JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

R.F.A No.163 of 2010

Zarai Taraqiat Bank Ltd. through its President/Senior Vice President

Vs

Riaz Anjum, Executive Director, "In Time" News Agency and others

Appellant by:	Chaudhry Imtiaz Ahmed, Advocate along with Muhammad Younas, AVP.
Respondent No.1 by:	Ex-parte.
Respondents No.2 to 4 by:	Mr. Zakaullah Khan Niazi, Advocate.
Assisted by:	Muhammad Yahya Khan Niazi, Judicial Law Clerk.
Date of Hearing:	**05.06.2025**

UNCERTIFIED

INAAM AMEEN MINHAS, J.- Appellant (Zarai Taraqiat Bank Ltd.) through the instant appeal has impugned the order and decree dated 08.06.2010 **("Impugned Order and the Decree"),** passed by the learned Additional District Judge, Islamabad **("Trial Court")**, whereby the suit filed by the appellant under Section 9 read with Section 3 of the Defamation Ordinance, 2002 **("The Ordinance, 2002")** was decreed only to the extent of Rs.100,000/-.

2. The facts, in brief, leading to the filing of the instant appeal are that the appellant instituted a suit under Section 9 read with Section 3 of the Ordinance, 2002 against the respondents for recovery of damages amounting to Rs.1 million as general damages and Rs.100 million as special damages along with interest at the rate of 18% per annum from the date of filing of the suit till realization of damages on account of defamation/libel asserting

therein that the respondents, acting collusively, published a wholly false, baseless, defamatory and slanderous press story, which according to the appellant, entitled him to general damages of Rs.1 million and special damages of Rs.100 million. Respondents No. 2 to 4 did not appear before the learned Trial Court, therefore, they were proceeded against ex-parte, while respondent No. 1, though initially appeared but subsequently absented himself and he was also proceeded against ex-parte. The learned Trial Court after recording documentary evidence of the appellant in support of its claim decreed the suit only to the extent of Rs.100,000/- as damages through the Impugned Order and Decree.

3. Respondent No.1 did not appear before this Court despite the issuance of notice through publication in "Daily Khabrain Islamabad" dated 25.02.2020, therefore, he was proceeded against ex-parte vide order dated 17.01.2024.

4. The learned counsel for the appellant contended that the Impugned Order and the Decree are contrary to the facts of the case and the law on the subject; that the learned Trial Court failed to advance any reason to mitigate the quantum of the claim, particularly with respect to the statutory special damages of Rs.1 million and general damages to the tune of Rs.100 million as prayed for by the appellant. The learned counsel further submitted that the learned Trial Court also failed to appreciate that the appellant had to incur substantial expenses, both in terms of cash and time, in pursuing the matter whereas the damages granted does not compensate for the amount spent on the litigation; that although the learned Trial Court is vested with judicial discretion in regard of granting damages, yet it has to exercise such discretion in accordance with law and not in a whimsical or arbitrary manner and could not substitute its judicial wisdom for the statute or law on the subject. The learned counsel for the appellant further contended that since the case of the appellant stood proved and there was no rebuttal, there was no occasion for the learned Trial Court to curtail the grant of damages as claimed. Lastly, it was prayed that the appeal may kindly be accepted and

UNCERTIFIED

the Impugned Order and the Decree may be modified and the suit filed by the appellant may graciously be decreed as prayed for.

5. Conversely, the learned counsel for respondents No.2 to 4 controverted the arguments of the learned counsel for the appellant and prayed for dismissal of the instant appeal as the suit filed by the appellant was false, frivolous and devoid of merits.

6. I have heard the arguments of the learned counsel for the parties and gone through the record.

7. The facts leading to the filing of the instant appeal have been set out in sufficient detail in paragraph 2 above and need not be recapitulated, however, it is pertinent to mention that the appellant is banking company, having status of public limited company and derives income by lending money to agriculturalists and related purposes. Therefore, the appellant is a state-owned bank, which operates as a corporate entity.

