

Disclaimer: The following is a non-binding translation of the original Hebrew document. It is provided by **HaMoked: Center for the Defence of the Individual** for information purposes only. The original Hebrew prevails in any case of discrepancy. While every effort has been made to ensure its accuracy, **HaMoked** is not liable for the proper and complete translation nor does it accept any liability for the use of, reliance on, or for any errors or misunderstandings that may derive from the English translation. **For queries about the translation please contact site@hamoked.org.il**

Judgment

1. Respondents 1 and 2, _____ Abraham and _____ Zvi (hereinafter: the “**Respondents**”), are Border Guards. In 1992, they intervened when female soldiers on auxiliary service with the Israel Police had asked for the I.D. cards of the Appellant and his colleague, who had arrived from the Territories.
2. The Respondents wanted to impress the female soldiers and behaved improperly towards the Appellant, arrested him, searched him, banged his head against the wall and accused him of being “impudent”, of attacking them and of attempting to pull a weapon away from them.
3. It is interesting that out of the two, it was the resident of the Territories that the Respondents decided not to arrest.
4. An indictment was filed against the Appellant, but withdrawn by the State.
5. The Appellant was arrested for 48 hours.
6. The Trial Court determined that it believed the Appellant and his colleague and did not believe the Respondents at all, and that the Respondents tried to cover up their actions and therefore accused the Appellant of offenses he did not commit.
7. The Trial Court determined that the State of Israel was also liable for the Respondents’ actions since it backed them up rather than condemning them.
8. The State claims that it filed disciplinary charges against the Respondents, but that they were acquitted and that it backed them up for this reason.
9. The Trial Court determined that it found no contributory fault on the Appellant's part.
10. The Trial Court determined that the main damage caused to the Appellant was non-pecuniary damage, since no pecuniary damage had been proven.
11. The Trial Court estimated the Appellant’s non-pecuniary damage to be ILS 13,000 as of the date of the judgment on May 25, 2000.
12. The Appellant is appealing the low damages awarded to him.
13. It seems to us as well that the damages awarded to the Appellant do not stand in correct proportion to the injustice done to the Appellant by the two Respondents. Although no physical damage was caused to him and no pecuniary damage was proven, he was humiliated and arrested for 48 hours and even indicted, an indictment later withdrawn by the State. Considering all the above, the Appellant is entitled to

damages higher than those awarded by the Trial Court, especially since the sum ordered by the Trial Court was ordered eight years following the incident, and did not take into consideration interest and linkage.

14. Considering all the aforesaid, we hereby award the Appellant damages in the sum of ILS 40,000 as of today.
15. No order for costs is given in the appeal. The costs ordered by the Trial Court will remain unchanged.

Issued today, 20Kislev, 5761 (December 17, 2000), in the presence of parties.

Justice Ruth Or

Justice Moshe Ravid

Justice Zvi Zylbertal