MALTA

TRIBUNAL GHAL TALBIET ZGHAR

GUDIKATUR DR.
PHILIP MANDUCA

Seduta ta' l-1 ta' Gunju, 2006

Talba Numru. 942/2004

GasanMamo Insurance Limited (C3143) hekk kif surrogata fid-drittijiet ta' l-assikurata taghha Therese Galea (ID 580663 M)

Vs

Denim Services Limited (C2481) u J. Lautier Company Limited (C 5875) u b' ordni tal-14 ta' Marzu 2003 giet kjamata in Kawza s-socjeta' Denim Sportswear Limited (C 19504)

It-Tribunal

Ra l-avviz li fih is-societa attrici talbet il-hlas ta' mitejn u tletin Lira u hames centezmi (Lm230.05c) rapprezentanti danni f'incident awtomobilistiku meta gate tal-metall waqghet fuq il-vettura ta' Galea li kienet ipparkjata fil-

propjeta tas-socjeta konvenuta Denim Services Limited ghal liema incident l-istess socjeta konvenuta kienet unikament responsabbli minhabba imprudenza, imperizja, negligenza u inosservanza tar-regolamenti.

Ra r-risposta fejn is-socjeta konvenuta Denim Services Limited qalet li mhux responsabbli ta' dan l-incident.

Ra r-risposta ta' J. Lautier Company Ltd. fejn qalet li mhux responsabbli ta' dan l-incident.

Ra d-dokumenti ezebiti.

Ra l-Insurance Road Accident Report fejn is-sewwieqa tal-vettura pparkjata qalet:

"Was parked inside the parking area of Denim Services Factory which she left it in front the boundary wall near the gate and she was informed by some workers that an iron gate fell on her vehicle."

Id-deskrizzjoni ta' l-Insurance kienet kif gejja:

"Sliding iron gate which was lose slided, most probably by a strong wind and accidentally fell on the parked vehicle."

Ra x-xhieda ta' Theresa Galea fejn tikkonferma l-incident.

Ra x-xhieda ta' Stephanie Galea, impjegata ma' Denim Sportswear Ltd. li kienet is-sewwieqa tal-vettura in kwistjoni f'dana l-incident. Tikkonferma r-road accident report.

Tispjega illi meta gew informawha bl-incident, hi marret barra u rat zewg haddiema jirrangaw gate iehor u mhux il-gate li ghamel il-hsara lil vettura taghha. Meta gew il-Pulizija wiehed mil-haddiema qal illi l-gate kienet waqghet bir-rih.

Tghid illi hi halliet distanza ta’ xi pied bejn il-karozza u l-gate meta pparkjat. Tikkonferma li dik il-gimgha qabel l-incident ma’ rat lil hadd jaghmel xi xoghol fuq il-gate.

Ra x-xhieda ta’ PS 994 Joseph Abela fejn jikkonferma r-road accident report. Jikkonferma wkoll illi l-haddiema kienu qalulhu li waqghet bir-rih fuq il-vettura ta’ Galea. Jghid illi Albert Theuma jew Francis Ciantar kien informawh li qabel l-incident in kwistjoni kien hemm gebla li kienet qed izomm din il-grada imma bir-rih ma’ baqghetx hemm il-gebla.

Ra x-xhieda ta’ Manuel Lautier fejn jikkonferma li dakinhar ta’ l-incident huma kienu qed jahdmu fuq xi gates tad-Denim Services Ltd. jghid illi jumejn qabel l-incident ma setawx ikomplu jahdmu fuqha minhabba x-xita u welding. Kienu ghamlu katnazz u katina fuq il-gate izda wara jumejn kienet miftuha.

Jikkonferma wkoll illi waqt li kienu qed jahdmu fuq il-gate l-ohra, l-gate in kwistjoni waqghet bir-rih fuq il-vettura ta’ Galea.

Fil-kontro-ezami jikkonferma li x-xoghol fuq dan il-gate kien ghan-nom ta’ Denim Services Ltd. Jghid illi fejn hemm il-gate kien propjeta ta’ Medwear pero l-kontijiet kienu jintbaghtu lil Denim Services. L-istess socjeta konvenuta kienet hallsithom.

Ra x-xhieda ta’ Adriano Cassar Galea li huwa involut fil-purchasing ghan-nom ta’ Denim Services Ltd. J. Lautier Company Limited kienet qed taghmel il-gates ghan-nom ta’ Denim Services Ltd.

Fejn gara l-incident kienet proprjeta tal-Malta Development Corporation mikri lil Denim Sportswear Ltd. Jikkonferma li hadd ma’ kien talab xi permess sabiex tinfetah il-gate in kwistjoni.

Ra illi wiehed mill-haddiema ta’ J. Lautier Company Ltd. ikkonferma li kienu qed jahdmu fuq il-gate in kwistjoni izda

kellhom jieqfu minhabba t-temp. Illi wara jumejn huma bdew jahdmu fuq gate ohra.

Ikkunsidra li s-societa kjamata fil-kawza qatt ma giet notifikata bl-avviz u s-societa attrici qalet a fol. 44 li mhux se tinsisti fuq il-kjamata fil-kawza.

Ikkunsidra li skond Manuel Lautier qal li kienu qed jahdmu fuq il-gate in kwistjoni jumejn qabel l-incident izda waqfu minhabba x-xita. Imbaghad bdew jahdmu fuq gate u kif kienu qed jahdmu fuq il-gate ta’ hdejha, l-gate in kwisjtoni infethet bir-rih u waqet fuq il-vettura.

Is-societa attrici kellha tipprova li xi hadd mis-societajiet konvenuti kienu risponsabbli ghal fatt li waqa l-gate. Ma giex ppruvat li l-gate infetah u waqa minhabba x-xoghol tas-societa Lautier Company Limited. Lautier kienet qed tahdem ghan-nom ta’ Denim Services Limited. Il-gate kien go fabrika mikri lis-societa Denim Sports Wear Limited. Illi ghalkemm giet kjamata fil-kawza din is-societa Denim Sports Wear Limited din qatt ma giet notifikata u s-societa attrici qalet li mhux se tinsisti fuq il-kjamata fil-kawza. Illi billi s-societa attrici naqset li iggib prova ta’ negligenza tal-konvenuti jew min minnhom, it-Tribunal jichad it-talba tas-societa attrici bl-ispejjes kontra taghha.

< Sentenza Finali >

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