8. While considering the background of the appeal and the arguments of the learned counsel for the parties, following significant questions need adjudication by this Court:-

> *(i) Whether a suit for defamation/libel filed by a corporate entity (state-owned bank) is maintainable under the law?*
>
> *(ii) Whether the Impugned Order is sustainable in law and on facts, particularly regarding the quantum of damages?*

9. In order to adjudicate the first question, it is essential to examine the legal framework governing the law of defamation i.e. the Defamation Ordinance, 2002 particularly Section 3. It is appropriate to reproduce the said section hereunder:-

> ***"3. Defamation.--****(1) Any wrongful act or publication or circulation of a false statement or representation made orally or in written or visual form which injuries the reputation of a person, tends to lower him in the estimation of others or tends to reduce him to ridicule, unjust criticism, dislike contempt or hatred shall be actionable as defamation.*

UNCERTIFIED

(2) defamation is of two forms, namely:-
(i) slander; and
(ii) libel.

(3) Any false oral statement or representation that amounts to defamation shall be actionable as slander.

(4) Any false written, documentary or visual statement or representation made either by ordinary form or expression or by electronic or other modern means or devices that amounts to defamation shall be actionable as libel."

10. The afore-stated section defines defamation as any wrongful act or publication of a false statement that injures the reputation of a "person". Notably, the Ordinance, 2002 does not expressly exclude juristic or corporate persons from its ambit. Corporate entities, including banks, are recognized as "legal persons", and may sue for defamation, if the statement in question is false, published with the requisite fault, and tends to harm the corporation's reputation in a manner that affects its business, trade, or financial interests. Thus, the answer to the first question is affirmative.

11. Now coming to the second question whether the Impugned Order is sustainable in law and on facts, particularly regarding the quantum of damages, defamation law, is designed to balance the protection of reputation with the fundamental right to freedom of speech. To prevent abuse of defamation law by powerful entities and to avoid a chilling effect on public discourse, Courts have developed a strict cumulative test. This test requires that all of the following elements be established for a successful claim:-

i. The statement must be of such a nature that it would tend to lower the corporation's reputation in the estimation of right-thinking members of society or cause it to be shunned or avoided.

ii. The statement must have been communicated to at least one third party.

iii. The statement must be false.

UNCERTIFIED

iv. The statement must have been published with at least negligence (for private entities) or actual malice (for public figures or entities).

v. For profit-making bodies such as banks, the harm must equate to "serious financial loss." No claim lies for personal harm or emotional injury, rather only for harm to commercial reputation and financial interests.

12. The above referred elements must coexist and if any one of these elements is not established, the claim for defamation fails. The strict cumulative test serves an important policy function as it ensures that defamation law is not weaponized by corporations to stifle legitimate criticism, reporting or public debate. It also protects the right to freedom of speech, which is a cornerstone of democratic society. Therefore, the Courts must be vigilant in applying these requirements rigorously.

13. While applying the above settled principles in the instant matter, it is reflected that the appellant's i.e. a state-owned Zarai Taraqiati Bank, suit for defamation may be maintainable in principle, if it can establish that the defamatory statement caused or was likely to cause serious financial loss to its business or trading reputation since unlike individuals, corporations cannot rely on a presumption of damage to reputation because bodies that trade for profit (e.g. banks), the harm must equate to "serious financial loss". This critical distinction prevents speculative or trivial claims and ensures that only substantial harm is compensated. The corporations must adduce evidence of actual or likely financial loss resulting from the alleged defamatory publication and they must prove on the balance of probabilities that the publication was false, defamatory, published with malice and resulted in or was likely to result in serious financial loss to its business to prove loss of commercial reputation.

14. In the present matter, the appellant established that a publication was made and that the respondents did not contest the claim, however, the appellant failed to discharge the primary burden of proof. No reliable documentary proof was produced to show the actual decline in business or to

UNCERTIFIED

demonstrate that the publication caused or was likely to cause serious financial loss to the appellant's business or commercial reputation, which would prove defamation. The appellant did not produce financial records, loss of contracts and decline in business or any other tangible evidence of actual harm. In absence of such credible and inspiring evidence, the claim of defamation remains unsubstantiated, speculative and exaggerated. Where financial harm is to be proved, there must be evidence of its existence and extent and some data from which it may be computed, however, neither any breakup of financial loss had been given nor any explanation was offered in that behalf. Mere claim of loss of reputation without any cogent evidence would not entitle the plaintiff to bring a claim of defamation and consequentially an award of damages. If any loss is suffered it must be specifically explained and proved through cogent evidence.

