

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 104/2025
[2025] NZSC 193

BETWEEN	AMIR FAZAL MALIK First Applicant
	TRINITY JOAN WILSON Second Applicant
AND	ZAINULABIDIN SYED Respondent

Court: Ellen France, Kós and Miller JJ

Counsel: A S Ahmed for Applicants
No appearance for Respondent

Judgment: 17 December 2025

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B There is no order as to costs.**
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REASONS

[1] Messrs Malik and Syed were business associates who fell out. The High Court found that, between October 2016 and December 2017, Mr Malik and Ms Wilson, his wife, published 20 defamatory statements about Mr Syed.¹ Most publications were emails to a group of recipients; some were also published on social media, in particular, Facebook; others took the form of videos posted on YouTube. The gravamen of the publications are summarised in the Court of Appeal decision,

¹ *Syed v Malik* [2018] NZHC 2278 (Churchman J) at [45]; and *Syed v Malik* [2023] NZHC 1676 (Isac J) at [11].

which the applicants seek to challenge.² Damages of \$225,000 were assessed by the High Court.

[2] Two challenges in the Court of Appeal failed. First, extension of time was denied to challenge the 2018 liability judgment, the delay being inordinate and unexplained, and the proposed appeal lacked merit. Judgment on liability was inevitable given the applicants had admitted publishing the defamatory statements and had not pleaded a defence of truth.³

[3] Secondly, extension of time to challenge the 2023 quantum judgment was granted, but the appeal was dismissed. Although the Judge had mis-expressed himself at two points in the quantum judgment, the meaning was clear and the Judge's application of principle to the facts—especially aggravation of damages after the liability judgment—could not be faulted. The Court of Appeal said:⁴

[34] Having regard to all of the above, we conclude that appellate intervention in this case is not justified. In our view, the Judge's factual findings were supported by the evidence and he correctly identified and applied the relevant legal principles. We agree with the conclusions he reached and are not persuaded there is any basis for disturbing the amount of the damages award.

Proposed appeal

[4] The applicants seek to challenge the latter judgment. In substance, the grounds of appeal extend to a renewed attempt to challenge the liability judgment, in particular asserting belatedly to withdraw their long-given admission of liability and to now advance a defence in the nature of responsible communication in the public interest.⁵ Other primary grounds attack the evidential basis for the award of aggravated damages, and the quantum awarded and sustained on appeal.

² *Malik v Syed* [2025] NZCA 417 (French P, Lang and Downs JJ) [CA judgment] at [5]. The publications included allegations of fraud, immoral conduct and association with terrorist groups.

³ *Malik v Syed* [2024] NZCA 49 at [11] and [13].

⁴ CA judgment, above n 2.

⁵ *Durie v Gardiner* [2018] NZCA 278, [2018] 3 NZLR 131. The applicants also seek to pray in aid ss 13–20 of the New Zealand Bill of Rights Act 1990.

Our consideration

[5] The criteria for leave are not made out by the applicants. The appeal would turn on the particular facts of this case. Nothing raised by the applicants suggests the Court of Appeal erred in its consideration of the legal principles concerning quantum of damages, in particular the assessment of aggravated damages in the context of this case, and the appeal grounds raised by the applicants have insufficient prospects of success to justify a grant of leave.⁶ It follows no question of general or public importance requiring this Court's review appears to be raised.⁷ Nor is there a risk of miscarriage of justice, in the sense that expression applies in a civil application.⁸

[6] We are not therefore satisfied that it is necessary in the interests of justice for the court to hear and determine the appeal.⁹

Result

[7] The application for leave to appeal is dismissed.

[8] No award of costs is made, the respondent not participating in the application.

Solicitors:
One Legal Limited, Auckland, for Applicants

⁶ See *Prime Commercial Ltd v Wool Board Disestablishment Company Ltd* [2007] NZSC 9, (2007) 18 PRNZ 424 at [2]; *Hookway v R* [2008] NZSC 21 at [4]; and *B (SC 18/2020) v R* [2020] NZSC 52 at [12].

⁷ Senior Courts Act 2016, s 74(2)(a).

⁸ Section 74(2)(b); and *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].

⁹ Section 74(1).