u ghandhom jigu michuda bl-ispejjez kontra taghhom stante li ghall-incident imsemmi l-konvenut ma kellu l-ebda tort.

Sema’ x-xhieda ta’ PS 201 Sandro Magri, John Lentini u Mario Grech.

Ra l-atti kollha tal-kawza.

Ra li l-konvenut ma pprezentax ruhu ghas-seduti ta’ l-1 ta’ Frar, 2005, 21 ta’ Marzu, 2005 u l-24 ta’ Mejju, 2005.

Ra li l-konvenut naqas milli jattendi wkoll ghas-seduta tal-21 ta’ Gunju, 2005 li fiha l-avukat tieghu talab differiment ghaliex qal li l-konvenut ma kienx jiflah, izda ma gie prodott l-ebda dokument in sostenn ta’ dan u ghalhekk il-kawza giet imhollija ghas-sentenza ghal-lum.

Ikkunsidra

Illi mill-provi prodotti jirrizulta illi Marianus sive Mario Grech kien qed isuq il-vettura bin-numru ta’ registrazzjoni ACM 413 fi Triq il-Wied, Msida / Birkirkara sejjer fid-direzzjoni ta’ Birkirkara. Huwa kien miexi bil-mod u quddiemu kien hemm karozza tal-linja. Il-gurnata kienet dik tal-Hadd u l-kollizjoni saret ghall-habta tad-disgha / l-ghaxra ta’ filghodu. Warajh kien hemm ziemel gej bis-serkin u fuqu kien hemm zewgt itfal, kienu t-tnejn *teenagers*. F’daqqa wahda huwa sema’ tisbit gol-karozza tieghu minn wara u kien dahal fuqu z-ziemel. Huwa waqaf izda z-ziemel telaq jigri u z-zewg guvnotti telqu jigru ‘l hemm ghalkemm is-serkin baqa’ hemmhekk. Huma baqghu sejrin u ma regghux gew lura. Wara dan iz-ziemel kien hemm bniedem li kien qed isuq vettura li presumibilment kellu xi konnessjoni ma’ l-imsemmija guvintur u kellem lil Grech, izda mbaghad telaq ‘il hemm u ma giex lura u b’hekk lil Grech hallewh wahdu. Agir li gie apparentement irrepetut anki f’dawn il-proceduri mill-istess konvenut.

L-attur cempel lill-pulizija li nvestigaw il-kaz u wara rrizulta li z-ziemel bis-serkin kien qed jinstaq proprju mill-konvenut kif jidher mill-okkorrenza esebita u kkonfermata bil-gurament minn PS 201 Sandro Magri li fir-Rapport tieghu ddeskriva l-incident kif ser jinghad:

“Driver’s Statement: Car number ACM 413

“Whilst I was driving through Msida Valley Road towards the direction of Birkirkara centre at a low speed behind a route bus all of a sudden the horse dashed into my rear part of the vehicle.”

Imbaghad hemm *police version of evidents*:

“No serious breaches of the MVR were observed. The horse suffered injuries to its chest. It was pulled by a wooden cart by its owner Neil Pace DOB 26/11/1985 of No. 8 Joseph Briffa Square, Birkirkara whom stated that he was slightly riding on the outer side of the lane behind vehicle number ACM 413 that was driving slowly behind a bus when all of a sudden the vehicle without any indication lights turned into the direction of his horse and caused him to collided into its rear part.”

Illi ghalkemm jidher li Pace qal lill-pulizija li Grech li kien qed isuq il-vettura quddiemu biddel il-via tieghu, din il-verzjoni ma gietx sostanzjata mill-istess Pace.

Mill-provi prodotti jidher car illi fil-hin ta’ l-incident kien proprju z-ziemel li baqa’ diehel gol-karozza li kien hemm quddiemu u dan mhux ghal xi ragunijiet imputabbli ghall-istess Grech izda semplicement ghaliex jidher car illi l-konvenut ma kienx qed jikkontrolla sew liz-ziemel u ma kienx qed izomm distanza xierqa w opportuna wara l-karozza li kien hemm quddiemu.

It-Tribunal m’ghandux dubju illi r-responsabbilta’ unika tal-kollizjoni hija s-sewqan ta’ l-istess konvenut.

Fir-rigward tad-danni dawn gew debitament ippruvati u sostanzjati mid-dokumenti esebiti.

Ghal dawn il-motivi t-Tribunal jaqta' u jiddeciedi billi filwaqt li jiddikjara lill-konvenut unikament responsabbli ghall-incident, jilqa' t-talba ta' l-atturi u jikkundanna lill-konvenut sabiex ihallas lill-atturi s-somma ta' hames mija u tmienja u sebghin lira Maltin u sitta w erbghin centezmu (Lm578.46c) bl-interessi u bl-ispejjez kif mitluba.

< Sentenza Finali >

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