



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

Bava Kamma Daf Mem Beis

- Another Braisa gives another drasha on the pasuk of “ubaal hashor naki”. The Braisa brings **R' Yose Haglili** who says that the pasuk teaches that the owner is patur for paying half the damages for a miscarriage that it causes if it attacks a pregnant woman. **R' Akiva** asked him, the pasuk says that if men are fighting and one causes a woman to have a miscarriage by hitting her, the man must pay the value of the unborn babies to the husband of this woman. The pasuk says “anashim”, which teaches that only men are chayuv for this damage, and oxen are not (so your drasha is not needed)!?
 - **Q: R' Akiva** asked a good question!? **A: R' Ulla the son of R' Idi** said, we would think that the pasuk teaches that men must pay for this, but not “oxen that are like men” – meaning oxen that are a muad. However, maybe a tam should have to pay. That is why **R' Yose Haglili** says that the pasuk is needed to teach that it does not pay.
 - **Q: Rava** asked, this seems backward to say that a tam would be treated more stringently than a muad, and to say that that is why a pasuk is needed!? **A:** Rather, the reason **R' Yose Haglili** says this pasuk is needed is because we would have thought to darshen that the pasuk says men are chayuv for this damage, which should teach that oxen which are like men – i.e. they are a muad, would be patur, and using a kal v'chomer we would then learn that a tam is patur as well. **R' Yose Haglili** therefore uses the pasuk to teach that only a tam is patur, but a muad would be chayuv.
 - **Q: Abaye** asked, if this is a proper drasha, we should also darshen that a muad ox is chayuv to pay for embarrassment. The pasuk says that *men* must pay for boshes, and we should say that oxen which are like men – i.e. they are a muad, would be patur, and using a kal v'chomer we would then learn that a tam is patur as well. We can then say that “ubaal hashor naki” teaches that only a tam is patur, but a muad is chayuv!? If **R' Yose Haglili** actually darshens this drasha, then he should add boshes to his drasha in the Braisa!? **A:** Rather, **Abaye and Rava** both say, the drasha of **R' Yose Haglili** must be understood as follows. We would think that the pasuk teaches that men are chayuv to pay for the unborn babies if the woman is not killed, but if the woman is killed they would be patur from paying (because the man himself must be killed), however, an ox should be chayuv to pay for the unborn babies whether the woman is killed or not. The pasuk of “ubbal hashor naki” therefore teaches that the owner of the ox would be patur from the payment for the unborn babies.
 - **Q: R' Ada bar Ahava** asked, the man who hit the woman will be patur from paying for the unborn babies not based on whether the woman is killed, but rather based on whether there was intent to kill the person he killed. If so, the pasuk does not teach that he would be patur based on the killing of the woman, and therefore would not lead to needing the pasuk of “ubaal hashor...” as you have said above!? **A:** Rather, **R' Ada bar Ahava** said, we would learn from the pasuk regarding the men that if the men intend to kill each other and mistakenly kill the woman they would still be chayuv to pay for the unborn children, but if they intended to kill the woman they would be patur from paying. We would learn that regarding an ox, even if it intended to kill the woman and killed her, the owner would still be chayuv to pay for the unborn babies. The pasuk of “ubaal hashor...” therefore teaches that the owner is patur from paying for the miscarriage.