15. The appellant's claim appears to be premised on injury to feelings (ridicule, disrepute, hatred and dislike) and unjust criticism. The relevant portion of examination in chief of PW1 Nazir Ahmed Baloch Vice President ZTBL is reproduced hereunder:-

"متذکرہ بالا جھوٹی خبر کی اشاعت بڑے پیمانے پر پورے ملک میں ہوئی اور مالیاتی، عوامی اور سرکاری حلقوں میں بینک کی بطورملکیہ ادارہ بے حد توہین ہوئی اور عوام کی نظر میں بینک کی ساکھ کو شدید نقصان پہنچا۔ جس کی بنیاد پر عوام الناس کا اعتماد بینک اور اس کی انتظامیہ سے اُٹھ گیا اور بینک کو نتیجتاً شدید مالی نقصان و بحران کا بھی سامنا کرنا پڑا۔"

Such evidence must be substantiated and corroborated by harm to financial interests and mere assertion regarding the same is not maintainable for corporate entities, as the law only recognizes harm to financial interests, which results in a loss of commercial reputation. These two principles are positively interlinked in the sense that the latter cannot be proved without the former. The rationale is grounded in the commercial nature of such entities and the legal framework governing financial institutions, which limits liability to pecuniary losses directly linked to contractual or financial obligations. This ensures that claims are grounded in objective, quantifiable harm related to the institution's financial dealings.

UNCERTIFIED

16. The learned counsel for the appellant relied on the judgment of the Hon'ble Supreme Court of Pakistan in the case of ***Liberty Papers Ltd. vs. Human Rights Commission of Pakistan***, **(PLD 2015 SC 42)**. It is paramount to reproduce the relevant portion:-

> *"Pain and suffering caused by the injurious defamation cannot be taken into account when it comes to a legal entity such as a registered society as in this case, but the publication specifically mentioned the office bearers of the respondent organization thus allowing this Court to lay precedent for this exception. The gravity of the allegation is significant in the sense that office bearers of the respondent organization are active in the public sphere. The allegation paves way for accusations of conspiracy against an arm of the executive by the office bearers of the respondent organization through nefarious means. The size of the circulation of the concerned newspaper is throughout Pakistan and has been established above. The possible effects of the publication are loss of possible income for the office bearers of the respondent organization along with loss in standing in society."*

17. The above-referred judgment is distinguishable on the ground that in the above case the legal entity, which instituted the case was a registered society under the *Societies Registration Act, 1860* whereas, in the present case the appellant is a state-owned bank, which acts as a commercial enterprise. Such a corporation/entity may sue for defamation, if it meets the criteria of the test. However, if allegations were leveled against individuals directly connecting to their post/position, which according to them disgraced them in the society, any of these individuals wrongly impaired by the publication can himself bring proceedings for defamation.

18. The learned counsel for the appellant has failed to demonstrate from the available record/evidence that the appellant suffered harm to its financial interests, which in turn resulted in a loss of commercial reputation. Given the absence of evidence of serious financial loss, the appellant has failed to establish the cumulative elements required for a successful defamation claim by a corporate entity. The failure to prove any one element is fatal to the suit for defamation by a corporate entity, regardless of the presence of other

UNCERTIFIED

elements. In the case at hand, the element of serious financial loss is lacking, which consequently results in the absence of loss of commercial reputation.

19. Given the clear legal defect of the Impugned Order and the Decree being unsustainable in law, there is no need to address the remaining aspect of the quantum of damages framed in the second question.

20. In view of the above discussion, the instant appeal is **dismissed**. As noted above the appellant could not prove its suit filed under Section 9 read with Section 3 of the Ordinance, 2002, therefore, the Impugned Order and the Decree are **set aside** and the suit stands **dismissed**. No order as to cost.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 08.07.2025

JUDGE

APPROVED FOR REPORTING

R.Anjam

UNCERTIFIED