

# An Analysis of Wrongful Dismissal in Malaysian Employment Cases: Court Approach Related to Reputational Harm

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DOI: <https://doi.org/10.47772/IJRISS.2026.10100423>

Received: 24 January 2026; Accepted: 29 January 2026; Published: 09 February 2026

## ABSTRACT

Wrongful dismissal disputes in Malaysia are often analysed in terms of procedural fairness, yet the potential reputational impact of termination has received less attention. This paper examines whether dismissal without just cause can affect an employee's standing or reputation, and under what circumstances the courts recognise such consequences. The analysis is based on two Malaysian court decisions in the cases of Mohd Sobri Che Hassan v Pihak Berkuasa Tata tertib Majlis Perbandaran Seberang Perai & Anor [2024] MLRHU 1721. The High Court assessed damages for wrongful dismissal, which had already been declared unlawful by the Federal Court. While the court awarded back wages, increments, allowances, and accumulated leave, it rejected the employee's claims for humiliation and reputational loss. Referring to Milicent Rosalind Danker & Anor v Malaysia Europe Forum Berhad & Ors [2012] 5 MLRH 392; [2012] 2 CLJ 1076, the court held that damages for reputation are not recoverable in a contractual claim for wrongful dismissal, as such losses are too remote under section 74 of the Contracts Act 1950 and may only be pursued through a defamation action. In contrast, the case of Mohamed Fahamy v Iscada Net Sdn Bhd [2020] MLJU 1062 involved defamatory allegations linked to termination, where the court awarded damages to reflect the injury to reputation. By examining the reasoning in these judgments, the study identifies the factors that lead to reputational considerations being acknowledged in wrongful dismissal disputes. The objective is to determine whether, and in what circumstances, wrongful dismissal results in reputational consequences in Malaysian case law, and to situate these findings within established principles on remedies in employment law. The discussion also reflects on how the balance between employer authority and employee rights is maintained when reputational harm is in question.

**Keywords:** Employment law, Wrongful dismissal, Employee rights, Reputational harm

**Themes:** Employment Law

## INTRODUCTION

Wrongful dismissal remains a recurring issue in Malaysian employment law, situated at the intersection of employers' prerogatives and employees' rights. A dismissal can occur in two ways: with or without just cause. The latter is often referred to as wrongful dismissal. The dividing line is determined by evidence. If misconduct exists or proper procedure is followed in terminating, the dismissal is lawful. If these elements are absent, the dismissal is unfair and open to challenge.

The two main legislation that govern these issues are the Employment Act 1955 and the Industrial Relations Act 1967, which prescribe procedural steps and remedies available to employees. Historically, reinstatement has been viewed as the primary remedy for unfair dismissal. However, this remedy is frequently impracticable due to the time lag between dismissal and adjudication. By the time a case reaches a decision, years may have passed, and employees may have moved to a new position or no longer wish to return to their prior employment relationship. Consequently, monetary compensation has emerged as the dominant remedy in both Malaysia and

comparable jurisdictions such as the United Kingdom<sup>1</sup>. Even so, remedies for wrongful dismissal in Malaysia remain largely confined. Employees are generally limited to damages for failure to provide proper contractual or reasonable notice.<sup>2</sup> Compensation does not extend to non-economic losses such as humiliation, injured feelings, or reputational damage. Equally, reinstatement is not available to restore an employee's professional reputation, because forcing an employer to rehire an employee against their will could be viewed as involuntary servitude.

The Cambridge English Dictionary defines reputation as

"the opinion that people in general have about someone or something, or how much respect or admiration someone or something receives, based on past behaviour or character".<sup>3</sup>

Termination inevitably affects this standing, especially when linked to allegations of misconduct. Greig J in the New Zealand case of *Brandt v Nixdorf Computer Ltd*,<sup>4</sup> noted that dismissal usually affects reputation and standing, and the impact is magnified for employees who occupy senior positions or roles of responsibility.

