Hadi Mustofa **… Plaintiff**

AND

Normila Sdn Bhd **… Defendant**

(Intermediate Court of Brunei Darussalam)
(Civil Suit No. 28 of 2019)

Hazarena Bte POKSJ DP Hj Hurairah, Judge
Date of Ruling: 12th November, 2026.

Headnote: CIVIL PROCEDURE — Costs — Party-and-party costs — Assessment of reasonable costs — Gross sum in lieu of taxation — Order 59 r. 9(4)(b) and 27(2) — Bill of Costs and timesheets — Excessive and duplicative work — Reasonableness of professional fees — Trial attendance — Proportionality — Costs exceeding damages awarded — Exercise of judicial discretion.

Case cited:
Md Noor Bin Hj Ali v Wai Namsui and Anor [1998] JCBD 291

Laws cited:
Order 59, rule 27 of the Rules of the Supreme Court
Practice Direction 2 of 2023
Circular No. 8 of 1998
Order 59 and Appendix 1 to the Rules of the Supreme Court
Order 59, rule 27(2) of the Rules of the Supreme Court

RULING ON COSTS

Hazarena, Judge:

Introduction and Background

1. This matter concerns a claim for damages arising from a workplace accident involving the Plaintiff, Hadi Mustofa, an Indonesian national employed by the Defendant, Normila Sdn Bhd, as a labourer at the Eco-Corridor Park project in Sungai Kedayan, Bandar Seri Begawan. On 17 August 2016, the Plaintiff sustained injuries when a drill tube being lifted by a crane during repair works swung and struck him, causing him to fall. The Plaintiff suffered a compression

fracture of the L1 vertebra, resulting in permanent spinal deformity, chronic back pain and limitations to his physical mobility and ability to undertake manual work.

2. The Plaintiff commenced proceedings against the Defendant in 2019, alleging negligence and breach of the employer's duty to provide a safe system and place of work. The Defendant denied liability and alternatively alleged contributory negligence on the part of the Plaintiff. Following trial, during which six witnesses testified, including two medical experts, the Court delivered its judgment on 22 December 2025, finding the Defendant liable for the accident and awarding damages to the Plaintiff. The Court also awarded costs to the Plaintiff, with the question of their quantum to be determined separately.

The Issue of Costs

3. The present proceedings concern the amount of legal costs recoverable by the Plaintiff following the judgment. Although the Defendant does not dispute the Plaintiff's entitlement to costs on the standard party-and-party basis, the parties disagree substantially on the amount that should reasonably be allowed. The Plaintiff has submitted a detailed Bill of Costs and supporting timesheets, claiming B$157,177.62. The Defendant considers this amount excessive and disproportionate to the nature and complexity of the proceedings and submits that a reasonable award would be B$65,000.

4. The dispute is therefore not whether the Plaintiff should recover costs, but whether the legal work undertaken, the time claimed and the corresponding fees are reasonable, necessary and proportionate in the circumstances of this particular case. The parties also differ on the extent to which the Court should rely upon the Plaintiff's timesheets and Bill of Costs in determining the appropriate amount.

Plaintiff's Arguments on Costs

5. The Plaintiff submits that the applicable provision is *Order 59, rule 27 of the Rules of the Supreme Court*, which provides that costs awarded between parties are ordinarily taxed on a party-and-party basis, allowing costs that were necessary or proper for the attainment of justice or for enforcing or defending the successful party's rights. The Plaintiff maintains that the costs incurred were justified by the nature of the proceedings and the substantial legal work undertaken over approximately six years, from the commencement of proceedings in 2019 until the conclusion of the trial in 2025.

6. The Plaintiff relies principally on the Bill of Costs and contemporaneous timesheets as evidence of the work performed. At the costs hearing counsel referred to a claim of approximately B$157,000, including disbursements, of which approximately B$139,839.67 represented professional time recorded just over 258 hours. Counsel submitted that the hourly rates charged, including B$700 for senior counsel and B$400 for another solicitor, were consistent with the applicable practice direction (*Practice Direction 2 of 2023*). The Plaintiff also relies on *Circular No. 8 of 1998* and *Md Noor Bin Hj Ali v Wai Namsui and Anor [1998]*

JCBD 291, that both recognise timesheets as '*the best evidence'* when assessing the reasonableness of preparation costs.

