



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

### Bava Kamma Daf Lamed Beis

#### MISHNA

- If one person was walking in the reshus harabim with his barrel and another person was walking with a beam and they collided so that the beam broke the barrel, the owner of the beam is patur, because they both have equal rights to carry their items through the reshus harabim.
- If the one carrying the beam was in front and the one with the barrel was behind him, if the barrel bumped into the beam, causing the barrel to break, the owner of the beam is patur. If the beam owner made a sudden stop, causing the barrel to bump into the beam, then the owner of the beam would be chayuv for the damage. However, if he told the barrel owner to stop, then the beam owner would be patur.
  - If the one carrying the barrel was in front and the one with the beam was behind him, if the beam bumped into the barrel, causing the barrel to break, the owner of the beam is chayuv. If the barrel owner made a sudden stop, causing the beam to bump into the barrel, then the owner of the beam would be patur for the damage. However, if he told the beam owner to stop, then the beam owner would be chayuv.
- The same principles would apply where one person is carrying a lit candle and another person is carrying flax.

#### GEMARA

- **Q: Rabbah bar Nosson** asked **R' Huna**, what is the halacha if a man injures his wife during tashmish? Do we say that since he had permission to do what he did he is patur, or do we say that he should have been more careful, and is therefore chayuv? **A: R' Huna** said, we see from our Mishna that when the person with the beam and the person with the barrel both had rights to do what they were doing, they are patur.
  - **Q: Rava** asked, if in the case of a forest where a person chopping wood accidentally killed another man, he is chayuv to go into galus, then in the case of the husband, where he is considered to be in the reshus of the wife, surely he should be chayuv for any injury he causes her!? Although in our Mishna the people were there with reshus and they are patur, that is because they both were involved in the action that caused the damage. In the case of the couple, only the husband is doing an action that causes the damage!?
    - Although we find that a woman gets punished for znus, which would mean she is considered to be involved in the act, in truth she is considered part of the act only because she has hana'ah from the act, but with regard to damage, she is not considered to be involved in the act.

#### HAYA BAAL KORAH RISHON...

- **Reish Lakish** said, if there are 2 animals in the reshus harabim, one is walking and one is sitting down, if the walking animal kicked the sitting animal, the owner would be patur (it is not normal for an animal to sit in the reshus harabim, and is also not normal for the animal to intentionally kick the other animal). However, if the sitting animal kicked the walking animal, he would be chayuv.
  - **Q:** Maybe we can say that our Mishna is a proof to **Reish Lakish**, because the Mishna says that if the beam owner was walking in front and the barrel bumped into it and broke, the beam owner would be patur, but if the beam owner made a sudden stop, which caused the barrel to bump into it, he is chayuv. Now, this case of where he stopped is analogous to the case of where the sitting animal kicked the walking animal, and we see that he is chayuv! **A:** Not only is this not a proof, the Mishna is actually problematic for **Reish Lakish**, because his ruling suggests that the sitting animal is

chayuv only because it kicked, but if the walking animal tripped over it he would be patur. Yet, in our Mishna, the damage happened when the beam was standing still, and still the owner is chayuv!

- The Mishna is not problematic, because the case is where the beam blocked the entire path and there was no way to avoid it. In the case of the animals, the sitting animal was on one side of the path, and the other animal could have walked around it to avoid it. That is why the owner of the sitting animal will be patur if his animal did not kick and damage.
- **Q:** Maybe the next part of our Mishna can be used as a proof for **Reish Lakish**. The Mishna says that if the barrel was in front, then if the beam broke the barrel, the barrel owner is chayuv. However, if the barrel stopped, causing the beam to bump into it and break the barrel, the beam owner is patur. Now, this last case is analogous to the walking animal kicking the sitting animal, and the Mishna says that he is patur! **A:** The cases can't be compared. In the case of the Mishna the beam owner had every right to walk in a normal fashion, like he is doing. However, in the case of the animals, the owner of the sitting animal can say, you had every right to step on my animal, but you had no right to kick my animal, and therefore there is reason to say that the walking animal should be chayuv for doing so.

#### MISHNA

- If two people are going in the reshus harabim – one is running and the other is walking, or if they are both running, and they did damage to each other, they are both patur.

#### GEMARA

- The Mishna does not follow **Isi ben Yehuda**, who says in a Braisa that the one who is running is chayuv, because he is not acting in a normal way. **Isi** agrees that if someone was running on Erev Shabbos “bein hashmashos” that he would be patur, because at that time people have permission to run.
  - **R' Yochanan** said that the halacha follows **Isi ben Yehuda**.
    - **Q: R' Yochanan** always paskens like the anonymous Mishnayos, and our, anonymous Mishna says that even if someone ran he is patur!? **A:** Our Mishna is discussing Erev Shabbos bein hashmashos. It must be the case, because if not, why did the Mishna give the case of one person running and say that he is patur, and then say that if they are both running they are patur. The second case is obvious after the first case!? Rather, it must be that the case of one person running was Erev Shabbos bein hashmashos, and the Mishna then means to say that if happened at any other time the runner would be chayuv, but, if they were both running they are patur even at a time other than Erev Shabbos bein hashmashos.
  - **Q:** Why does he have permission to run on Erev Shabbos during bein hashmashos? What Shabbos preparations are still being done at that time? **A:** It is like **R' Chanina** and **R' Yannai** would do, when they would go out to greet the Shabbos at that time.