Other countries' jurisdictions have moved further in recognising the reputational and non-economic consequences of dismissal. For example, s 123(c)(i) of the New Zealand Employment Relations Act 2000, where the remedies awarded by the authorities or the court may extend to humiliation, loss of dignity, injury to feelings, and reputational harm.<sup>5</sup> In *Jane v Roberts NZ Limited*,<sup>6</sup> the tribunal applied these provisions to award damages for humiliation, loss of dignity, and injury to feelings following an unfair dismissal. Malaysian law, by contrast, has not developed an explicit remedy for reputational harm. This leaves a gap between the statutory framework and the realities of employment relationships when facing dismissal. In rare circumstances, punitive or exemplary damages may be awarded, particularly where the employer's conduct is malicious or oppressive. Such awards serve not only as compensation but also as punishment, recognising that wrongful dismissal may inflict emotional suffering.<sup>7</sup>

This research assesses whether reputational harm should be treated as a legal consequence of wrongful dismissal in Malaysia. To this end, the paper reviews two contrasting cases. In *Mohd Sobri Che Hassan v Pihak Berkuasa Tatatertib Majlis Perbandaran Seberang Perai & Anor*,<sup>8</sup> the court dealt with a wrongful dismissal claim. It awarded back wages and allowances but rejected claims for humiliation and loss of reputation, holding that such claims were too remote unless pursued through defamation. In *Mohamed Fahamy v Iscada Net Sdn Bhd*,<sup>9</sup> however, reputational standing was a consideration, as the defamatory allegations were linked to the dismissal, which led to an award of damages. Together, these cases analyse the place of reputation within Malaysian dismissal jurisprudence. In the context of Malaysian employment cases and comparative perspectives, this paper seeks to clarify how wrongful dismissal cases are treated when they intersect with the employee's reputation.

## METHODOLOGY

This research adopts a doctrinal approach, drawing on both primary and secondary legal sources to examine wrongful dismissal under Malaysian employment law. The primary sources are legislation and case law. The Employment Act 1955, particularly s 14 on dismissal for misconduct,<sup>10</sup> and the Industrial Relations Act 1967,

1 Siti Fazilah Abdul Shukor, Asghar Ali Ali Mohamad and Zuraini Abdul Hamid, 'Monetary Compensation for Unfair Dismissal: A Comparative Study in the United Kingdom and Malaysia' (2019) 27(2) IIUM Law Journal 447.

2 Ashgar Ali Ali Mohamed, 'The Harsh Manner of Dismissal: A Worker's Remedy at Common Law and Statute in Selected Countries' (2002) XXXI(2) INSAF 3.

3 Cambridge Dictionary, 'Reputation' (Cambridge University Press 2019)

<https://dictionary.cambridge.org/dictionary/english/reputation> accessed 22 May 2024.

4 [1991] 3 NZLR 750 (HC).

5 Employment Relations Act 2000 s 123(c)(i) (NZ).

6 [2023] NZERA 256.

7 Siti Fazilah Abdul Shukor and Siti Suraya Abd Razak, 'Punitive Damages in Unfair Dismissal Cases: Lessons from Malaysia and New Zealand' (2023) 6(1) Indonesian Comparative Law Review 35.

8 [2024] MLRHU 1721 (HC).

9 [2020] MLJU 1062 (HC).

10 Employment Act 1955 s 14.

which permits employees to bring wrongful dismissal claims to the Industrial Court. Case law is equally central, with *Mohd Sobri Che Hassan v Pihak Berkuasa Tatatertib Majlis Perbandaran Seberang Perai & Anor*<sup>11</sup> and *Mohamed Fahamy v Iscada Net Sdn Bhd*<sup>12</sup> serving as the principal cases for examining how courts apply procedural and substantive rules in termination disputes. These two cases were selected mainly because they present contrasting judicial responses to reputational harm arising from dismissal, enabling a focused evaluation of the doctrinal boundaries between remedies and claims in Malaysian employment law.

