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At the Magistrates Court in Jerusalem

C.C. 10095/96

In the matter of:

_____ **Aljolani**

represented by attorneys Hale Houry and/or
Eliahu Abram and/or Hisham Shabaita
of HaMoked: Center for the Defence of the Individual
founded by Dr. Lotte Salzberger
4 Abu Obeidah Street, Jerusalem
Tel. 02-6283555; Fax 02-6276317

The Plaintiff

v.

The State of Israel

represented by the Jerusalem District Attorney's Office
4 Uzi Hasson Street, Jerusalem
Tel. 02-6208122; Fax 02-6252457

The Defendant

Nature of the claim: **Monetary**

Amount of the claim: **NIS 16,369**

Amended Complaint

1. The Plaintiff was born in 1946 and is a resident of the Old City of Jerusalem.
2. The Defendant was, in the timeframe relevant to the complaint, in charge of the actions of the Israeli Police in the Jerusalem metropolitan.
3. In the timeframe relevant to the complaint, the Plaintiff owned a green 1972 model double-cabin Volkswagen, license no. (hereinafter: the Car).

The Incident

4. In the early evening hours of 7 July 1989, the Plaintiff was driving his Car. While driving along Zayit Ra'anana St. in the area of Kiryat Zanz in Jerusalem, the Car broke down and the Plaintiff was forced to leave it there.
5. Since the said day (7 July 1989) was a Friday, and in order not to hurt the feelings of the religious residents of the Kiryat Zanz neighborhood, the Plaintiff went home and left his car at the place through the Sabbath.
6. On the following day, 8 July 1989, after sundown on the Sabbath, the Plaintiff returned to the Kiryat Zanz neighborhood together with a mechanic by the name of A. A. and a tow truck owner by the name of A. J.
7. Arriving close to the place where the Car had been parked the previous day, the Plaintiff, Mr. A., and Mr. J. found a gathering of residents, probably from the Kiryat Zanz neighborhood.
8. The crowd threw stones at the Plaintiff, Mr. A. and Mr. J..
9. The Plaintiff, Mr. A. and Mr. J. saw the Car, and noticed that its windows had been shattered and its tires slashed.
10. Due to the stone throwing, the Plaintiff, Mr. A. and Mr. J. were unable to approach the Car. The Plaintiff, together with the mechanic Mr. A., went to alert the police.
11. The Plaintiff went with Mr. A. to the police station at the Russian Compound in Jerusalem, told the policemen at the place what was happening, and asked for their help.
12. The policemen at the Russian Compound station gave the Plaintiff no assistance, and did absolutely nothing to intervene in the incident and to help the Plaintiff retrieve his Car.
13. While the Plaintiff was seeking in vain assistance from the law enforcement authorities, the rioters at the Kiryat Zanz neighborhood continued, and even aggravated, their actions.
14. At around 23:30, the rioters set fire to the Car. Papers and newspapers were stuffed into the fuel filler cap, gasoline (or another inflammable material) was poured onto and inside the Car, and it was set on fire.
15. Fire fighting forces arrived at the scene and put out the fire that took hold of the Car.

16. Only at around 00:20, after the fire had already been put out and following notification by a person called Friedman, did a police patrol car arrive at the scene.
17. According to the debriefing at the field by the Israel Police and the Fire Department, they learned (from neighborhood residents) that the Car had been stuck there since Friday, 7 July 1989, and that it belonged to a “member of a minority group” who was, at that time, anonymous to them.
18. On the following morning of 9 July 1989, the Plaintiff again arrived at the Kiryat Zanz neighborhood and found his burned Car.

The Plaintiff went to the Israel police (the Russian Compound station) in order to file a complaint for arson. From the Russian Compound he was referred to the Kishle police station in the Old City of Jerusalem.

19. On the same day, at around 09:30, the Plaintiff’s complaint was received at the Crimes Division of the Kishle police station. File no. C.C. 11465/89 was opened at the Kishle station. Two weeks after the opening of C.C. 11465/89, on 25 July 1989, the case was closed on the grounds of ‘unknown offender’.
20. At the time C.C. 11465/89 was closed, it contained nothing but the Plaintiff’s statement, the Fire Department’s investigation report and the action report of the police unit that arrived on the scene on the night of the incident, as aforesaid.

