MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta tat-18 ta' Mejju, 2006

Talba Numru. 883/2005

Untours Insurance Agents Ltd. (C 5655) ghal
Qatar Insurance Company surrogati
fid-drittijiet ta' Joseph Zarb

Vs

Demanuele Alfred (ID 741450 M)

It-Tribunal

Ra l-avviz li fih is-socjeta' attrici talbet il-hlas ta' tlett mija u tlieta u hamsin Liri Maltin u tnejn u tletin centezmu (Lm353.32c) rapprezentanti danni f'incident awtomobilistiku ghal liema incident l-konvenut kien unikament responsabbli minhabba imprudenza, imperizja, negligenza u inosservanza tar-regolamenti.

Ra r-risposta fejn l-konvenut fl-ewwel lok qal li mhux responsabbli ta’ dan l-incident.

Fit-tieni lok il-konvenut jikkontesta l-ammont mitlub.

Ra r-road accident report fejn il-konvenut qal:

“Jiena kont wieqaf bl-indicator tal-lemin on u f’daqqa wahda hu qalani minn fuq u dahal go fija.”

Bhal hsara kellhu “front right wing”.

Joseph Zahra qal:

“Jiena kont niezel normali u f’daqqa wahda l-vettura l-ohra dahret fuq il-genb tieghi.”

Bhala hsara kellhu “front bumper u front left wing”.

Ra x-xhieda ta’ Warden 267 Samuel Micallef fejn jikkonferma r-rapport in konnessjoni ma’ dana l-incident.

Ra x-xhieda ta’ Warden 99 Mario Galea fejn jikkonferma l-iskizz.

Fil-kontro-ezami jghid illi fejn sehh l-incident hija one way ‘l isfel u cioe fid-direzzjoni li kienu sejrin il-vetturi. Jikkonferma li hemm entrata fuq il-lemin ghal parking tal-PBS.

Jghid ukoll illi l-iskizz li sar mill-ufficju tal-Wardens mhux ezatt bhal ma’ ghamel hu. Jikkonferma li tieghu huwa l-korrett.

Galea jikkonferma wkoll illi zewg karozzi jghaddu fejn sehh l-incident.

Ra x-xhieda ta’ Mario Mifsud li huwa l-Claims Manager mas-socjeta attrici fejn jikkonferma l-prospett tad-danni kif ukoll l-ammont in kwistjoni.

Ra x-xhieda ta’ Joseph Zarb fejn jghid illi dakinhar ta’ l-incident kien niezel minn fejn il-PBS u ra karozza wieqfa fuq ix-xellug tieghu. Jghid illi hekk kif wasal hdejn din il-vettura, hu hass xi haga tmiss mal-vettura tieghu.

Jikkonferma r-ritratti esebiti.

Fil-kontro-ezami jghid illi ma’ kienx hemm karozzi ohrajn ipparkjati hlief tal-konvenut. Ma’ jaqbilx ma’ l-iskizz ghaliex jerga jghid li ma’ kienx hemm karozzi ohrajn ipparkjati. Fl-istess kontro-ezami Zarb jghid li ma’ jiftakarx jekk kienx hemm karozzi pparkjati.

Jikkonferma li ma’ l-impatt mexa’ ftit iktar il-quddiem. Ma’ ra l-ebda indicators.

Ra x-xhieda tal-konvenut fejn jikkonferma li qal fir-road accident report.

Fil-kontro-ezami jikkonferma li hu xeghel l-indicator xi tul ta’ zewg karozzi qabel ma’ waqaf.

It-Tribunal jaghmel riferenza ukoll ghal artikolu 85 tal-Highway Code li jikkonferma d-dover tas-sewwieq li “well before you turn at a junction, take full account of the position and movement of the following traffic. Signal your intention and, when safe to do so, take the appropriate position. Wait until there is a safe gap between you and any approaching vehicles before you complete a right turn…when changing direction you must invariably signal your intention to turn well in advance and make sure that it is safe to do so by looking in your mirror”. Ara ukoll Buchanan (Liability in Motor Cases) Pagina 29:

“it became the duty of the driver to keep a look-out both in front and behind. He no longer complies with his duty unless, after giving the turning signal, he takes reasonable steps to satisfy himself that the following traffic has both seen and reacted to his signal, which it is submitted boils down to taking reasonable steps to ensure that there will be no traffic in the process of overtaking him as he makes his turn”.

Dan gie konfermat f'diversi sentenzi – Clarke vs. Aquilina 6/12/1977; Sciberras vs. Zammit 13/7/78; Azzopardi vs. McCarthy 20.9.78; Deguara vs. Mallia 25/1/1983; Gendrex vs. Vassallo 15/1/1988 u T. Duca vs. E. Mifsud 15/6/1988 kollha tal-Prim 'Awla tal-Qorti Civili.

Il-konvenut kien obbligat li jkun pjenament a konoxxenza tal-posizzjoni u tal-moviment tat-traffiku li jkun qed isegwih fil-mument meta jkun ser jipprova jaghmel il-manuvra li kienet intenzjonata li jaghmel. Manuvra li kienet timponi fuqu l-obbligu mhux biss li jirrallenta biex jiehu l-posizzjoni tieghu biswit il-junction imma ukoll li jaccerta ruhu mill-moviment tal-vetturi kollha li jkunu jsegwuh, waqt li jissenjala adegwatament x'kienet l-intenzjoni tieghu. (ara Mazengarb, On Negligence on the Highway, page 329 et seq).

Il-konvenut naqas li ihares fuq il-lemin tieghu qabel ma dar fuq il-lemin u ghalhekk ghandu jigi dikjarat risponsabbli ghal incident in kwistjoni. Illi fix-xhieda tieghu l-konvenut ma qalx li hares warajh qabel ma gibed ghan-nofs it-triq. Hu jghid, "Fuq ix-xellug tieghi kien hemm karozzi ipparkjati. Jiena bdejt nigbed ghan-nofs. Jiena nzilt bil-mod, waqaft, kelli l-indicator, u sakemm kont ser naqbad indur ha nidhol nisma' l-habta".

It-Tribunal jikkonkludi li l-kawza prossima tal-incident kien li l-konvenut dar fuq il-lemin tieghu minghajr ma hares warajh. Il-versjoni tal-attur hija aktar kredibli. Il-konvenut ried jidhol f'triq fuq il-lemin huwa izjed probabli li ezatt qabel il-habta dar ftit fuq il-lemin u b'rizultat ta' dan gara l-incident.

Gew ezebiti l-ircevuti u l-ispejjes jidhru ragjonevoli.

Ghaldaqstant jichad ir-risposta tal-konvenut u jikkundanna lil konvenut sabiex ihallas lill-attur l-ammont ta' tlett mija u tlieta u hamsin Liri Maltin u tnejn u tletin centezmu (Lm353.32c) bl-ispejjes kif mitluba.

< Sentenza Finali >

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