



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

Bava Kamma Daf Lamed Tes

MISHNA

- If the ox of a competent person gored the ox of a deaf-mute, shoteh, or minor, the owner is chayuv. If the case was reversed, the owner would be patur.
- If the ox of a cheireish, shoteh, or katan gored, Beis Din appoints an apitrapis to watch over the ox, and testimony (about the goring) is then said in the presence of the apitrapis.
 - If the ox became a muad under the watch of the apitrapis, and the cheireish is then healed, the shoteh becomes sane, or the katan becomes an adult, **R' Meir** says the ox reverts to the tam status. **R' Yose** says it remains in its muad status.
- An ox that is trained to gore is not put to death if it kills a person. This is because the pasuk says "ki yigach" ("if it happens that an ox gores"), which excludes the case of an ox that is trained and gores when commanded to do so by the trainer.

GEMARA

- **Q:** The Mishna seems to contradict itself!? First it says that if the ox of a cheireish, shoteh, or katan gored, they would not be chayuv, which would mean that we would not appoint an apitrapis to pay the half damages of a tam. However, the end of the Mishna then says that an apitrapis is set up to testify in his presence and to make the animal into a muad, which suggests that the apitrapis would pay the half damages as well!? **A: Rava** said, the Mishna means, that once the animal has been established as an animal that gores, at that time an apitrapis is appointed so that testimony can be said to make it into a muad, and to have it pay if it gores as a muad. However, the Mishna does not mean that any payment would be made while it is a tam.
 - **Q:** If the animal were to then become a muad and do damage again, who would be chayuv to pay? Would the incompetent owner have to pay or would the apitrapis have to pay? **A: R' Yochanan** said the owner would have to pay, and **R' Yose bar Chanina** said the apitrapis would have to pay.
 - **Q:** We find that **R' Yochanan** says the only time Beis Din makes minor orphans pay a debt is either when the debt is accruing interest or if the debt is for a kesubah, in which case the woman will be supported from the estate until it is paid. How can we say that he says the minors (or other incompetent owners) would have to pay for the damage!? **A:** We must reverse the shitos so that it is **R' Yochanan** who says that the apitrapis is the one who would be chayuv.
 - **Q: Rava** asked, although that would take care of the contradiction of **R' Yochanan**, it means that **R' Yose bar Chanina** holds that we make the children pay. This is difficult to say, because the halacha does not follow that, and **R' Yose** was a dayan, and would not hold that way!? **A:** Rather, do not reverse the shitos. **R' Yochanan** holds that the laws of damages are more stringent, and in such a case we would make the minors pay. He holds that if we were to make the apitrapis pay, no one would ever agree to serve as an apitrapis. **R' Yose** holds that we make the apitrapis pay, and when the minors get older he gets paid back from them.
- Whether an apitrapis is appointed to make payment for the damage done as a tam, is actuality subject to a machlokes among Tanna'im. A Braisa says, if the owner of an ox became a cheireish, or a shoteh, or if the owners went overseas, and the ox then gored, **Yehuda ben Nekusa in the name of Sumchos** said it remains a tam until testimony is given in front of the owners, and the **Chachomim** said we appoint an apitrapis and testimony is said in front of him. If the owners were then healed or returned, **Yehuda ben Nekusa in the name of Sumchos** said

the ox reverts to being a tam until testimony is given in front of the owners, and **R' Yose** says it remains in its state of muad. Now, what does **Sumchos** mean in the beginning when he said it remains a "tam"? He can't mean that it never becomes a muad, because he later says that it "reverts back to a tam", which means it had become a muad! Rather he uses "tam" in the sense that it remains "whole", meaning that no payment is made as a tam. We see that he holds that we don't appoint an apitrapis to make payments for a tam. Whereas the **Chachomim** argue and say that we do.

- With regard to the second case, the machlokes is whether the change of reshush changes the status from a muad to a tam. **Sumchos** holds that it does, and the **Chachomim** hold that it does not.
- A Braisa says, if the ox of a cheireish, shoteh, or katan gored, **R' Yaakov** says he must pay half damages.
 - **Q:** What animal is being discussed? If it is a tam, of course it should only pay half damages!? If it is a muad, then if it was guarded, it should pay nothing, and if it wasn't, it should pay for full damages!? **A:** **Rava** said, the case is where the animal was a muad, and where the owner did a low level guarding. **R' Yaakov** holds like **R' Yehuda** who says that a muad payment is made up of half payment of a tam and half for a muad, and he also holds like **R' Yehuda** that a low level guarding is enough to make a muad patur (but not for a tam, and that is why he only has to pay the tam portion, and not the muad portion). Finally, he holds like the **Rabanan**, that an apitrapis is appointed to pay for the damage done by a tam.
 - **Q:** **Abaye** asked, a Braisa says, if the ox of a cheireish, shoteh, or katan gored, **R' Yehuda** says he is chayuv, and **R' Yaakov** says he must pay half damages. We see that **R' Yaakov** argues with **R' Yehuda**!? **A:** **Rabbah bar Ulla** said, **R' Yaakov** is explaining, that when **R' Yehuda** says he is chayuv, he means for half damages.
 - **Q:** According to **Abaye**, who says that they do argue, what point do they argue about? **A:** The case would be where a muad was not guarded at all. **R' Yaakov** agrees with **R' Yehuda** that half the payment is for a tam, but he argues and says that an apitrapis is not appointed to pay for the damage of a tam. Therefore, he holds that only the half for the muad is paid.
 - **Q:** **R' Acha bar Abaye** said to **Ravina**, according to **Abaye**, who says that they argue, it makes sense why the Braisa must be discussing a case of muad (because according to **R' Yaakov** we would not appoint an apitrapis to pay for the damages of a tam). However, according to **Rava**, who said that they do not argue (and even **R' Yaakov** would agree that we appoint an apitrapis to pay for the damages of a tam), why doesn't the Braisa discuss a case of tam? It could either be talking where a low level guarding was done, and could follow **R' Yehuda**, who says that a muad is patur with such a guarding, but a tam would be chayuv, or it could be talking where no guarding was done at all and can follow **R' Eliezer ben Yaakov** (who says a muad and a tam would be patur with a low level guarding)!? The advantage of saying the Braisa discusses a tam is that it can then teach that **R' Yaakov** holds that we appoint an apitrapis to pay for the damage of a tam! **A:** **Ravina** said, by saying that the case is of a muad, he is actually teaching two things: that a muad is patur with a low level guarding and the tam piece remains in place, and that we appoint an apitrapis to pay for the damages of a tam.
 - **Ravina** said, we can also say that **R' Yehuda and R' Yaakov** argue about a different point – whether a muad reverts back to a tam when it changes into a new reshush. For example, if the owner became healthy, or became an adult. In that case, **R' Yehuda** holds that the animal remains in its muad status, and **R' Yaakov** holds that this change in ownership status makes the animal revert back to being a tam.