7. The Plaintiff further argues that the proceedings were neither straightforward nor routine. Liability and quantum were contested, the parties advanced materially different accounts of the accident, and the Court was required to consider substantial factual disputes concerning the working environment, the operation of machinery, the extent of the Plaintiff's injuries and the resulting losses. Counsel highlighted the eight-page statement of agreed facts, the 27-page summary of issues and chronology, the evidence of six witnesses, including two medical experts, and the trial hearings conducted between January and May 2025.

8. In response to the Defendant's contention that experienced personal injury practitioners should not require extensive preparation, the Plaintiff argues that each case must be assessed on its particular facts. The accident involved specific machinery and working methods requiring investigation and legal analysis. Counsel also referred to developments in the applicable case law affecting the Plaintiff's claim for economic loss, which necessitated further consideration and adjustments to the submissions. The Plaintiff therefore maintains that the time recorded was genuinely incurred and reasonably necessary, and that the Defendant's proposed figure of B$65,000 does not adequately reflect the work undertaken.

Defendant's Arguments on Costs

9. The Defendant accepts that the Plaintiff, as the successful party, is entitled to recover costs. However, the defendant disputes the amount claimed and submits that the Bill of Costs and timesheets cannot be accepted without scrutiny. The Defendant relies *on Order 59 and Appendix 1 to the Rules of the Supreme Court*, particularly the factors governing the assessment of reasonable costs, including the complexity of the proceedings, the skill and specialised knowledge required, the time reasonably spent, the importance of the matter and the value of the claim.

10. The Defendant contends that the case involved an ordinary personal injury claim arising from an industrial accident and did not raise novel or particularly difficult questions of law. The Plaintiff was represented by experienced personal injury practitioners who would already have been familiar with the relevant principles, pleadings and authorities. The Defendant argues that this experience should have reduced the time reasonably required for research, drafting and preparation. It further submits that the medical evidence was largely consistent between the two experts, thereby reducing the complexity of the issues requiring determination.

11. The Defendant also places considerable emphasis on proportionality. The Plaintiff had advanced a claim substantially exceeding the damages ultimately awarded. In the written judgment, the Court awarded B$100,569 in damages, excluding interest, whereas the costs claimed amount to approximately B$157,000. The Defendant argues that the costs sought are excessive when compared with the amount recovered and the actual complexity of the dispute. It also points out that the Plaintiff did not succeed on every aspect of the damages

claimed and that the Court's assessment was closer to the Defendant's assessment of damages than the Plaintiff's original claim.

12. In examining the Bill of Costs, the Defendant identifies numerous entries which it considers repetitive, unnecessary or excessive. These include repeated preparation of pleadings and submissions, overlapping legal research, repeated consideration of authorities already familiar to experienced practitioners, and charges for work that could reasonably have been undertaken in less time. The Defendant also challenges certain attendance fees, arguing that the Plaintiff has claimed amounts inconsistent with the prescribed scale, including claims for full-day trial attendance where proceedings occupied only part of the day, and possible duplication between attendance fees and time-based charges. The Defendant maintains that the trial, although spread across several dates, did not amount to ten full days of hearing as initially submitted by the Plaintiff.

13. The Defendant further argues that there were no unusual procedural complications or delays attributable to its conduct which would justify the level of costs claimed. While accepting that legal work was undertaken, it submits that the successful party is not automatically entitled to recover every expense or every hour recorded. The Court must determine whether the work was reasonably necessary and whether the amount claimed is fair and proportionate. On that basis, the Defendant submits that B$65,000 represents an appropriate award.

Issues for Determination by the Court

14. The principal issue before the Court is the reasonable and recoverable quantum of costs payable by the Defendant to the Plaintiff, liability for costs having already been determined in the Plaintiff's favour.