Secondary sources mainly include legal periodicals and articles. These materials explain how Malaysian courts and those in other countries interpret statutory provisions and provide commentary on the broader impact of wrongful dismissal. The combination of primary and secondary sources enables the study to assess both the legislation and the academic perspectives on wrongful dismissal, with particular attention to reputational harm.

## **FINDINGS AND DISCUSSION**

The case of *Mohd Sobri Che Hassan v Pihak Berkuasa Tatatertib Majlis Perbandaran Seberang Perai & Anor*<sup>13</sup> focused on assessing damages after the Federal Court limited the plaintiff's employment to the period between 28 November 2013 and 21 October 2019. The High Court awarded back wages, increments, allowances, annual bonus, and leave payment, but rejected claims for humiliation and loss of reputation. In reaching this view, the court cited *Milicent Rosalind Danker & Anor v Malaysia Europe Forum Berhad & Ors*,<sup>14</sup> which held that reputational loss is too remote to be recoverable except in defamation proceedings.<sup>15</sup> This conclusion is consistent with the common law position that damages cannot be awarded for wounded feelings, reputational harm, or diminished employment prospects. This principle originates from *Addis v Gramophone Co Ltd*,<sup>16</sup> where Lord Loreburn LC observed that no special damages were available for reputational loss in wrongful dismissal cases.

In contrast, the case of *Mohamed Fahamy v Iscada Net Sdn Bhd*.<sup>17</sup> Here, the court considered defamatory allegations tied to the termination and awarded damages for the reputational harm suffered by Fahamy. The difference between the two cases shows how the treatment of reputation claims in wrongful dismissal cases varies within Malaysian jurisprudence. In most instances, remedies remain limited to reinstatement or monetary compensation, with little scope for recognising personal harm. Under section 30(6) of the Industrial Relations Act 1967, the Industrial Court commonly awards monetary compensation instead of reinstatement, calculated based on the length of service and the last drawn salary, supplemented by back wages.<sup>18</sup>

Comparative research points out that other jurisdictions adopt a broader approach. In New Zealand, for example, the Employment Relations Act 2000 permits compensation for humiliation, loss of dignity, and injury to feelings, thereby explicitly acknowledging that dismissal has consequences beyond financial loss. New Zealand has provided a more comprehensive remedy that addresses the overall spectrum of losses suffered by wrongfully dismissed employees. Yet Malaysia remains bound by the principles laid down in the old cases.

### **Conceptualising Reputation as a Protected Employment Interest**

Reputation in the employment context should not be viewed merely as a private social asset or personal sentiment. Rather, it constitutes an aspect of professional identity directly linked to livelihood, dignity, and future employability. An employee's reputation is often built over years of service in the industry and serves as professional capital, particularly for those in positions of trust or responsibility. When allegations of misconduct,

11 Mohd Sobri (n 8).

12 Mohamed Fahamy (n 9).

13 Mohd Sobri (n 8).

14 [2012] 5 MLRH 392; [2012] 2 CLJ 1076.

15 Contracts Act 1950 s 74.

16 [1909] AC 488.

17 Mohamed Fahamy (n 9).

18 Industrial Relations Act 1967 s 30(6).

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dishonesty, or moral blameworthiness accompany dismissal, the harm extends beyond loss and may alter the individual's standing within their profession and the broader community.

This conceptualisation finds judicial support in *Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang v Utra Badi K Perumal*,<sup>19</sup> where the Court of Appeal held that the deprivation of a person's reputation amounts to a deprivation of "life" within the meaning of Article 5(1) of the Federal Constitution. Gopal Sri Ram JCA, drawing on the Indian Supreme Court's reasoning in *Francis Coralie v Union of India*,<sup>20</sup> articulated that the right to reputation is "part and parcel of human dignity," and that every person in Malaysia holds a fundamental right to live with common human dignity. Critically, the court did not treat reputation as an incidental or secondary concern but elevated it to the same plane as livelihood, holding that the combined effect of Articles 5(1) and 8(1) demands fairness "both in procedure and in substance whenever a public law decision has an adverse effect on any of the facets of a person's life," with livelihood and reputation expressly identified as two such facets.

