[GB] Supreme Court refuses permission to appeal against the basis for calculating damages awards for breach of privacy and misuse of information

IRIS 2016-6:1/14

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The Supreme Court in MGN Limited v Gulati and others on 22 March 2016 upheld the High Court decision of Mr Justice Mann in respect of assessing damages payable to claimants who had been victim of invasion of privacy, including telephone hacking by some staff of the Daily Mirror newspaper, owned by Mirror Group Newspapers Limited (MGN) (see IRIS 2015-7/18).

MGN had appealed to the Court of Appeal, contending that the damages awarded by Mr Justice Mann were excessive. The Court of Appeal's judgment, dated 17 December 2015, dismissed MGN's appeal on all grounds (see IRIS 2016-3/17). The Court of Appeal refused MGN permission to appeal to the Supreme Court, so the newspaper company sought permission from the Supreme Court itself.

In an order given by Lords Neuberger, Sumption, and Hughes of the Supreme Court on the 22 March 2016 refused permission to appeal "because the application does not raise an arguable point of law".

Mr Justice Mann determined that the level of compensation that should be paid to the eight representative claimants should not be determined solely on the basis of distress alone, but also on the extent of the invasion of privacy.

When MGN appealed to the Court of Appeal they raised four points: (a) the level of damages should be limited to damages for distress; (b) the awards were disproportionate compared to general damages for a personal injury claim; (c) the awards were excessive compared to basis for calculating damages arising from the European Court of Human Rights (ECtHR); (d) the awards involved an element of double counting. These four points of appeal were rejected by Court of Appeal judges Arden, Rafferty and Kitchen LJJ (their rationale is outlined in IRIS 2016-3/17).

The consequence of the Supreme Court refusing an application for leave to appeal is that Mr Justice Mann's analysis of the legal principles for calculating breach of privacy damages remains binding, and will be applied in forthcoming cases concerning the Sun and News of the World newspapers.

MGN Limited v Gulati and others, UKSC 2016/0016, 23 March 2016

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https://www.supremecourt.uk/news/permission-to-appeal-decision-23-march-2016.html

Gulati and others v MGN Limited [2015] EWHC 1482(Ch)

http://www.bailii.org/ew/cases/EWHC/Ch/2015/1482.html

Representative Claimants v MGN Limited [2015] EWCACiv 1291

http://www.bailii.org/ew/cases/EWCA/Civ/2015/1291.html

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