15. The first question is the appropriate procedure and legal basis for determining costs under Order 59 of the Rules of the Supreme Court. In particular, the Court must consider whether the costs should be formally taxed on a party-and-party basis or whether the Court may assess and fix the amount directly, having regard to the terms of the judgment and the applicable procedural provisions.

16. Order 59, rule 9(4) provide the following:

> *“The Court in awarding costs to any person may direct that, instead of taxed costs, that person shall be entitled —*
>
> *(b) to a gross sum so specified in lieu of taxed costs.”*

17. In the present case, the Court has already determined that the Plaintiff is entitled to costs, leaving only the question of quantum outstanding. Having presided over the trial, the Court is familiar with the nature and complexity of the proceedings, the issues contested, the evidence adduced and the time reasonably required for their preparation and determination.

18. The Court has also had the benefit of the Plaintiff's Bill of Costs and timesheets, the Defendant's objections and the parties' respective written and oral submissions. There is sufficient material before the Court to determine a reasonable amount of costs without requiring the parties to undergo a further formal taxation before the Registrar. It is therefore appropriate for this court to assess and fix a gross sum in lieu of taxed costs.

19. The second question is whether the costs claimed by the Plaintiff were reasonably and necessarily incurred for the conduct of the proceedings. This requires the Court to consider the actual complexity of the case, the nature and extent of the disputed issues, the preparation required, the duration of the trial, the number of witnesses and the degree of legal skill and expertise reasonably required.

20. Having considered the parties' submissions, I accept that the Plaintiff was required to undertake substantial preparation in pursuing this claim. Liability and quantum were contested, and the proceedings involved factual disputes, medical evidence and experts and the examination of six witnesses. The Plaintiff was entitled to prepare and present his case properly, and the fact that certain claims were ultimately unsuccessful does not, of itself, render the work undertaken in advancing them as unreasonable.

21. However, I do not accept that the Plaintiff is necessarily entitled to recover the full amount claimed merely because the work has been recorded in the Bill of Costs and timesheets. While those documents provide evidence of the work undertaken, they do not conclusively establish that every item was necessary or that the time spent was reasonable.

22. In assessing the costs claimed, I have regard to the nature and complexity of the proceedings, the experience of the solicitors involved, the extent of the disputed issues, the actual duration of the trial and the amount ultimately recovered. I have considered the Defendant's objections concerning repeated preparation, overlapping research, the time claimed for routine work and the amounts charged for trial attendance.

23. Although considerable evidence was directed towards the detailed sequence of events and the manner in which the work was performed, the central issue for determination remained whether the plaintiff had taken reasonable precautions and provided a safe system of work. In my assessment, the factual inquiry, while requiring careful consideration, was not unusually complex.
24. Although the proceedings required proper preparation, they did not involve novel or exceptionally difficult questions of law. I agree that Plaintiff's counsel were experienced practitioners in personal injury matters, and it is reasonable to expect that their familiarity with the applicable legal principles and procedures would have reduced the time required for certain aspects of the work and case preparation.

25. I am also mindful that the costs claimed, amounting to B$157,177.62, substantially exceed the principal damages awarded in the written of B$100,569 and the eventual grand total (with interest factored in) of B$143,036.32 in the draft judgment order. While this disparity does

not, justify reducing the costs, it reinforces the need to ensure that the amount awarded is reasonable and proportionate to the proceedings.

26. I therefore find that the Plaintiff is entitled to recover the reasonable costs of preparing and conducting the action, but I am not satisfied that the full amount claimed has been justified. The appropriate award must fairly compensate the Plaintiff for the legal work reasonably and properly undertaken, without placing upon the Defendant the burden of costs that go beyond what was necessary for the proper conduct of the proceedings.

27. The third question is the evidential weight to be given to the Plaintiff's Bill of Costs and timesheets. Although these documents provide evidence of the time recorded and work undertaken, the Court must determine whether they sufficiently establish the reasonableness of the charges and whether particular entries should be reduced or disallowed on grounds of duplication, excessive preparation, unnecessary research or unreasonable time expenditure.