- **R' Chagai** of the South taught a Braisa that says like this as well.
- Another Braisa gives another drasha on the pasuk of “ubaal hashor naki”. The Braisa says, **R' Akiva** uses this pasuk to teach that a tam is patur from having to pay the 30 shekel if it kills a slave.
 - **Q: R' Akiva** should ask himself (as he asked **R' Eliezer** earlier), that this tam will be put to death, and therefore has no value. Since a tam only pays from the value of his body, it is clear that he will not pay the 30 shekel!? **A: R' Shmuel bar R' Yitzchak** said, **R' Akiva** is referring to where the owner shechted the animal before it was brought to Beis Din. We would think to therefore use it for payment. The pasuk teaches that since it was supposed to be put to death, no payment is made.
 - **Q:** Based on this answer, why didn't **R' Akiva** realize that **R' Eliezer** could have been referring to this case as well when he said that the pasuk is needed to teach that a tam does not pay half kofer!? **A: R' Akiva** did realize this. However, he thought that **R' Eliezer** may have another, better answer, and that is why he asked him.
 - **Q:** Why didn't **R' Eliezer** offer this answer earlier? **A: R' Eliezer** felt that in the case (that he gave) where the animal intended to kill an animal and instead killed a person, where the animal is not chayuv misah, that is where I need the pasuk to say that he is also patur from kofer. However, in the case of **R' Akiva**, where the ox is chayuv misah, but the owner quickly shechted it before it was sentenced, we don't even need a pasuk to teach that it is patur from paying kofer.
 - **Q:** This seems to be logical, so why did **R' Akiva** think that if not for the pasuk we would think this animal must pay the 30 shekel? **A: R' Assi in the name of R' Yose the son of R' Chanina** said, since **R' Akiva** holds that if a tam injures a person the owner must pay full damages, we would say that a tam must also pay the 30 shekel for the slave even beyond the value of the body of the animal. The pasuk therefore comes and teaches that he does not pay that.
 - **Q: R' Zeira** asked **R' Assi**, in a Braisa **R' Akiva** clearly says that a tam only pays from the value of its body!? **A:** Rather, **Rava** said that the reason why the pasuk is needed according to **R' Akiva** is, that since we find that we are more machmir for the killing of a slave than we are for a free man, because kofer for killing a free man is limited to the true value of the person, whereas payment for killing a slave is always 30 shekel, even if he was worth a lot less, we would think that we are also more machmir and therefore a tam would pay for the slave even beyond the value of the animal's body. The pasuk therefore teaches that a tam does not pay the 30 shekel.
 - A Braisa says like **Rava** explained.
- A Braisa says, the pasuk says regarding a muad “v'heimis ish oy isha”. **R' Akiva** says, this can't be teaching that the muad is chayuv for killing a woman just like for killing a man, because another pasuk already says “ki yigach shor es ish oy es isha”. Rather, the pasuk comes to teach a hekesh between a man and a woman, that just like the damages owed to a man will go to his heirs, so too the damages owed to a woman will go to her heirs, and not to her husband.
 - **Q:** In a Braisa **R' Akiva** clearly says that a husband inherits a wife, so why does he say differently here? **A: Reish Lakish** said, **R' Akiva** in the first Braisa was referring to a kofer payment. A husband does not get the kofer payment given for his wife who was killed, because a husband only inherits the assets that were actually possessed by the wife before she died. Kofer is not levied until after the actual death, as we learn from a pasuk.
 - **Q:** A Braisa says that even for payments of damages the husband does not inherit the wife, so how can **Reish Lakish** say that only applies to kofer!? **A: Rabbah and R' Nachman** said, that Braisa is discussing a divorced woman. Although the Braisa also says that the money for any miscarriage goes to the husband, that is true even if they are then divorced, because **R' Pappa** explained that the pasuk teaches that the father is always entitled to this payment for the miscarriage, even if the pregnancy came about through znus.

- **Q:** Why couldn't **Rabbah** say that the case is where they are still married, but that the mazik is paying damages to the wife after her death using money, in which case **Rabbah** holds that she is not considered to have been in possession of the money before she died, which would be why the husband doesn't inherit this money? **R' Nachman** could have said that the payment was made with land, because he holds that a payment of land is not considered to have been in her possession before her death!? **A:** They only said that these assets are considered not to have been in her possession according to the **Rabanan** of EY, who say that a loan is not considered to be in the creditor's possession. In the Braisa, where they discuss the divorced woman, they gave their answer according to **Rebbi**, who says that a debt is always considered to be in the possession of the creditor.