

Muhd Irrawadey Bin Metali ... **Appellant**

AND

Ibrahim Bin Maidin ... **Respondent**

(Court of Appeal of Brunei Darussalam)
(Civil Appeal No. 9 of 2011)

Ibrahim Bin Maidin ... **Appellant**

AND

Muhd Irrawadey Bin Metali ... **Respondent**

(Court of Appeal of Brunei Darussalam)
(Civil Appeal No. 14 of 2011)

Before: Mortimer P, Davies and Leonard JJ A.
9th December, 2011.

Mortimer P.:

Civil Appeal No 14 of 2011

In Civil Appeal No 14 of 2011 we made the following order for costs:

“It appears that the plaintiff made two Calderbank offers. One on 10 November 2011 offering to accept BND 2,500.00 which expired on 14 November 2011. This was not accepted and was replaced by a lower offer of BND 1,500.00 on 16 November which expired on 18 November. Neither was accepted and the matter was settled on not less favourable terms than the offers.”

Orders

In the circumstances this appeal is allowed with costs up to 14 November 2011 but the Defendant will pay the costs on an indemnity basis thereafter.”

Shortly after handing down the judgments it became apparent that we ought to have made this order for costs nisi as we had not heard counsel on this issue. Consequently we have taken written submissions from both parties.

The plaintiff's success in *Appeal Number 9 of 2011* resulted in the plaintiff succeeding on the major issue in this appeal which was challenging the award of costs below. Clearly this was the major ground of appeal which involved most of the costs under discussion.

The defendant's success in this appeal was therefore extremely limited. He only succeeded on a minor issue by reducing an award by BND 2,219.00. As can be seen the parties compromised this issue in open court at a sum no greater than an earlier offer from the plaintiff.

In these circumstances we consider the appropriate order is to grant the plaintiff's costs of this appeal but to reflect the defendant's very limited success we make no order for any of the costs on an indemnity basis.

Order

Our order is therefore that the plaintiff should have his costs in *Civil Appeal Number 14 of 2011* to be taxed if not agreed. This order to be substituted for our earlier order on costs.

Both Appeals

The plaintiff applies for a certificate for two counsels.

So much depends upon the individual case that we are reluctant to lay down any principle upon which such certificate should be granted. It suffices to say that the detail of the issues on the medical evidence, the damages and the necessary submissions are just sufficiently complicated for us to grant a certificate for two counsel and we so order.

Mortimer, P.

Davies, J.A.

Leonard, J.A.