

CASE BRIEF

Nela Zelenková, 325923

Parties:

Edmund Irvine v. Talksport Ltd

Facts:

The instant case involves the following circumstances:

The claimant, Eddie Irvine, was a well-known British Formula 1 racing driver. 1999 was his most successful year, he finished as a runner-up in the Championship and was the British driver with the highest profile at that time.

The defendant, a radio station Talk Radio, obtained the rights to cover the 1999 Formula 1 Grand Prix Championship, and in late 1999 changed its name to Talksport. It produced a promotional campaign aimed at attracting advertisers to its station which contained, amongst other things, a brochure, the front cover of which featured a photograph of Irvine, holding to his ear a radio marked Talksport. The photograph was not only used image in the advert without obtaining a Irvine's consent, but it had been doctored so as to remove the mobile telephone which Irvine had in fact been holding, and replace it with the radio.

The claimant sued the defendant and sought damages of £50,000.

Legal issue:

The question before the court is, what is the reasonable amount of damages in this case.

Procedural history:

In the first instance the court ruled, that the digital manipulation of the photograph had been done so skilfully that it was not obvious that it had been altered. The photograph constituted a misrepresentation to that effect. However, judge found that the campaign by Talksport was of a much smaller and different kind than the other endorsement deals which Irvine had been involved in. Therefore he restricted damages to £2000.

Both parties appealed against the decision of the first instance.

Reasoning of the court:

The court reversed the ruling of the first instance.

The court pointed, that that the Judge was wrong to have dismissed the evidence put forward by Irvine of a typical licence fee as this provided an indication of the minimum fee which he would have charged. In particular he should not have dismissed the fact that Irvine asserted that "he would not get out of bed for less than £25,000." The court consequently drew the conclusion, that the claimant is entitled to the damages of £50,000.