



Neutral Citation Number: [2021] EWHC 532 (QB)

Case No: QB-2019-003019

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 09/03/2021

Before :

THE HONOURABLE MRS JUSTICE COLLINS RICE DBE

Between :

RAFAQAT MIRZA

Claimant

- and -

(1) MAZHAR FAROOQUI
(2) AL NISR PUBLISHING LLC

Defendants

The Claimant appeared in person
The Defendants did not appear and were not represented

Hearing date: 10th February 2021

JUDGMENT

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 10:30am on Tuesday 9th March 2021.

Mrs Justice Collins Rice:

Introduction

1. The claimant, Mr Mirza, is a digital entrepreneur of Canadian and British Pakistani heritage. His business, social and personal life is based in the UK. He owns or invests in more than a hundred online ventures. From 2017 he acted as an unpaid advisor to Muslim Entrepreneur Network Ltd, a company providing online business and entrepreneur skills aimed at the Muslim community in the UK. His specific role related to a membership programme called Leverage. The idea of Leverage was to crowd-source support for startup online businesses, exploiting internet search technology to access market share. Mr Mirza advised on marketing and resourcing the startup business ventures.
2. He brought this libel action because of an article published by the defendants on the Gulf News website in April 2019. Gulf News is an English-language newspaper based in the UAE with a global online readership, including a UK-based readership of a little under half a million, principally in the Muslim community. The first defendant is the journalist under whose byline the article appeared. The second defendant is the publisher of Gulf News. The article appeared under the headline: *'Serial' entrepreneur in Dubai accused of being serial scammer*.
3. Mr Mirza sent a professionally drafted letter before action on 23rd April 2019 protesting that the article complained of conveyed the meaning that he was a fraudster preying on wealthy investors; that Leverage was a fraudulent Ponzi scheme; that it was being investigated as fraudulent by HMRC in the UK; that he had been reported to the police for wrongdoing in the UK, Dubai and Canada, and that he was dishonest. He said that all of this was wholly false, had been published and further disseminated maliciously in order to harm him, and was likely to cause him serious harm. He sought an apology and retraction, failing which he would issue a claim for damages.
4. Mr Abdul Hamid Ahmad, editor-in-chief of the second defendant, responded to the letter before action on 12th June 2019 by email. This stated: *We vehemently deny the content of your letter and allegation as put forth by you. We do not fall under the purview of English laws. We are not obliged to respond to your letter. You may, however, send us your comments on the article, which we can publish on print and online*. The first defendant made no response. The defendants did not withdraw the article. They did not publish any comments from Mr Mirza.
5. Mr Mirza issued and served his claim on 23rd August 2019. It appears that neither defendant has made any response to Mr Mirza, or engaged in any way with the ensuing litigation, since that time. The article complained of continues to be published.
6. Mr Mirza obtained a default judgment on his claim on 9th April 2020. The matter was listed before me on 10th February 2021 to consider quantum of damages and several applications for ancillary relief. Those applications are dealt with separately in the Order recording the outcome of the hearing. This judgment deals briefly with quantum of damages.

