



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

### Bava Kamma Daf Chuf Zayin

- **Rabbah** also said, if a person fell off a roof and landed on top of a woman in a way that he had bi'ah with her, and in the process injured her, he is chayuv for the 4 additional payments, and if the woman was his yevama he is *not* konah her with this bi'ah.
  - This means he is chayuv for nezek, tzaar, ripuy, and sheves, but not for boshes, because a Mishna says that one is not chayuv for boshes unless the act was intended.
- **Rabbah** also said, if a person was pushed off a roof by an unusually strong wind, and he landed on someone, injuring and embarrassing them, he is chayuv for damages, but not for the additional 4 payments. If he was pushed off by a usual wind, he is also chayuv for the other payments, but not for boshes. If he turned himself midair so that he break his fall by falling on someone else, he would even be chayuv for boshes, because we learn from a pasuk that as long as he intended for the act that does the damage, even if he did not intend to embarrass someone by doing so, he is still chayuv for boshes.
- **Rabbah** also said, if a person puts a burning coal on another person's heart, which causes the other person to die, the person who put the coal there is patur for the killing (because the other person should have taken the coal off of himself). If the person put the burning coal on someone's clothing and the clothing burned, he is chayuv to pay for the clothing.
  - **Rava** said, both of these halachos are taught in a Mishna. A Mishna says that if someone pushed someone into water or fire and held him down, he is chayuv for the killing. However, if he only pushed him in and the person could have gotten out of the water or the fire, he would be patur for the killing. This teaches the halacha of the coal on the heart. Another Mishna says, if a person says "rip my clothing or break my keili" and a person then goes and does so, the person is chayuv (because the person meant, you can break my keili if you are willing to pay). This teaches the concept of the halacha of the person who puts the coal on the clothing of the other person.
- **Rabbah** asked, what is the halacha if someone puts a burning coal onto the heart of someone else's slave? Do we consider it as putting a coal on the person or on his property? If you will say that a slave is considered to be like the body of the owner himself, what would be the halacha if he put the coal on another person's ox? **Rabbah** then answered, a slave is considered to be like the body of the owner himself, and an ox is considered to be like his property (and would have the same halacha as when he places the coal on the other person's clothing).

**HADRAN ALACH PEREK KEITZAD HAREGEL!!!**

### **PEREK HAMANI'ACH -- PEREK SHLISHI**

#### MISHNA

- If a person places a "kad" (a type of keili) in the reshus harabim, and another person comes and trips on it and breaks it, the one who tripped is patur from having to pay for the jug, and if he was injured, the one who placed the "chavis" (a type of keili) there is chayuv to pay for the damage done to the person.

#### GEMARA

- **Q:** The Mishna begins by discussing a "kad" and ends by discussing a "chavis"? We find two other Mishnyos that do this as well!? **A: R' Pappa** said, kad and chavis are the same thing. The point of knowing this is that if someone made a deal to sell one of these and then gave the other (kad is generally thought of as a pitcher or jug and chavis is generally thought of as a barrel), the sale is valid.

- **Q:** What is the circumstances of this case? If the sale was in a place where people don't refer to one type of keili as both a kad and a chavis, then how could he give something that was not said? **A:** The case must be where most people refer to a jug as a kad and a barrel as a chavis, but there are some people who use these terms interchangeably. We would think that we must follow the majority. Therefore, he teaches that we don't follow the majority in money matters.

#### UBAH ACHEIR V'NISKAL BAH USHVARA PATUR

- **Q:** Why is he patur from having to pay for the pitcher? Why don't we say that he should have looked where he was walking? **A:** In the name of **Rav** it was said that the case is where the person filled the entire area with pitchers, so it was impossible not to walk and trip over them. **Shmuel** said the case is where he tripped over it at night, and therefore could not have been expected to see it. **R' Yochanan** said the case is where the pitcher was at a corner, where the person could not have been expected to see it before tripping on it.
  - **Q:** **R' Pappa** said, our Mishna seems not to agree with **Rav**, because according to him, the Mishna didn't have to say that the person tripped on the pitcher. It could have even said that the person simply broke the pitcher!? **A:** **R' Zvid in the name of Rava** said, the Mishna could have given the case of where he simply broke the pitcher. The reason the Mishna gave the case of where he tripped is because the end of the Mishna needs to give that case, because only there would the owner of the pitcher be chayuv to pay for damages.
  - **R' Abba** said to **R' Ashi**, in EY they said in the name of **Ulla**, the reason the person who tripped is not chayuv to pay for the pitcher is because a person does not look where he walks, and is therefore not expected to do so either.
  - It once happened that a person tripped over a keili in full daylight and broke the keili and **Shmuel** said he was chayuv to pay for the keili. In a similar case **Rabbah** also said the person was chayuv to pay.
    - **Q:** **Shmuel** is following his earlier view. Should we say that this means that **Rabbah** holds like **Shmuel**? **A:** **R' Pappa** said, the case of **Rabbah** was regarding a barrel at the corner of an olive press, where it is normal and within one's right to keep his barrels there. It is only in that case that **Rabbah** holds that the person is chayuv for breaking the barrel.
- **R' Chisda** sent to **R' Nachman**, the dayanim say that the boshes payment for a kick with the knee is 3 sela'im, for a kick with the foot is 5 sela'im, and for hitting with a donkey's saddle is 13 sela'im. What is the amount of the boshes payment for hitting someone with the handle or the blade of a shovel? **R' Nachman** sent back, "Chisda, Chisda, are you collecting penalties in Bavel!? Send me the facts of the case". **R' Chisda** sent, there was a water source that was owned by people and each had a right to draw water on alternating days. It happened that one of the people tried drawing water on a day that he was not supposed to. A fight broke out and the other person hit him with the handle of a shovel. **R' Nachman** said, in this case he would not be chayuv anything, because even according to the view that one may not take matters into his own hands, since he was facing a loss here (if the person would draw the water), he is certainly allowed to take matters into his own hand, and therefore was right to hit him.
  - We have learned that **R' Yehuda** says a person may not take matters into his own hand, and **R' Nachman** says that one may. If a person is facing a loss, all agree he make take matters into his own hand to prevent that loss. The machlokes is when there is no impending loss. In that case **R' Yehuda** says, since there is no loss the person should go to Beis Din to adjudicate the dispute. **R' Nachman** says, since the person is acting properly according to his legal claim, we do not require him to go to Beis Din.
  - **Q:** **R' Kahana** asked, a Braisa says, **Ben Bag Bag** says, do not sneak into another person's property to take back something of yours, because you may appear to be a thief. Rather, "break his teeth" (beat him) and tell him that you are taking back something that belongs to you. We see from here that one may take matters into his own hand!? **A:** **R' Yehuda** said, **Ben Bag Bag** is a lone shita, and the **Rabanan** argue with him and agree with me! **A2:** **R' Yannai** said, "break his teeth" means take him to Beis Din.
    - **Q:** According to **R' Yannai** the Braisa shouldn't say "and he should tell him", rather it should say "and they should tell him"! Also, it should not say "I am

taking what belongs to *me*", rather it should say "he is taking what belongs to *him*"!? **KASHYEH.**