The point extends beyond Malaysian constitutional doctrine. Hugh Collins has argued that when dismissal is accompanied by unsubstantiated allegations of misconduct, the resulting damage to professional reputation is likely to prevent the individual from obtaining further employment in the same field.<sup>21</sup>

"A professional who is unjustly dismissed for incompetence or embezzlement may incur severe damage to professional reputation that is likely to prevent that person from obtaining other employment in that profession."<sup>22</sup>

The protection of personal reputation, dignity, and respect requires legal frameworks that do not treat reputational consequences as incidental to dismissal but actively recognise them as direct and foreseeable effects. In this light, it is necessary to evaluate the Malaysian position on wrongful dismissal.

## Cases Overview

### **The View Case of Mohamed Fahamy Bin Mohamed Suyud V Iscada Net Sdn Bhd [2020] MLJU 1062**

This was a defamation suit in the Kuala Lumpur High Court, decided by Quay Chew Soon, J.C., on 2 July 2020. The Plaintiff ("P"), Mohamed Fahamy bin Mohamed Suyud, had been employed by the Defendant ("D"), Iscada Net Sdn Bhd, as a Special Officer to the Executive Chairman and Managing Director, with a monthly salary of RM8,000. The dispute arose after D circulated three notices about P from February to March 2017 to all the vendors and to the Fire and Rescue Department (JBPM). The notices alleged that P had not come to work since October 2016, that his services had been terminated without notice, and that he had acted dishonestly in dealings with third parties. The notices further stated that a police report had been lodged against P for damaging the company's image and accused him of "merosakkan imej syarikat ibaratkan 'Meludah di dalam periuk nasi IS.net'." One notice even included photographs of P, three of which showed him smoking a cigar. Publication of the notices was not disputed, with evidence showing they reached at least 17 vendors and officials at JBPM.

Whether P's employment had been validly terminated in October 2016, and whether the allegations of dishonesty were true? The court found that D had failed to prove either. Salary slips and SOCSO contributions confirmed that P continued to be employed through November and December 2016, and WhatsApp messages showed he was still receiving instructions and communicating with management during that period. The alleged misconduct at Petronas meetings was also dismissed because those events occurred months after the alleged termination date and thus could not justify dismissal in October 2016. The court found that, by accusing P of dishonesty and abandonment of duty, D had affected P's reputation in the eyes of others, stating:

"I find that the Impugned words are capable of bearing a defamatory meaning and that they are indeed defamatory of P. Specifically, the following statements. In **Notice 1**, P's activities had damaged D and its image.

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19 [2000] 1 MLRA 278

20 AIR [1981] 746

21 Hugh Collins, 'An Emerging Human Right to Protection against Unjustified Dismissal' (2021) 50 Industrial Law Journal 36.

22 *Ibid* 21

The natural and ordinary meaning of this statement imputes to P a dishonourable or discreditable conduct or motive. As it was alleged that P had committed acts that damaged D and its reputation.”<sup>23</sup>

The High Court referred to the test in *Ayob Saud v T.S Sambanthamurthi*,<sup>24</sup> which requires the plaintiff to establish that the words complained of are defamatory, that they refer to him, and that they were published. The second and third elements were admitted, so the question before the court was whether the words in the notices carried a defamatory meaning. The court held that they did, because the notices alleged that P had abandoned his work, had been terminated without notice and had acted dishonestly, all of which lowered him in the estimation of third parties and damaged his professional reputation. The defendant’s defence of justification was rejected on the ground that the allegations were untrue and the defence of fair comment was also rejected because the statements were not based on facts proved or made as fair opinions on a matter of public interest. The court therefore entered judgment for P, awarding him RM50,000 in general.

