



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

Gittin Daf Mem Tes

- **Q:** Why does **R' Yishmael** say that we pay idis based on the quality of the damaged party's fields? **A:** The pasuk says "sadeh" with regard to the payment, and says "sadeh" with regard to the damage. There is a gezeira shava that teaches that just as "sadeh" with regard to the damage refers to the damaged party's field, so too the payment refers to the damaged party's field.
 - **R' Akiva** holds the damager pays based on his own idis. This is based on the pasuk that says "meitav sadeihu...yishalem" – the one who is paying is where we look to when determining idis.
 - **R' Yishmael** says, this pasuk teaches that if the damager only has ziburis and idis, and his ziburis is not as good as the idis of the damaged party, he must pay with his own idis, even though his own idis is much better than the idis of the damaged party.
- **Q:** The Gemara earlier quoted a Braisa where **R' Akiva** said that the damager must pay with his own idis, and that will certainly be true when collecting for hekdesch. What is meant by this last statement regarding hekdesch? It can't be referring to where one's ox gored the ox of hekdesch, because we darshen a pasuk to teach that the damager would not pay in that case. **A:** It must be referring to the case where one promised money to hekdesch. **R' Akiva** is teaching that hekdesch will collect that promise from idis.
 - **Q:** Why would hekdesch be different than any other creditor, who gets paid with beinanis!? **A:** **R' Akiva** is referring to where a person's ox gored the ox of hekdesch, and he holds like **R' Shimon ben Menasya**, who says that in such a case the person would be chayuv to pay.
 - **Q:** If this is correct, why must we say that **R' Akiva** and **R' Yishmael** argue with regard to who we look at to determine idis? Maybe all agree that we look to the damaged party, and the machlokes in the Braisa is that **R' Akiva** holds like **R' Shimon ben Menasya** and **R' Yishmael** holds like the **Rabanan** (who argue on **R' Shimon**)!? **A:** First, the wording of **R' Akiva** suggests that he is coming to argue on the halacha of **R' Yishmael** regarding the determination of idis based on the damaged party. Second, if he agreed with **R' Yishmael** (that we are lenient and only require idis of the damaged party even if the damager has better land), how would he then say that we can make a kal v'chomer to hekdesch from that case to hekdesch, and say that the leniency should definitely apply there? Third, a Braisa clearly states that they argue regarding how we determine the idis.
- The Gemara earlier had asked, why does the Mishna say that a damager pays from idis "mipnei tikun ha'olam", when we learn it out from a pasuk!? **Ravina** now answers, the Mishna can follow the view of **R' Akiva**, who says that we actually do learn this out from a pasuk, and the Mishna is following the view of **R' Shimon** who darshens the reasons for pesukim. The Mishna is saying, the reason a damager must pay from idis is for the benefit of the world, to truly discourage people from damaging.
 - A Braisa says this as well. In the Braisa **R' Shimon** says, a damager pays idis to discourage people from damaging. A creditor collects from beinanis so that a person not see a nice field or house by someone and quickly lend the owner money so that he can then take the field or the house when the owner is later unable to pay. The reason we don't make them collect from ziburis is so as not to discourage people from lending money. **R' Meir** says a woman collects her kesubah from beinanis. **R' Yehuda** says a woman collects her kesubah from ziburis, and **R' Shimon** explains: 1) because a woman wants to get

married more than a man, so we do not have to incentivize her to get married, and 2) a woman can be divorced even against her will, and a husband cannot.

- **Q:** What is the second reason, and how does it explain why she only collects from ziburis? **A:** It doesn't explain why she collects from ziburis. It explains why only a woman gets a kesubah and a man does not. The reason is that a woman can be divorced against her will and a man cannot.

KESUBAS ISHA B'ZIBURIS

- **Mar Zutra the son of R' Nachman** said, a woman only collects from ziburis when she is collecting from the orphans. However, if she is collecting from the husband (she is a divorcee) she can even collect from beinanis.
 - **Q:** Anyone who collects from orphans only collects from ziburis, so why would the Mishna single out the woman collecting her kesubah? Presumably it is because the Mishna is discussing where she collects directly from the husband and even then she only collects from ziburis, which is not like **Mar Zutra** said!? **A:** The Mishna is discussing where the woman was collecting from the orphans. The chiddush is, we would think that to incentivize women to marry we would let her collect from beinanis even from orphans. The Mishna teaches that she must collect from ziburis.
 - **Q: Rava** asked, in our Mishna **R' Meir** says that the woman collects from beinanis. Now, this can't be where she is collecting from the orphans, because even **R' Meir** would agree that she would only collect from ziburis in that case. If so, the **Rabanan** who argue are also talking about a case where she is not collecting from the orphans, and still they say that she collects from ziburis, not like **Mar Zutra**!? **A:** It may be discussing where she is collecting from the orphans. The reason **R' Meir** says she may collect from beinanis is that we try to incentivize women to marry.
 - **Q: Abaye** asked, our Mishna says a damaged person collects from idis, a creditor from beinanis, and a kesubah from ziburis. If this is only true when she collects from orphans, then the entire Mishna must be discussing where the others are collecting from orphans as well. However, if that were true, they should all be collecting only from ziburis!? It must be that they are collecting from the person himself, and still the woman only collects ziburis, not like **Mar Zutra** said!? **A: R' Acha bar Yaakov** said, the Mishna is discussing a case where a father acted as a guarantor for his son's damages, for his son's debt, and for his son's kesubah obligation, and the son died. Therefore, the damaged party and the creditor, who would collect even if the son was still alive, now collect from the guarantor in the same way as they would have collected from the son if he were alive (and collect idis and beinanis, respectively). However, the wife, who only collects after the son's death (the most common reason for kesubah collection is death of the husband) now also collects from the guarantor, but in the way she would collect if there was no guarantor – which would only be from ziburis.
 - **Q:** The halacha is that a guarantor on a kesubah is not obligated to pay even if the husband defaults!? **A:** The Mishna is discussing a "kablan", which is a stronger guarantor and would have to pay on a kesubah obligation.
 - Although there is a view that even a kablan does not truly accept responsibility if the principle (in this case the son) did not have any assets at the time that he became a kablan, we can say that the son had assets at the time and lost them later, or we can say that when the kablan is the father, he accepts responsibility even if his son does not have any assets.
 - We have learned, all agree that a guarantor to a kesubah does not truly accept responsibility. All agree that a kablan for a debt does accept responsibility. With regard to a guarantor on a debt and a kablan on a kesubah, there is a machlokes.
 - The Gemara paskens that all types of guarantors accept responsibility except for the regular guarantor (not a kablan) of a kesubah, because he took the position to push the couple to get married, and not to accept true responsibility.

- **Ravina** said, we have learned that the reason a woman collects from the type of land that she does is because she wants to get married more than a man wants to get married. Now, if **Mar Zutra** is right, the reason she collects from ziburis when collecting from orphans is because she is collecting from orphans, not for any other reason!? **TEYUFTA** of **Mar Zutra**.