



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

### Bava Kamma Daf Nun Ches

NAFLA L'GINAH V'NEHENEIS MISHALEMES MAH SHENEHENEIS

- **Rav** said, the Mishna is talking about a case where the animal fell on the produce, which cushioned its fall and saved it from injury.
  - **Q:** Does this mean that **Rav** would hold that if the animal ate the produce it would not even have to pay for what it benefitted? He should have to at least pay for the amount of the benefit (he saved the expense of having to feed the animal a meal)!? Should we say that **Rav** is following his logic elsewhere where he says that if an animal became sick from overeating the owner of the food is not chayuv, because he can tell the owner of the animal "your animal should not have eaten the food"? Similarly, in this case the owner of the animal can be patur using this claim? **A:** This claim can only be used when it is the animal that was injured from eating, not when the animal does damage by eating. Rather, what **Rav** means to say is that of course if the animal eats after falling in the owner must pay the amount that is benefitted. The chiddush is that even for the amount of damage caused by falling on it, he must also pay, and we don't say that the produce owner has an obligation to save the animal from damage and therefore is not paid for the damage.
    - **Q:** Maybe we should say that he actually shouldn't be paid since he does have the obligation to prevent damage to another's possessions? **A:** That obligation is only when one knowingly acts to save the animal. **A2:** We can also say that that obligation is only where it doesn't make him lose money.
- **Q:** The Mishna considers the animal's fall to be unavoidable. How did the animal fall? **A:** **R' Kahana** said it slipped on its urine. **Rava** said another animal pushed it.
  - **Rava** would agree with **R' Kahana**, that slipping on urine is something that the owner did not have to protect against. **R' Kahana** would not agree with **Rava**, because he would say that a person should take steps to avoid his animal being pushed by another animal.
- **R' Kahana** said, when the Mishna says that when it falls and eats it only pays for the amount it benefitted (not what it damaged), that is only where it ate from the row on which it fell. However, if it ate from another row, he must pay for the amount of the damage. **R' Yochanan** said, even from a different row, and even if it remained there and ate all day, he only pays for the amount of the benefit. Once it leaves the field and returns with the owner's knowledge, he would then pay for the amount of the damage for what it ate upon its return.
  - **R' Pappa** said, **R' Yochanan** does not mean that the animal must leave with the owner's knowledge and return with his knowledge. Rather, once it left with his knowledge, even if it returned without his knowledge, he would be chayuv to pay for the amount of the damage. This is because we tell him that the animal now has seen that it can eat in that field and will return there when the opportunity arises. Therefore, the owner must take greater measures to guard it from doing that.

YARDA K'DARKA V'HIZIKA MISHALEMES MAH SHEHIZIKA

- **Q:** **R' Yirmiya** asked, what if the animal went into the field and damaged produce by giving birth on the produce, rather than by eating it, would he be chayuv? According to the view that when something begins with negligence and ends with an oneis the person is chayuv, in this case he would surely be chayuv. The question is according to the view that the person would be patur – is this called an oneis at the end, or do we say that since he knew she was close to giving birth he should have guarded her more? **TEIKU**.

- **Q:** How do we know that we assess the damage in this way? **A: R' Masna** said, the pasuk says "ubi'eir bisdei acher", which teaches that we assess the value using another field.
  - **Q:** This pasuk is needed to teach that one is patur for shein and regel in the reshush harabim!? **A:** To only teach that the pasuk could have said "sdei chaveiro" or "sdei acher". Instead, the pasuk says "bisdei acher", which teaches this method of assessment.
  - **Q:** Maybe we should say that the pasuk should only be used to teach the method of assessment, and if so, how do we learn that shein and regel are patur in the reshush harabim? **A:** If that was true, this pasuk should have been written among the pesukim that discuss payment. The fact that it is written regarding the pesukim of damages teaches that both drashos should be made.
- **Q:** How do we evaluate the beis se'ah? **A: R' Yose bar Chanina** said, we look at the price of 60 beis se'ah, take a sixtieth of that, and then see how the produce that was damaged would effect this price. **R' Yanai** said, we look at the price of 60 "tarkav" (a tarkav is 1/2 of a beis se'ah), take a sixtieth of that and double it to get to the value of a beis se'ah, and then see how the produce that was damaged would effect this price. **Chizkiya** said we assess a stalk based on 60 stalks (we look at the damaged area), assess a field that is 60 times the size of that area, and then see how the produce that was damaged would effect this price.
  - **Q:** A Braisa says, if an animal ate a kav or 2 kavs of produce, we don't make the owner pay their value, rather we view the produce as it is a small row and evaluate it like that. Presumably this means we evaluate it on its own!? **A:** It means we then evaluate that area based on 60 times the size (each Amora will explain the Braisa according to his own view).
- A Braisa says, we do not evaluate a kav, because that would profit him, and we don't evaluate a beis kor, because that would hurt him.
  - **Q:** What does this mean? **A: R' Pappa** said, it means we don't evaluate a kav by looking at a field of 60 kav, because that would benefit the mazik (by reducing the value of the damage), and we don't evaluate a kor by looking at 60 kor, because that would be detriment to the mazik.
    - **Q: R' Huna bar Mano'ach** asked, if that is what the Braisa meant, it should say "and not a kor". Why did it say a "beis kor"? **A:** Rather, **R' Huna bar Mano'ach in the name of R' Acha the son of R' Ika** said, the Braisa means, we don't evaluate a kav on its own, because that would benefit the nizik, and we don't evaluate a kav in proportion to a beis kor, because that would detriment the nizik. Rather, we evaluate a kav in a field 60 times the size of the damaged area.
- A person cut down someone's palm tree. The Reish Galusa told him, this tree was from a set of three trees that were together worth 100 zuz. Therefore, go and pay 33 and 1/3 zuz. He went to **R' Nachman**, who told him we must evaluate this in relation to 60 trees. **Rava** said, this method of evaluation was said for when someone's property does damage, but not for when the person himself does damage!?
  - **Abaye** said to **Rava**, you think that when a person does the damage himself we do not evaluate in relation to 60 times, because a Braisa that speaks of the person doing damage to a vineyard simply says we look at how much the vineyard was worth before the damage and how much after the damage, without any mention of 60. However, a Braisa that discusses the damage of an animal says the exact same thing!? You will say that the Braisa regarding the animal means that we look at the damage and evaluate in relation to 60 times. The same way, we will say that the Braisa regarding the person who did damage also means that we evaluate in relation to 60 times.