“In actions for defamation, damages are awarded to compensate the plaintiff for the injury to his reputation and the hurt to his feelings. They operate to vindicate the plaintiff to the public and to console him for the wrong done.”<sup>25</sup>

Interest was fixed at the rate of 5% per annum, running from the date of judgment until full settlement. Costs were awarded to P in the sum of RM20,000. The plaintiff also sought aggravated damages, but the court refused to make a separate award, stating that such an order was not warranted on the facts. Finally, the defendant’s counterclaim against P, which included allegations of defamation, breach of employment contract, forgery, and fraud, was dismissed in its entirety.

The significance of Mohamed Fahamy is not in expanding the remedies for wrongful dismissal, but in demonstrating the narrow pathway through which reputational harm may be recognised in Malaysian law. The court’s willingness to award damages was contingent on establishing defamation as an independent tort, thereby validating that reputational injury is not denied in principle but is confined to specific doctrinal categories.

### **The View Case of Mohd Sobri Che Hassan V Pihak Berkuasa Tatatertib Majlis Perbandaran Seberang Perai & Anor [2024] MLRHU 1721**

This was a wrongful dismissal damages assessment in the Penang High Court, decided by Rozana Ali Yusoff J on 10 July 2024. The Plaintiff (“P”), Mohd Sobri Che Hassan, had been employed by the Defendant (“D”), Majlis Perbandaran Seberang Perai, as an engineer with a confirmed post. In 2012, he was transferred to another department and later, he faced disciplinary action for lateness. The matter escalated when D accused P of bringing “external influence” into his employment by raising his transfer issue with a state assemblyman. A disciplinary meeting was held on 28 November 2013, and P was dismissed by letter dated 2 December 2013. P commenced judicial review, and after a series of appeals, the Federal Court on 21 October 2019 ruled that he was deemed to be in employment only from 28 November 2013 until 21 October 2019, with damages to be assessed by the High Court.

At the assessment stage, P claimed back wages, bonus, increments, promotion, pension, gratuity, medical benefits, and damages for humiliation and loss of reputation. He also claimed compensation up to his retirement age in 2035. D resisted these claims, arguing that the Federal Court had already limited P’s employment to the six years ending on 21 October 2019 and that speculative claims such as promotion, pension, and medical benefits were not payable. On the issue of reputation, D argued that wrongful dismissal was a contractual matter and could not give rise to damages for hurt feelings or damage to public image.

The court held that P was entitled to back wages, including increments and allowances, as well as an annual bonus for the period from 2 December 2013 to 21 October 2019, amounting to RM428,035.42. P was also granted a “golden handshake” payment for 92 days of accumulated leave worth RM12,400.80. All other claims

23 Mohamed Fahamy (n 9) [21] [22]

24 [1989] 1 CLJ 152.

25 Mohamed Fahamy (n 9) [109]

were rejected, including those for humiliation and reputational harm. The court cited *Milicent Rosalind Danker & Anor v Malaysia Europe Forum Berhad & Ors*,<sup>26</sup> the Court held that:

“(5) It is trite law that damages for loss of reputation are not recoverable in an action founded on breach of contract. Any such claim would have to pass the remoteness rule in s 74 of the Contracts Act 1950. It could not be said with any firm degree of conviction that the parties contemplated loss of reputation as arising from the breach of the contract. That sort of damage was far too remote. Therefore, damages for loss of reputation generally could not be claimed except in actions for defamation. No damages were therefore allowed in this regard.”

The court awarded interest at 5% per annum from 4 April 2024 until settlement, with each party bearing its costs for the assessment.

Doctrinally, this decision stiffens the Malaysian courts’ adherence to a strict approach towards wrongful dismissal remedies. Although the court acknowledged the unlawfulness of the dismissal, it declined to recognise reputational harm as a compensable consequence, further treating such loss as too remote under s 74 of the Contracts Act 1950. This instantiates the judiciary’s continued reliance on traditional common law principles despite the broader discretionary language found in s 30 of the Industrial Relations Act 1967 and in the case of *Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang v Utra Badi K Perumal*