28. Turning to *Order 59, rule 27(2) of the Rules of the Supreme Court*, which permits costs on a party-and-party basis, '*necessary or proper for the attainment of justice or for enforcing or defending the rights of the party whose costs are being taxed*'. The relevant question is therefore not simply whether the work was performed or whether the time was recorded, but whether the work and the amount claimed were reasonably necessary for the conduct of the proceedings.

29. The existence of contemporaneous timesheets lends credibility to the Plaintiff's claim that substantial work was undertaken. It also provides a basis for examining the individual tasks performed, the persons responsible and the time allocated to each activity. However, a timesheet is evidence of time spent; it is not conclusive proof that the time was reasonably or necessarily spent. The Court retains the responsibility of assessing the reasonableness of the work and the amount claimed.

30. The Defendant's objections concerning trial attendance also warrant consideration. The Court's notes of proceedings provide an objective record against which the attendance claims may be assessed. A quick look back the Court's notes does not reflect the Plaintiff's contention of a full 10 days of trial. Any charges or hours exceeding the amounts properly recoverable under the applicable scale, or resulting in duplication of fees for the same work, should therefore be reduced or disallowed.

31. In determining the appropriate gross sum of costs, I do not consider it necessary or proportionate to undertake a detailed taxation of every item in the Plaintiff's Bill of Costs. Such an exercise would substantially replicate the taxation process which, as I have already said, the Court is empowered to dispense with under Order 59, rule 9(4)(b).

32. Instead, I have considered the Bill of Costs and timesheets as a whole. I accept that substantial costs were reasonably incurred in preparing and presenting the Plaintiff's case. However, I am not satisfied that the entirety of the professional time claimed was necessary or reasonable.

In particular, I consider that some allowance must be made for repeated preparation, overlapping legal research and the time claimed for work of a routine nature, having regard to the experience of the solicitors involved.

33. Having regard to these matters, I consider it appropriate to make an overall assessment of the recoverable costs, rather than undertake a detailed item-by-item taxation to arrive at the gross sum which I will come to shortly. This approach recognises the substantial work reasonably undertaken on the Plaintiff's behalf while ensuring that the Defendant is not required to bear costs which were excessive, duplicative or disproportionate.

34. The final issue to address is whether the total costs claimed are proportionate to the nature of the proceedings and the amount of damages awarded. Although the amount recovered is not necessarily determinative of the costs reasonably incurred, the Court must consider whether an award of approximately B$157,000 in costs is justified in proceedings resulting in initial damages of B$100,569, particularly having regard to the issues on which the Plaintiff succeeded and those on which the Plaintiff was unsuccessful. he costs claimed exceed the principal damages awarded by B$56,608.62, representing approximately 156% of the damages recovered.

35. This disparity is significant and warrants careful consideration. Proportionality does not mean that legal costs must invariably be lower than the amount awarded in damages. The Court must instead assess proportionality in the context of the proceedings as a whole, including the issues in dispute, the work reasonably required, the conduct of the parties and the circumstances which made the expenditure necessary.

36. I accept that the Defendant's stance in disputing liability and alleging contributory negligence required the Plaintiff to undertake substantial preparation and to proceed to trial. The Plaintiff was entitled to look into the facts surrounding the accident, prepare witnesses, obtain and consider medical evidence and make submissions on the disputed issues. These were legitimate and necessary steps in pursuing the claim.

37. However, I also consider that the proceedings, while factually contested, were not exceptionally complex. As already said, too much time was spent going into the detail of how the work was done instead of just focusing on whether or not sufficient safety standards or precautions were in place.

38. In addition, the legal principles governing employer's liability, causation and contributory negligence are all well established. The medical evidence, although relevant to the assessment of damages, did not present any major conflicting expert opinions. The case was therefore one which experienced personal injury practitioners could reasonably be expected to conduct without an unusually extensive amount of legal research or preparation.

39. I do not accept that the costs should be reduced simply because they exceed the damages awarded. Equally, the fact that the Plaintiff succeeded at trial does not entitle him to recover costs without regard to their reasonableness and proportionality.