#### MISHNA

- If someone chops wood in the reshus harabim and it causes damage in the reshus hayachid, or visa-versa, or if one chops wood in the reshus hayachid and it does damage in another reshus hayachid, he is chayuv.

#### GEMARA

- It is necessary to state all three cases. If we would only say the case of where he chops in the reshus hayachid and damages in the reshus harabim, we would say in that case he is chayuv, because there are a lot of people in the reshus harabim and he should have known to be careful, but in the opposite case, he had no reason to think that people would be right next to him in the reshus hayachid and he should therefore be patur. If we would only say the case of where he chopped wood in the reshus harabim, we would say that in that case he is chayuv, because he had no right to chop wood in the reshus harabim, but when he chops in the reshus hayachid he

should be patur. If we would only say these 2 cases, we would say he is chayuv for the reasons given above. However, when he chops in one reshus hayachid and damages in another reshus hayachid, where neither of these reasons apply, we would say that he should be patur.

- A Braisa says, if a person went into a carpentry shop without permission, and a woodchip hits him and kills him, the carpenter is patur (from having to go into galus). If the person entered with permission, the carpenter would be chayuv.
  - **R' Yose bar Chanina** said, this means he is chayuv in the 4 payments if the person was injured, but would be patur from galus if the person was killed, because this is different than the case of the accidental killing in the forest, where the forest belongs equally to the killer and the victim, whereas in this case the victim went into the property of the carpenter.
    - **Rava** said, we should say a kal v'chomer – if in the case of a forest, although they have equal rights to the forest, we consider it as if the victim was there with the permission of the killer and the killer must therefore go to galus, then in the case of the carpenter, where the victim actually did have permission, the killer should surely have to go into galus!? Rather, **Rava** said, what **R' Yose bar Chanina** meant was that the carpenter is patur from galus, because galus is not enough to bring a kaparah for him, because he is a shogeg that is bordering on being a meizid.
      - **Q: Rava** asked, a Mishna says, if the shaliach of Beis Din who was giving malkus gave one more than he was told to give, and the person died from that last lash, the shaliach must go into galus. Now, this is clearly a case of a shogeg bordering on a meizid, and yet he goes into galus!? **A: R' Simi of Neharda'ah** said, the case of the Mishna is where the shaliach made a mistake in his counting of the malkus. That case is not considered to be bordering on being a meizid.
        - **Q: Rava** asked, a Braisa says that the one giving the malkus is not the one who does the counting (a dayan does that)!? **A: R' Simi** said, the case is that the dayan made the mistake in counting, but the shaliach who thereby gave the extra lash must go into galus.
      - **Q:** A Mishna says, if someone threw a stone into the reshus harabim and it killed someone, he must go into galus. Now this is a case of bordering on meizid, because he knew that there would be many people there, and yet he goes into galus!? **A: R' Shmuel bar Yitzchak** said, the case is that the person was demolishing his wall, and therefore was not throwing stones into the reshus harabim with no purpose.
        - **Q:** Still, he should have checked to see if anyone was there before he threw it!? **A:** The case is that he did it at night.
        - **Q:** Even at night, he should have checked first!? **A:** The case is that he was throwing the stones of his wall into a garbage dump.
        - **Q:** What type of garbage dump? If many people are always there, he is bordering on a meizid, and if many people are not normally there, he is an oneis!? **A: R' Pappa** said, it is a garbage dump that is generally only used as a bathroom by people at night, but once in a while is used by day as well. Therefore, when he throws the stone there during the day, he cannot be said to be a meizid (because people don't generally use it by day), but he also cannot be said to be an oneis (because people sometimes do use it by day).
    - **R' Pappa in the name of Rava** said that **R' Yose's** statement was said in regard to the earlier part of the Braisa, which discussed the person who walked into the carpentry shop without permission and was killed, in which case the Braisa says that the carpenter is patur. On that case **R' Yose** said that he is chayuv for the 4 payments if the victim is injured, but is patur from galus if the victim is killed.

- According to the version that this was said on the later part of the Braisa, they would agree that it also applies to the earlier part. However, according to the version that it was said on this earlier part, it may be that in the later part of the Braisa, since he entered with permission, the carpenter would be chayuv to go into galus.
- **Q:** How can we say that the carpenter would be chayuv to go into galus if the victim entered with permission? A Braisa says that if a person enters the shop of a blacksmith and was killed from the sparks, the blacksmith is patur from having to go into galus, whether the person entered with permission or not!? **A:** This Braisa is discussing the student of the blacksmith, where the blacksmith was pushing him to leave, and thought that he actually had left. That is why he is patur.
  - **Q:** If that is the case, then even if it is a person other than a student, he should also be patur!? **A:** Someone other than the student does not have the fear of the teacher on him, and therefore the blacksmith should not assume that the person left just because he had told him to do so.
- **R' Zvid in the name of Rava** said that the statement of **R' Yose** was made on the following Braisa. The Braisa says, that **R' Eliezer ben Yaakov** learns from a pasuk, if someone threw a stone, and someone else put himself into the path of the stone and was killed by it, the thrower is patur from having to go into galus. It was on this that **R' Yose bar Chanina** said, he is patur from galus, but would be chayuv to pay the 4 payments if the victim was only injured.
  - According to the view that it was said on this Braisa, it would certainly apply to the earlier Braisa (with the carpenter) as well. According to the view that it was said on the first Braisa, it may be that with regard to the case of this later Braisa the thrower is patur from everything, even the 4 payments.