



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

Bava Kamma Daf Samach Hey

- We previously mentioned that **Rav** says, the principal payment made by a ganav is the value of the item at the time it was stolen, and the payment for keifel and for daled v'hey are made based on the item's value at the time he is brought to Beis Din. **Rav** learns this from the extra words in the pasuk "geneiva" and "chayim".
 - **R' Sheishes** said that **Rav** is incorrect, because a Braisa says, if a ganav stole a lean animal and fattened it up, he pays keifel and dalaed v'hey based on the value when it was lean at the time it was stolen! The Gemara says, this case is different because the ganav can say, I fattened it up and you will now take payment!?
 - **Q:** A Braisa says, if a ganav stole a fattened animal and it then became lean, he must pay the keifel and daled v'hey based on the value at the time he stole it. This refutes **Rav**!?
A: That case is different, because at the time that the animal starts to become weaker it is as if the ganav has already partially shechted the animal at that point, which is why we use that earlier point in time for the valuation. When **Rav** said his halacha, it was in reference to a case where there was a change in market price for animals, not because of something that happened to this particular animal.
 - **Q:** What would the case of **Rav** be? If the case is where it was initially worth one zuz and at the time he shechted it, it was worth 4 zuz, and **Rav** is saying that the principal amount paid need only be one zuz, he would seem to argue on **Rabbah**, who says that if someone stole a barrel of wine worth one zuz, and it then broke when it was worth 4 zuz, if he purposely broke it or drank it, he must pay 4 zuz. If not, he only pays one zuz!? **A:** **Rav** agrees with **Rabbah**. What **Rav** is talking about is a case where it was initially worth 4 zuz and was later worth only one zuz. In this case, the payment for the principal is valued at 4 zuz, and the keifel payment and daled v'hey payments are valued at 1 zuz.
 - **R' Chanina** taught a Braisa that can be a proof to **Rav**. The Braisa says, if a shomer said the item being watched was stolen from him, and he swore to that, and then admitted that he himself stole the item for himself, **R' Yaakov** says, if he admitted to this before witnesses testified that he stole it, he is chayuv to pay the principal, a fifth, and to bring an Asham. If the witnesses came before the admission, he pays keifel and brings an Asham, because the payment for the fifth is taken care of by his keifel payment. The **Chachomim** say, we learn from the pasuk that the obligation to pay for the fifth only applies when a payment for the simple principal must be made (not if keifel or other payments are also made). **R' Shimon ben Yochai** says, a fifth and an Asham are never paid and brought when keifel is paid. Now, what is the case that **R' Yaakov** says that the payment for a fifth will equal the keifel payment? It must be that initially the item was worth 4 zuz, and later it was only worth one zuz, so that the principal payment is for 4 zuz, and the keifel payment would be for one zuz, which is the same amount as a payment for a fifth would be. We see that this follows **Rav**.
 - **Rava** said, this is no proof. It may be that even later the item was worth 4 zuz, and the keifel payment is therefore also 4 zuz. The reason this equals the payment for the fifth is because the case is where the shomer swore 4 times that it was stolen from him, and we learn from the pasuk that he must pay a fifth for each false oath that he made.
 - The Braisa said, the **Chachomim** say, we learn from the pasuk that the obligation to pay for the fifth only applies when a payment for the simple principal must be made (not if keifel or other payments are also made).

- **Q:** Why is it that the **Chachomim** say there would be no payment for the fifth based on the pasuk, but would say that the Asham must be brought, when it too is mentioned in that same pasuk!? **A:** They hold that the word “es” separates the Asham obligation, and it therefore applies even where there is payment for more than the principal.
 - **R’ Shimon ben Yochai** holds that an asham is also not brought when there is payment other than principal. He says the word is written with the conjunctive “v’es”, which therefore connects the different parts of the pasuk. The **Rabanan** say that if it was meant to be combined the pasuk should not have written “es” or “v’es”. **R’ Shimon** says the word “es” was necessary to act as a division between hekdesch money and non-hekdesch money. The letter “vuv” then comes and connects all the parts of the pasuk.
- **R’ Illa** said, if a ganav stole a lamb and it matured into a ram, or a calf that matured into an ox, it is considered to have undergone a physical change in his possession, and he is koneh it. If he then shechts or sells it, he is considered to have sheched or sold his own animal.
 - **R’ Chanina** asked **R’ Illa**, a Braisa says, if a ganav stole a lamb and it matured into a ram, or a calf that matured into an ox, he is subject to keifel or daled v’hey based on the value at the time that he stole it. Now, if it is considered his own animal, why would he be chayuv to pay dalaed v’hey? He has sheched or sold his own animal!? **R’ Illa** said, it makes equally no sense to say that he is not koneh it, because if he is not koneh it, why does he pay based on the value at the time it was stolen? It should be based on the current value!? **R’ Chanina** said, the reason he does not need to pay based on current values is because the ganav can say “I didn’t steal a ram from you, I stole a lamb”!?
 - **Q: R’ Zeira** asked, why isn’t the ganav koneh the ram or ox by the fact that it changed in name? **A: Rava** said, we see from pesukim that even a calf is called an ox, and even a lamb is called a ram. Therefore, there is no true name change that has taken place.
 - **Q:** How does **R’ Illa** answer the Braisa that seems to refute him? **A: R’ Sheishes** said, he will say that the Braisa follows **B”S**, who say that a ganav is never koneh the stolen item based on a change to the item. We see this in a Braisa where **B”S** darshen a pasuk to teach that the payment given to a zonah which then underwent a change (she was paid in wheat, and it was turned into flour) may still not be used for a Korbon. We see that they hold that it is still considered to be the original item, and would therefore hold the same in our case.
 - **Q: R’ Illa and R’ Chanina** only argue whether the physical change causes the ganav to be koneh. However, they both agree that when payment is made, it is made based on the price at the time of the theft. This seems to refute **Rav**, who said that the keifel and daled v’hey payments are made based on the value at the time they go to Beis Din? **A: Rav** holds that when he pays with the item he stole (he stole a lamb, and gives lambs for the keifel or daled v’hey payments) he pays based on the value at the time of the theft. However, if he pays with money, he pays based on the value at the time that they go to Beis Din.