40. Having considered these matters, I am satisfied that substantial costs were reasonably incurred in pursuing the proceedings. However, I am not persuaded that the full amount claimed is proportionate to the nature and complexity of the case, the work reasonably required or the damages ultimately recovered.

41. I therefore consider that an appropriate reduction is necessary to ensure that the costs awarded fairly reflect the reasonable expenditure required to conduct the proceedings, without imposing upon the Defendant the burden of excessive or disproportionate costs. I have distinguished between work which was reasonably necessary and expenditure which was excessive, repetitive or duplicative.

42. For example, the timesheets for 22 and 23 July 2025 record repeated work relating to the finalisation of submissions, preparation of authorities, discussions concerning the final draft and checking of the bundle of authorities. I accept that revisions and further preparation may have been necessary. However, the cumulative time claimed must be assessed against the substantive work reasonably required, and I am not satisfied that the full extent of the time recorded has been sufficiently justified.

43. A further example concerns the preparation of the Bill of Costs. Timesheet entries 148 to 150 record a total of two hours and forty-five minutes, amounting to BND1,925.55, for reviewing and finalising the Bill of Costs and timesheet. In addition, item 472 of the Bill claims BND592 for drawing up the Bill of Costs, Notice of Taxation and compiling the timesheet. While these entries may encompass distinct aspects of the work, their descriptions indicate potential overlap, and the Plaintiff has not clearly explained the distinction between the work covered by the respective charges.

44. I have also considered the charges relating to trial attendance and preparation. The proceedings were heard over ten dates, but the recorded sitting times show that several hearings occupied only part of a day. In assessing the reasonable costs of attendance, I have considered the actual demands of those hearings and the need to avoid allowing overlapping charges for substantially the same work.

45. These examples do not establish that the work recorded was not performed. Rather, they illustrate why the Court cannot treat the total time recorded as conclusive evidence of the amount reasonably recoverable from the Defendant.

46. In determining the appropriate gross sum, I have considered the principal components of the Plaintiff's claim, comprising BND139,839.67 in time-based professional fees, BND10,034 in other professional charges and BND7,303.95 in disbursements.

47. The principal concern lies in the extent of the professional fees claimed. While I accept that substantial work was undertaken over the course of the proceedings, I am not satisfied that the full 258 hours recorded represent time reasonably recoverable from the Defendant. In particular, I consider that the cumulative time claimed for preparation, research, drafting and revision of submissions, together with the charges relating to trial attendance, exceeds what was reasonably required having regard to the nature and complexity of the proceedings.

48. The examples identified above illustrate the areas in which the time and charges claimed require adjustment. They are not intended to constitute an exhaustive examination of the Bill of Costs. Rather, they demonstrate the basis upon which I have assessed the reasonableness of the professional work as a whole.

49. I have also considered the other professional charges and disbursements separately, bearing in mind that expenditure properly incurred in conducting the proceedings should ordinarily be allowed, while charges which overlap with other recoverable items or are not adequately justified should not be passed on to the Defendant.

50. In assessing the appropriate amount, I have not applied an arbitrary percentage reduction to the Plaintiff's claim. Instead, I have considered the work reasonably required to prepare and conduct this particular action, the professional charges properly recoverable, the actual demands of the trial and the overall proportionality of the resulting amount.

Conclusion

51. I recognise that the Plaintiff was required to pursue a contested trial and that substantial costs were necessarily incurred. Equally, the Defendant should not be required to bear the full extent of expenditure which, in my assessment, exceeded what was reasonably necessary for proceedings of this nature.

52. Having weighed these considerations, I am satisfied that BND90,000 represents a reasonable assessment of the costs recoverable on a party-and-party basis. This figure reflects the substantial professional work properly undertaken, while making an appropriate allowance for the excessive or overlapping expenditure identified. I consider it a fair and proportionate amount having regard to the proceedings as a whole.



HAZARENA BTE POKSJ DP HJ HURAIRAH
Judge, Intermediate Court