

In the matter of:     **R   Taha I.D.** \_\_\_\_\_

of Ras al'Amud, Jerusalem

Represented by counsel Adv. Bassam Karkabi and/or Sophi  
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Tel.: 02-6221611 Fax.: 02-6235277

The Plaintiff

v.

**National Insurance Institute**

Represented by the legal department

of 4 Ben Shatach Street, Jerusalem

The Defendant

**Statement of Claim**

1. The plaintiff is the widow of the deceased, the late H Taha (I.D. \_\_\_\_\_ )  
(hereinafter – the **deceased**), who was an Israeli resident at the time of his  
death and who was recognized as insured by the defendant.
2. The plaintiff lived with the deceased in Jerusalem prior to his death, and  
continued to live in the city after his death.
3. The plaintiff was legally present in Israel by virtue of family unification with  
the deceased and was accordingly granted, throughout the years, stay permits  
in Israel for defined periods of time which were renewed from time to time.
4. The deceased passed away on March 11, 2011 and in December 2011, the  
plaintiff submitted a claim for a survivors' pension to the defendant.

5. The plaintiff was requested by the defendant to provide a copy of her stay permit in Israel for the period commencing in March 2011 and ending in October 2011.

However, the plaintiff was unable to provide said permit for reasons which were not under her control. In any event, she provided a proper replacement to the request through HaMoked: Center for the Defence of the Individual [hereinafter, **HaMoked**], as the following documents indicate:

- a. Letter of HaMoked dated January 11, 2012 to the defendant which is attached and marked as "**Exhibit A**".
  - b. Letter of HaMoked dated January 12, 2012 to the Civil Administration and the Civil Administration's response to which a public servant certificate was attached, which are attached and marked together as "**Exhibit B**".
  - c. Letter of HaMoked dated February 14, 2012 to the defendant enclosing the Civil Administration's response and the public servant certificate, which is attached and marked as "**Exhibit C**".
6. Following bureaucratic and other difficulties, the plaintiff also succeeded to renew the entry permits into Israel.

A Photographic copy of two entry permits relating to the period from November 2011 through September 2012 is attached and marked as "**Exhibit D**".

7. After the Civil Administration's public servant certificate was provided to it, the defendant approved the claim for a survivors' pension with the exclusion of the period from July 2011 until August 2011 [*sic*] (hereinafter – the **relevant period**). A rejection letter has not been received by the plaintiff.
8. In the absence of a rejection letter, it seems that defendants' refusal to pay plaintiff a survivors' pension for the relevant period relies on section 324B of the National Insurance Law (Consolidated Version), 5755-1995.
9. The plaintiff has been legally residing in Israel for over twelve years (and began living in Jerusalem about five years earlier, and in total for about seventeen years), and her permit to enter Israel was renewed after her husband's death. However, for reasons not under her control, the plaintiff was left without an entry permit for the period from June 19, 2011 until November 7, 2011, for the following reasons:
  - a. The issuance of a permit to enter Israel to an applicant who undergoes family unification, such as the plaintiff, involves a cumbersome

bureaucratic process: it requires first going to the Ministry of Interior and requesting a referral to the Civil Administration, then waiting for a decision, and only after a decision is rendered, may the applicant apply to the Civil Administration. The Civil Administration issues the entry permit only following a bureaucratic process of its own.

- b. The plaintiff initially arrived at the Ministry of Interior several times to arrange the matter, but encountered long queues and did not succeed to enter the Ministry of Interior.
  - c. At a certain point, after she had succeeded to enter the Ministry of Interior, she was given a referral to the Civil Administration for the period from September 13, 2011 until March 13, 2012.
  - d. However, despite her efforts, the plaintiff did not succeed to obtain a permit to enter Israel from the Civil Administration, due to bureaucratic difficulties.
  - e. In her distress, the plaintiff requested the assistance of HaMoked and after written and oral communications (over the telephone), the Civil Administration granted the permit on November 8, 2011.
10. In view of the above and taking into consideration the entire circumstances of the matter, it cannot be said that during the relevant period, the plaintiff was illegally present in Israel – in the sense that she should have been deported.
11. The logic behind section 324B of the law is that the social security system does not serve as an incentive for illegal presence in Israel, even if the illegal alien would have been entitled to benefits if his presence in Israel had been legal.

This logic goes hand in hand the provision of section 13 of the Entry into Israel Law, 5712-1952, to which the above section 324B refers, and which provides:

"13. (a) A person who is not an Israeli citizen or an *oleh* under the Law of Return, 5710-1950, and is present in Israel, without a residency visa (in this law – an illegal alien), will be removed from Israel as soon as possible unless he has willingly left earlier.

(b) The removal of an illegal alien from Israel will be carried out in accordance with a removal order issued against him by the Minister of Interior;..."

This is to say that in view of the final clause of section 13(a) above, section 324B of the law should be interpreted as applying to an illegal alien **who should be deported**, rather than to a person who is in a "waiting" period between one permit and another, which is being delayed due to bureaucracy.

In any event, it may not be said that section 324B applies to a woman who has been legally residing in Israel for about twelve years (and has been present in Israel for a total of about seventeen years), with the exclusion of a few months during which she did not have a residency permit due to bureaucratic reasons which were not under her control.

Furthermore, the application of section 324B to this case leads to an absurd outcome: inasmuch as the plaintiff would have left Israel during the relevant period, she would have received a survivors' pension during this period, as section 324B would not have applied! This is an absurd outcome in view of the territorial principle of the social security laws which are based on the principle of the social contract for social security.

12. The honorable court has the local and subject-matter jurisdiction to hear this claim.
13. Therefore, the honorable court is hereby requested to summon the defendant and order it to pay the plaintiff survivors' pension for the relevant period which was not paid to her. In addition, it is hereby requested to order the defendant to pay trial costs and attorney fees together with VAT as prescribed by law.

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Bassam Karkabi, Advocate  
Counsel for the Plaintiff