



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Kesubos Daf Mem Beis

#### PEREK NAARAH SHENISPATSA -- PEREK REVI'I

##### MISHNA

- The payments for boshes, pegam, and the penalty for a girl who was seduced belong to the father. The same is with the payment for the pain that is paid by the rapist.
- If the parties began the case in Beis Din when the father was still alive, the payments belong to the father. If the father were to die before collecting the money, the payments would go to the brothers (the father's heirs). If the father died before the case began, the payments belong to the girl herself.
- If the case began before the girl became a bogeres, the payments belong to the father. If he died before the payments were made, they go to the brothers. If the case did not begin before she became a bogeres, the payments go to the girl herself.
- **R' Shimon** says, if the father died before collecting the payments, the money goes to the girl herself. With regard to a girl's earnings and finds, even if she did not receive the money before the father died, the money would go to the brothers.

##### GEMARA

- **Q:** The Mishna in the last perek already listed the payments that must be made by a rapist and a seducer, so why does the Mishna repeat it here? **A:** The Mishna here is teaching that the payments are made to the father.
  - **Q:** It is obvious that it is given to the father, because a seducer would not have to make any of these payments to the girl herself, because she was a willing participant!? **A:** The Mishna wanted to bring the machlokes between the **Rabanan** and **R' Shimon**.
- A Mishna says, if one claims that a person had violated his daughter, and the accused denies it, and then the accuser demands that the accused swear, and the accused does so, and then later the accused admits to having violated the accuser's daughter, he must pay the claim, an additional 5<sup>th</sup>, and bring an asham for swearing falsely (the 5<sup>th</sup> and the asham are brought when one swears falsely regarding a monetary claim). **R' Shimon** says he does not pay the 5<sup>th</sup> and the asham because the claim was regarding a penalty and a person does not pay a penalty on his own admission. The **Rabanan** said to him, the part of the claim which is for boshes and pegam are paid on one's own admission!
  - **Q: Abaye** asked **Rabbah**, according to **R' Shimon**, if the accused first denied a claim and then admitted that he had done what was claimed and had even been brought to Beis Din and become obligated to pay the penalty, would **R' Shimon** agree that at that point the obligation was considered to be "money" and not a penalty (and he would therefore be chayuv in the 5<sup>th</sup> and asham), or would it still be considered to be a penalty? **A:** **Rabbah** said, at that point it would be "money" and he would be chayuv the additional 5<sup>th</sup> and the asham.
    - **Q: R' Shimon** says in a Braisa that if one swore in denial to a claim for a penalty and then later admits to being subject to the penalty, he is not obligated to bring the asham. Presumably this is even discussing where the admission happened after his having been in Beis Din and becoming obligated to the penalty, and we see that it is not considered to be "money" even then!? **A:** The Braisa is discussing where they had not been in Beis Din.
    - **Q:** The beginning of the Braisa discusses where they were already in Beis Din, because it speaks of a person being chayuv a penalty (which wouldn't happen based on a self-admission). If so, presumably the later part of the Braisa is also

discussing where they were already in Beis Din!? **A:** When a penalty obligation was established in Beis Din, **R' Shimon** only considers it to be "money" in the sense that it would belong to the heirs of the one who is to receive the penalty payment. However, he would say that it is not considered to be "money" in the sense of obligating the denier to a korbon for this denial.

- **Q:** Our Mishna says that **R' Shimon** says, if the father died before collecting payment, the payment goes to the girl herself. Now, if **R' Shimon** holds that it is considered "money", it should go to the brothers, and not the girl!? **A: Rava** said, when **R' Yosef** became Rosh Yeshiva he answered that the penalty for being violated is different than all other penalties, because the pasuk says "v'nossan... l'avi hanaarah", which teaches that it does not become the father's until he actually receives it. However, with regard to other penalties it does become his once it was obligated by Beis Din.
  - **Q:** If so, regarding the penalty given when an ox kills a slave, where the pasuk says "yitein l'adonuv", shall we say that there too it is only considered his once he receives it? **A:** The word "v'nossan" has that connotation, but the word "yitein" does not.
  - **Q:** In the Braisa **R' Shimon** says that the reason a penalty is treated different is based on the word "v'kicheish". However, based on what was now said, **R' Shimon** should say it is based on the word "v'nossan"!? **A: Rava** said, "v'kicheish" is needed for a case where the girl became a bogeres before the penalty was paid and she then died before collecting the payment. In that case the father gets it as an inheritance from her. In this case the word "v'nossan" does not apply.
    - Although **R' Shimon** refers to the obligations as penalties in the Braisa, he does so because they were initially penalties and were converted to "money" status after the obligation was set in Beis Din.
  - **Q:** The Mishna that was quoted earlier said that **R' Shimon** said one is patur from bringing the asham for a denied penalty since one would be patur for a self-admission. This suggests that if Beis Din set in the obligation he would be chayuv the asham!? **A: R' Shimon** was saying to the **Rabanan**, that according to him there would be no korbon even if it was established in Beis Din. However, he said to them, you should at least agree that where it was not yet established in Beis Din a penalty should not be able create an asham obligation, because a self-admission would make him patur to pay the penalty. The **Rabanan** answered that the claims for boshes and pegam are not penalties and therefore they can create the asham obligation.
    - **R' Pappa** explained, the **Rabanan** hold that a person's principle claim is for the items that he knows he can get even with a self-admission. **R' Shimon** holds that a person's principle claim will be for the item that has a set value (the 50 shekalim), and not the items that need a value to be set.