The Defendant’s Liability

21. The Defendant is liable for the damages caused due to the negligence of the policemen of the Israel police (who are its agents and/or employees acting on its behalf and/or its organs), in failing to prevent the arson of the Car, while reasonable policemen under the same circumstances could and ought to have prevented the damage.

The negligence was expressed, *inter alia*, in the following acts and/or omissions:

- a. Despite the atmosphere of unrest in the Kiryat Zanz neighborhood at the timeframe relevant to the complaint, the Israel Police did not maintain a continuous presence on the scene.
- b. The policemen at the Russian Compound station did not heed the Plaintiff’s call for help, even though they knew that, at that very time, rioting was

taking place in the Kiryat Zanz neighborhood, and that the rioters were not deterred from causing damage to property and/or bodily injury.

- c. No police patrol was dispatched to the Kiryat Zanz neighborhood to check what was going on and to intervene if necessary.
 - d. The Plaintiff was given no escort to protect him while he retrieved his Car.
22. The Defendant is liable for the damages caused due to the negligence of the investigative authorities (which are its agents and/or employees acting on its behalf and/or its organs) which conducted an abortive investigation into the arson of the Car, which is expressed, *inter alia*, in the following acts and/or omissions:
- a. On the night of the arson, the force that arrived on the scene collected no physical evidence, which could have led to the identification of the arsonists.
 - b. No forensic unit was dispatched to the scene.
 - c. No statements were taken from eyewitnesses and/or Kiryat Zanz residents, even though the action report of the police squad that arrived on the scene on the night of the arson indicated that the squad members had talked to such witnesses.
 - d. Even though the Fire Department's investigation indicated that a human factor had set fire to the Car, the Israel police did nothing to uncover the identity of the arsonists, and closed the investigation file within two weeks.
 - e. Even after the Plaintiff had filed a complaint for the arson of his Car, less than 12 hours after the incident, nothing was done to identify potential suspects.

The Israel Police made do with taking down the Plaintiff's statement.

23. Had the policemen of the Israel Police acted as reasonable policemen would have acted in their place, they would have been able to prevent the arson of the Plaintiff's Car and the damage would not have been caused.
24. Had the investigative authorities acted as reasonable investigative authorities would have acted in their place, they could probably have tracked the arsonists down, thus enabling the collection of damages from them too. However, the investigative

authorities did not act reasonably, and the State remains the only wrongdoer whose identity is known to the Plaintiff.

25. Furthermore, a police presence, a swift response by the police and a properly-conducted investigation, in this case as in others, could have made it possible to bring the offenders to justice.

When the Israel Police took not one of the foregoing necessary measures, how could hot-tempered rioters be expected to be deterred from damaging the property of a “minority member”, from whom the State had in practice removed its protection?

Negligence Per Se

26. Alternatively, the Plaintiff shall claim that the Defendant was negligent per se, in its breach of Section 3 of the Police Ordinance (New Version), 5731-1971, which pertains to a policeman’s duty to maintain public order and personal safety, that is designed, according to the correct meaning thereof, to protect the type of persons to which the Plaintiff belongs, and that the arson and the damage caused as a result thereof were caused due to the breach of that duty.

The Plaintiff’s Damage

27. a. As a result of the arson of the Plaintiff’s Car, it can no longer be used. The Plaintiff shall claim that he is entitled to compensation for the loss of his Car, the value of which on the night of the Arson was NIS 3,500.

The sum of NIS 400, the realized scrap value of the car, should be deducted from this amount.

- b. Therefore, the Plaintiff fixes his claim for the loss of his Car at the sum of NIS 3,100. This sum, revaluated from the date of the incident until the date of filing of the Complaint, amounts to the sum of NIS 11,369.

28. Furthermore, the Plaintiff is entitled to compensation for the sorrow and distress he suffered due to the incident and the loss of his Car, and is fixing his claim for such damages at the sum of NIS 5,000.
29. The Honorable Court has the territorial and the subject matter jurisdiction to hear the complaint.

The Honorable Court is therefore moved to summon the Defendant and to charge it with payment of the Plaintiff's damages as specified in the Complaint, in addition to differences of indexation and interest as set out in the law from the date of filing of the Complaint until the date of actual payment, in addition to trial expenses and V.A.T. as set out in the law.

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Hale Hourri, Adv.
Counsel for the Plaintiff

Jerusalem, 23 June 1997

(T.S. 809, M.M. 17583)