### Legal Comparison

After reviewing the two decisions, the common element is wrongful dismissal, but each case treats reputation differently. In *Mohamed Fahamy v Iscada Net Sdn Bhd*,<sup>27</sup> the dismissal was linked to published allegations of dishonesty, and the High Court found the notices defamatory and therefore awarded Fahamy RM50,000 to reflect the injury to his professional standing. By contrast, in *Mohd Sobri Che Hassan v Pihak Berkuasa Tatatertib Majlis Perbandaran Seberang Perai & Anor*,<sup>28</sup> the court confined remedies to back wages and related benefits and refused claims for humiliation or loss of reputation, on the grounds that such losses are too remote in a contractual claim and should be pursued in a defamation action with reliance on *Milicent Rosalind Danker & Anor v Malaysia Europe Forum Berhad & Ors*.<sup>29</sup> Put simply, Malaysian courts will recognise reputational harm where a standalone defamation cause of action is made out, but outside that context, reputational losses in dismissal claims are usually treated as too remote, and therefore no remedy is available.

### Comparative Approaches to Reputational Harm in Wrongful Dismissal (Malaysia, Canada, and New Zealand)

COUNTRY	CASE	DECISIONS
Malaysia	<ol style="list-style-type: none"><li>1. <i>Mohd Sobri Che Hassan v Majlis Perbandaran Seberang Perai [2024] MLRHU 1721</i></li><li>2. <i>Tadika Tzu Yu Bersepadu v Hsu Hui Ying [2015] 3 MLRH 258</i></li><li>3. <i>Mohamed Fahamy v Iscada Net [2020] MLJU 1062</i></li></ol>	<ol style="list-style-type: none"><li>1. Court granted back wages and allowances but rejected humiliation and reputation claims, relying on Danker [2012] and section 74 Contracts Act 1950 which treat reputational loss as too remote unless it is defamation.</li><li>2. High Court dismissed a RM500,000 claim for reputational harm, humiliation, and shame after the plaintiff’s photograph and termination notice were publicised. The wrongful dismissal damages are confined to financial loss such as unpaid wages or salary in lieu of notice. Referring to <i>Addis v Gramophone Co Ltd [1909] AC 488</i>, dismissal does not entitle compensation for injured feelings or reputational harm,</li></ol>

26 *Milicent Rosalind* (n 14)

27 *Mohamed Fahamy* (n 9)

28 *Mohd Sobri* (n 8)

29 *Milicent Rosalind* (n 14)

		3. Plaintiff won because defamatory notices were published to third parties. Court awarded RM50,000 for the reputational damages.
Canada	1. Vorvis v Insurance Corporation of British Columbia [1989] 1 SCR 1085	1. The Supreme Court held that damages for manner of dismissal are only recoverable if tied to an independent actionable wrong (i.e., defamation or intentional distress).
New Zealand	1. Whelan v Waitaki Meats Ltd [1991] 2 NZLR 74 2. Brandt v Nixdorf Computer Ltd [1991] 3 NZLR 750	1. Gallen J found the manner of dismissal caused undue mental distress, anxiety, humiliation and loss of dignity, and awarded \$50,000 as general damages for that distress. 2. Court took a different view and applied the Addis principle, observing that dismissal itself does not give rise to general damages for wounded feelings or reputational loss.

Sources: Mohd Sobri Che Hassan v Majlis Perbandaran Seberang Perai [2024] MLRHU 1721; Tadika Tzu Yu Bersepadu v Hsu Hui Ying [2015] 3 MLRH 258; Mohamed Fahamy v Iscada Net [2020] MLJU 1062; Vorvis v Insurance Corporation of British Columbia [1989] 1 SCR 1085; Whelan v Waitaki Meats Ltd [1991] 2 NZLR 74; Brandt v Nixdorf Computer Ltd [1991] 3 NZLR 750; and Ali Mohamed AA, 'The Harsh Manner of Dismissal: A Worker's Remedy at Common Law and Statute in Selected Countries' (2002) XXXI(2) INSAF 3.

