



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

### Bava Kamma Daf Nun Tes

- The Gemara quoted a Braisa in which **R' Yose Haglili** said that if a person damages unripe grain, he must pay what it would be worth at the time of harvest, had it been allowed to get to that stage. **Abaye** said, **R' Yishmael** says this in a Braisa as well, where he says that the pasuk of "meitav sadeihu u'meitav karmo yishalem" teaches that the mazik must pay based on the best field of the nizik. **Abaye** said, this can't mean (as others explain) that he pays for more than the value is known to be, because the nizik would have to prove the amount of his damages. Rather, **R' Yishmael** means that if the mazik damaged unripe produce, he must pay based on the value of the produce when it would have been ready to harvest.
- The Gemara quoted a Braisa earlier in which **R' Shimon ben Yehuda in the name of R' Shimon** said, the only time we evaluate the damaged produce along with the land is when the animal ate produce at a very earlier stage of the produce's development. However, if it ate half-ripe produce, the mazik would have to pay based on the value of this produce when fully ripe.
  - **Q:** The produce goes through a stage in its development called "smadar". This stage is more developed than the early stage referenced above, and less developed than the "half-ripe" stage. Now, from the first statement it would seem that this smadar is not to be evaluated along with the land, and from the second statement it seems that it would be! **A: Ravina** said, the Braisa should be written as stating that smadar are included in the class of half-ripe produce.
    - **Q:** If so, **R' Shimon** is saying the same thing as **R' Yehoshua** (who says that the mazik pays for damaged smadar as they would be worth when they were ready to be picked)!? **A:** The difference between them is whether we offset the amount of the damage with the value saved by not having the produce on the vine for the longer amount of time and thereby weakening the vine. However, we can't tell who would hold what.
      - **Abaye** said, we can prove that it is **R' Shimon ben Yehuda** who holds that we do take into account the future benefit, because he says in a Braisa in the name of **R' Shimon ben Menasya** that a rapist will not pay for the pain inflicted on a besula, since she would anyway undergo that pain with her husband. We see that he looks at the future benefit that the woman has by not going through the pain with her husband.
      - **Abaye** said that others hold like this as well. A Braisa says that if someone causes a woman to miscarry, **R' Yose** says he offsets the payment with the money that would have been spent for a midwife. **Ben Azzai** says he offsets the money for the extra food she would have needed to carry the pregnancy to full term.
- The Gemara earlier told of an incident where someone cut down another person's palm tree. There was a machlokes between the Reish Galusa and **R' Nachman** with regard to how to pasken in that case. The Gemara now says that **R' Pappa and R' Huna the son of R' Yehoshua** paskened in practice like **R' Nachman**, that we assess the damage in relation to sixty trees. The Gemara itself paskens like **R' Pappa and R' Huna the son of R' Yehoshua** when dealing with a palm tree of Arma'ah, and like the Reish Galusa when dealing with a Persian palm tree.
  - **Eliezer Ze'ira** was once imprisoned by the people of the Reish Galusa, because they thought that his publicly mourning of the destruction of Yerushalayim was a sign of haughtiness. He told them that he is a talmid chachom, and therefore has a right to act in that way. He proved it to them by asking them how one would pay for damaging budding dates. When they couldn't answer, he told them it is paid for in relation to a field 60 times its size. When they corroborated this with **Shmuel**, they released him.

#### R' SHIMON OMER ACHLA PEIROS GEMURIM...

- The reason for this is, that when the pasuk says “ubi'eir bisdei acher”, which teaches that the mazik pays in relation to the field, that is only for produce that still needs the field. Ripe produce no longer needs the field, and is therefore independently evaluated.
- **R' Huna bar Chiya in the name of R' Yirmiya bar Abba** said that **Rav** paskened like **R' Shimon**.

#### MISHNA

- If someone places a stack of grain in another person's field without permission, and the animal of the owner of the field ate the grain, he is patur. If the animal was damaged by the stack, the owner of the grain is chayuv. However, if the grain was placed there with reshus, the owner of the field is chayuv.

#### GEMARA

- **Q:** Maybe we should say that the Mishna does not follow **Rebbi**, who says that an owner of a field does not accept responsibility for something placed in his field until he explicitly accepts responsibility? **A: R' Pappa** said, the Mishna is talking about a field where the local people would store their grain and hire a guard. If a person asked this guard permission to place his grain into the field, and the guard allowed him to do so, it is the equivalent of the guard accepting responsibility to guard his grain as well.

#### MISHNA

- If someone sends a fire in the hands of a cheireish, shoteh, or katan, he would be patur in this world, but chayuv under the laws of Heaven. If he sends a fire in the hands of a competent person, the competent person is chayuv.
- If one person brought a fire and a second person brought wood and added it to the fire, the one who brought the wood is chayuv for any damage (because without him the first person could not have done damage). If a person brought wood and a second person brought fire, the one who brought the fire is chayuv (he is the cause of any damage). If another person came and fanned the fire (without which the fire could not have damaged), he would be chayuv for any damage. If the wind fanned the fire, all of them are patur.

#### GEMARA

- **Reish Lakish in the name of Chizkiya** said, he is only patur in the first case of the Mishna if he gave a coal to the incompetent, who then fanned it into a fire. However, if he gave them an actual flame, he would be chayuv for any damage, because it is his action that caused the damage. **R' Yochanan** said, even if he gave them a flame he is patur, because it is the control of the incompetent that causes the damage. The person would only be chayuv if he gave the incompetent a fire and thorns and wood chips, because in that case it is clearly his doing that causes the damage.

#### SHALACH BIYAD PIKEI'ACH HAPIKEI'ACH CHAYUV...

- Our Mishna used the word “libah” to mean “fan”. **R' Nachman bar Yitzchak** said, use of the word “libah” is correct based on a pasuk, and use of the word “nibah” (found in other versions of the Mishna) is correct based on a pasuk as well.

#### LIBATAH HARU'ACH KULAN PITURIN

- A Braisa says, if a person blew as the wind was blowing and fanned the fire, the halacha is that if his blowing was enough to fan the fire on its own, he is chayuv. If not, he is patur.
  - **Q:** Why is this different than one who winnows on Shabbos with the help of the wind, in which case he is chayuv!? **A: Abaye** said, the Braisa is discussing where he blew from one side and the wind blew from the opposite side, so he did not help the wind at all. **Rava** said the case is that he blew when a normal wind was blowing and an extraordinary wind then began to blow. **R' Zeira** said the case is where he was just breathing on the fire, not blowing it. **R' Ashi** said, regarding Shabbos he is chayuv, because it is purposeful act, for which one is chayuv on Shabbos. However, with regard to damage, this is considered to be an indirect action, and such an action is not chayuv for damages.