Quantum of general damages

7. I had before me Mr Mirza's bundle of documents in this case, including a total of four witness statements with exhibits which have been filed and served on the defendants over the course of the litigation. These constitute his clear and unchallenged evidence. I also had the considerable benefit of Mr Mirza's carefully prepared and researched submissions, and clear presentation of his case, when he appeared before me.
8. Mr Mirza seeks an award of general damages. I have directed myself to the guidance from the decided authorities on assessing quantum of general damages in defamation proceedings. I have in particular noted the helpful recent summaries in *Sloutsker v Romanova* [2015] EWHC 2053 (QB) at paragraphs 74 to 82, and *Suttle v Walker* [2019] EWHC 396 (QB) at paragraphs 42 to 44.
9. The purpose of an award of damages in these defamation proceedings is to compensate Mr Mirza for injury to reputation and to his feelings, so far as money is able to do that. Approaching that task, I must take account of the gravity of the defamation, the extent of its publication (including deliberate or predictable re-publication), and evidence of the harm it has done (including what Mr Mirza knows or feels other people around him are thinking of him). The sum awarded must be enough to serve as an outward and visible sign of vindication – sending a message restoring his good name 'sufficient to convince a bystander of the baselessness of the charge'.
10. At the same time, I must ensure that the award compensates Mr Mirza only for injury caused by publication in the UK. I am not concerned with the overseas readership of Gulf News. And the compensation is directed only to harm sustained as a result of the article itself.
11. Applying these principles to Mr Mirza's case, I make clear at the outset that I am proceeding on the basis of the pleaded meaning of the article complained of, on the unchallenged basis of which he obtained his default judgment. I am satisfied that it is at least a reasonable interpretation of the article in so far as it applies to him. I am also proceeding on the basis of his uncontroverted evidence, which I have considered and tested and find no obvious reason to disregard.
12. On that basis, turning first to the question of the gravity of the allegations, I note that they assert criminal misconduct of a dishonest, deceptive and predatory nature; that they suggest this has deservedly attracted the attention and active investigation of law enforcement authorities in the UK and internationally; and that they impugn Mr Mirza's honesty and integrity in a way which goes to the fundamentals of his standing as a businessman, an entrepreneur and a citizen. These are serious allegations, touching closely on Mr Mirza's personal integrity and professional reputation.
13. On extent of publication, I have taken into account the UK circulation figures of the Gulf News website, and the evidence before me that the first defendant actively encouraged further dissemination of the article to media outlets and influencers particularly likely to attract the attention of the Muslim community in the UK. I have also taken into account evidence that the article does appear to have been circulated widely on social media and in Mr Mirza's local press, to an audience among or material to the Muslim business community, and in a manner which was either positively intended by the defendants or entirely foreseeable by them as a 'percolation effect'.

This adds up to extensive publication in the UK, with particular emphasis on the Muslim community.

14. As to evidence of harm, I take into account that Gulf News is an edited mainstream English-language newspaper website, likely to be regarded as credible and authoritative by its readership. Mr Mirza has a distinctive name and nickname, and searches on these lead quickly to the article. I take into account the evidence before me of the harm done to Mr Mirza's business enterprises, and the loss of confidence in him among the UK Muslim business community, which had been the cornerstone of his business success up until that point. His business model relied on substantial and extensive networks and contacts, significantly co-extensive with the likely readership of this article. It was a successful model, but vulnerable – sufficiently well established to make his reputation a valuable business asset, but not so well established as to be robust to allegations of the sort made.
15. I take into account the evidence that this harm is directly attributable to the promulgation of the article, including by reference to timing, the extent to which the article has been directly cited to him, and the loss of deals and cancellation of engagements by people known to have been influenced by it. I note what he says about the impact on his personal, family and social life in his community, and the hurt, embarrassment and ostracism he and his family have experienced.
16. I take into account that Mr Mirza has never received a retraction or apology, and that no attempt has been made by the defendants to engage with his complaints or to acknowledge or respect his proceedings in this Court.
17. I also take into account, as best as I am able, that the article complained of impugns both Mr Mirza and other members of his family, including his brothers who are also businessmen. Mr Mirza emphasised to me that his own business affairs are entirely separate from those of his brothers. Compensation is due for the extent to which the article not only directly impugns Mr Mirza but also expressly impugns him by association with his brothers. Compensation is not, however, due for any damage to his reputation by association with his brothers where that association cannot be attributed to the article but is rather attributable to the family connection in its own right. If people have access to other sources of information about Mr Mirza's brothers, and think the worse of *him* as a result of what they know about *them*, that is not a matter for these proceedings.
18. The overall calculation of compensatory damages in defamation cases has to be undertaken in a broad and holistic way, much as juries used to do, taking all of these relevant considerations into account. Regard may be had to the (very differently assessed) awards in personal injury cases to ensure that damages for defamation are, and are seen to be, proportionate. Regard may also be had to other awards in defamation cases of a comparable nature, for similar purposes. Mr Mirza drew my attention in particular to the award made in *Reachlocal UK Limited v Bennett & Ors* [2014] EWHC 3405 (QB), which has some parallels to the present case. Each case is however unique, and must be considered on the totality of its own facts.
19. Adopting the approach I have indicated above, and taking account of all the factual matters I have identified, my conclusion is that the appropriate global award of general damages to compensate Mr Mirza for injury to reputation and to feelings, to ensure

adequate vindication in respect of these allegations, and to restore him in his community, is £75,000.