The comparison shows that Malaysian courts generally limit remedies for wrongful dismissal to financial loss, applying Addis v Gramophone Co Ltd<sup>30</sup> and Milicent Rosalind Danker & Anor v Malaysia Europe Forum Berhad & Ors,<sup>31</sup> unless there is a separate actionable wrong, as in Mohamed Fahamy v Iscada Net Sdn Bhd.<sup>32</sup> In Canada, the Supreme Court in Vorvis v Insurance Corporation of British Columbia<sup>33</sup> held that damages for the manner of dismissal are available only if there is an independent cause of action, such as defamation or intentional infliction of mental distress. In New Zealand, the High Court in Whelan v. Waitaki Meats Ltd<sup>34</sup> recognised damages for mental distress by implying a duty of fair treatment in employment contracts, meaning employers must act fairly and reasonably so that employees can maintain dignity and status in the community. However, in Brandt v Nixdorf Computer Ltd,<sup>35</sup> the court reaffirmed the restrictive Addis principle and dismissed the claims. Overall, Malaysia aligns more closely with the Canadian approach, while New Zealand has shown a divided judicial stance, later supplemented by legislative intervention.

## CONCLUSION AND RECOMMENDATIONS

The analysis in this paper shows that Malaysian courts have generally confined remedies for wrongful dismissal to financial loss, treating reputational harm as too remote unless it is tied to a separate cause of action, such as defamation. Mohd Sobri Che Hassan v Pihak Berkusa Tatatertib Majlis Perbandaran Seberang Perai & Anor [2024] MLRHU 1721 presents that compensation is restricted to wages and benefits, while Mohamed Fahamy v Iscada Net Sdn Bhd [2020] MLJU 1062 awards compensation for reputational injury but only when a defamatory publication is proven. Compared with jurisdictions such as New Zealand, where statutes allow compensation for humiliation and injury to feelings, the Malaysian position remains narrow and rooted in a

30 [1909] AC 488 (HL).

31 Milicent Rosalind (n 14).

32 Mohamed Fahamy (n 9).

33 [1989] 1 SCR 1085.

34 [1991] 2 NZLR 74.

35 Brandt (n 4)

contractual approach. This creates a gap between the realities of wrongful dismissal and the remedies available to employees who may suffer not only economic loss but also reputational harm and loss of personal standing.

There is a strong basis to argue that reputational harm should be treated as a compensable consequence in wrongful dismissal cases in Malaysia. S 30(6) of the Industrial Relations Act 1967 provides that the Industrial Court “shall not be restricted” and “may include in the award any matter or thing which it thinks necessary or expedient.”<sup>36</sup> This wide discretion could extend to damages for loss of reputation and mental distress arising from a harsh dismissal. Gopal Sri Ram JCA, in the Court of Appeal in Lembaga Tata tertib Perkhidmatan Awam Hospital Besar Pulau Pinang,<sup>37</sup> also extended the constitutional “right to life” to include the right to reputation as part of human dignity. Protecting an employee’s reputation is therefore not only consistent with the legislative context but also grounded in constitutional principles.<sup>38</sup> Hence, Malaysian courts should interpret dismissal remedies with this broader understanding from different perspectives.

In addition, the availability of punitive compensation should be clarified. s 30(5) of the Industrial Relations Act empowers the Industrial Court to act “according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal form.”<sup>39</sup> This provision could also support compensation where the employer’s conduct is oppressive or malicious. s 123 of the Employment Relations Act 2000 expressly authorises compensation for “humiliation, loss of dignity, and injury to the feelings of the employee,”<sup>40</sup> which provides a model that Malaysia could adapt. Clearer recognition of reputational harm and punitive compensation would strengthen the remedial framework in Malaysia. Additionally, deter wrongful conduct and give employees remedies that reflect the true impact of unjust dismissal.

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13. Contracts Act 1950
14. Employment Act 1955
15. Employment Relations Act 2000 (NZ)
16. Industrial Relations Act 1967

36 Industrial Relations Act s 30(6).

37 Lembaga (n 19)

38 Mohamed (n 2)

39 Industrial Relations Act s 30 (5)

40 Employment Relations Act 2000 s 123 (NZ)

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