



JUDICIARY OF
ENGLAND AND WALES

Chris Lance Cairns v Lalit Modi

KC v MGN Limited

Court of Appeal

31 October 2012

SUMMARY TO ASSIST THE MEDIA

The Court of Appeal (Lord Chief Justice, Lord Neuberger and Mr Justice Eady) has today given judgment in two separate cases relating to the amount of libel damages awarded in each.

In Cairns v Modi, the Court dismissed an appeal by Mr Modi against the amount of damages he was to pay Mr Cairns.

In KC v MGN Ltd, the Court allowed the appeal by MGN and reduced the amount of damages they were to pay from £75,000 to £50,000.

Cairns v Modi [2012] EWHC 756 (QB)

The background to this case is set out in paragraphs 4 – 9.

KC v MGN Ltd [2012] EWHC 483 (QB)

The background to this case is set out in paragraphs 10 – 19.

The issues raised on appeal in Cairns v Modi

The appeal raised five issues that were considered by the Court:

- (i) The need for proportionality in libel awards – this is considered in paragraphs 20 – 25.
- (ii) The scope of the tweet’s publication – this is considered in paragraphs 26 – 27.
- (iii) The Judge’s approach towards the need for vindication – this is considered in paragraphs 28 – 33.
- (iv) Should the Judge have given a more detailed breakdown of the award? – this is considered in paragraphs 34 – 38.
- (v) The limited impact of the *Cricinfo* settlement – this is considered in paragraphs 39 – 40.

The Lord Chief Justice, on behalf of the Court, concluded:

“We reject the criticisms of the judge’s reasoning or of the total award based on a starting point of £75,000 with the £15,000 uplift directly linked to the conduct of the hearing. In our judgment they were proportionate to the seriousness of the allegation and its direct impact on Mr Cairns himself and will serve to vindicate his reputation. The appeal is accordingly dismissed.” (para 41).

The issues raised on appeal in *KC v MGN Ltd*

Introducing the issues raised in the case, the Lord Chief Justice, on behalf of the Court, said:

“It is hard to exaggerate the seriousness of the publication of a false assertion that a man of good character has been convicted of the rape of a child. Nevertheless the assessment of damages consequent on the libel remains a fact specific decision, to be reached by reference to the principles identified in paragraphs 21-25. This particular case involves two distinct significant features. First, throughout the currency of the libel, for as long as it remained uncorrected, KC remained anonymous - as he does to this day. Second, the falsity of the allegation was recognised and publicly corrected at a very early stage. These are features which, notwithstanding the seriousness of the false allegation, Mr Browne QC, on behalf of the newspaper, submitted had been given insufficient weight in the judge’s assessment of damages.” (para 42)

- (i) The offer of amends regime – this is considered in paragraphs 43 – 45.
- (ii) The relevance of KC’s anonymity – this is considered in paragraphs 46 – 50.

The Lord Chief Justice, on behalf of the Court, concluded:

“We have, of course, attached great weight to the evaluation of the starting point by the trial judge. We should not interfere unless satisfied that it was plainly wrong, or followed a misdirection. We have reflected on what we might reasonably describe as the wide parameters for damages in libel cases, and the highest level of awards which are currently considered appropriate. We have also reflected on the nature and extent of the personal injury which would culminate in an award of £150,000 for general damages. Such an award would reflect a moderately severe brain injury, with some lifelong disadvantageous consequences on the life and amenity of the claimant. **If the circumstances of publication and the conduct of the defendant in this case had approximated to that of Mr Modi, with all the attendant publicity, directly and expressly repeating that KC was a sexual predator, and identifying him, or providing the means for his identification, an award of £150,000 would have been inadequate. However, given the limited number of those who might have read or heard of the false allegation made against him, and appreciate that it did indeed refer to him, and the relative speed with which it was comprehensively and unequivocally regretted and withdrawn, the starting point was too high. We propose to reduce it to a level which, consistently with the limited publication and early apology, would nevertheless adequately reflect the abhorrent nature of the crime falsely alleged against KC and the damage done to and its impact on him. A proportionate figure for this purpose is £100,000.**

“The offer of amends was made with reasonable promptitude in this case and the first apology published even earlier. KC therefore knew very soon after the date of publication that he was vindicated, and that this was bound to have “a major deflationary effect” on any award. We understand that this discount is as high as any discount so far selected by any judge exercising this jurisdiction. In our judgment it was appropriate. The result following the discount for the offer of amends under the statutory regime is that the starting point £100,000 will be reduced to an award of £50,000. To this extent the appeal is allowed.” (para 49 - 50)

-ends-

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document.