



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

Bava Kamma Daf Pey Hey

OMDIM KAMA ADAM KAYOTZEI BAZEH ROTZEH LITOL...

- **Q:** How do we assess pain where there is damage as well? **A:** The father of **Shmuel** said, we assess how much a person would want to allow his hand to be cut off.
 - **Q:** Cutting off his hand involves all 5 forms of payment, not just pain!? Also, no sane person would allow his hand to be cut off!? **A:** We assess how much a person would want to cut off his hand that is already incapacitated and is hanging by useless tendons.
 - **Q:** Even this cutting off involves embarrassment as well!? **A:** Rather, we see how much a person would want to have his arm, which must be cut off by the king's decree, cut off with a sword rather than using a potion.
 - **Q:** Even in this case a person would not take any money in the world to bring this excess pain onto himself!? **A:** It means how much a person would give to have his arm, which must be cut off by a sword by the king's decree, instead cut off with a potion. That amount is the what the attacker must pay to the victim.

RIPUY HIKAHU CHAYUV L'RAPOSO...

- A Braisa says, if blisters developed because of the wound, or if the wound healed and returned, the mazik must pay for the healing and for his loss of employment. If the blisters were not because of the wound, he is not chayuv to heal them or to pay for his unemployment. **R' Yehuda** says, even if the blisters were from the wound, he would be chayuv to heal them, but would not be chayuv to pay for his unemployment. The **Chachomim** say, the pasuk states the payment for unemployment next to the payment for healing to teach that one who is chayuv for unemployment is chayuv for healing, and one who is not chayuv for unemployment is not chayuv for healing.
 - **Q:** What is the point of machlokes? **A:** **Rabbah** said, I found the talmidim of **Rav** who said that the question is whether the victim has the right to bandage the wound for his comfort, given that it may cause blisters. The **T"K** holds that a wound may be bandaged, and therefore if blisters develop, they must be paid for as well. **R' Yehuda** holds that a wound may not be bandaged. However, regarding the payment for healing, the pasuk repeats the word "heal", to teach that he would be chayuv to pay for the healing of the blisters as well, but regarding unemployment, which is not repeated, he would not have to pay. **Rabbah** said to the talmidim, this can't be, because if a wound may not be bandaged, the mazik would not have to pay for the blisters! Rather, everyone holds a wound may be bandaged, but may not be bandaged too tightly, and the case is that the victim bandaged it tightly. Therefore, **R' Yehuda** holds, since it was done too tightly, regarding the payment for healing, the pasuk repeats the word "heal", to teach that he would be chayuv to pay for the healing of the blisters as well, but regarding unemployment, which is not repeated, he would not have to pay. The **T"K** holds that since he is chayuv to pay for the healing, he is also chayuv to pay for the unemployment, because they are written together in the pasuk. **R' Yehuda** says that the word "rak", written by unemployment, teaches that unemployment is not paid. The **T"K** holds that "rak" excludes payment for blisters that come not because of the wound.
 - **Q:** According to the **Rabanan** in the Braisa, who say that anyone who is chayuv for unemployment is chayuv for healing, and anyone who is not chayuv for unemployment is not chayuv for healing, why is the word "healing" repeated in the pasuk? **A:** They use it for the Braisa of **R' Yishmael**, who learns from this double verbiage that a doctor has a right to heal a person (and we don't say that it is the Will of Hashem that this person remain sick).

- A Braisa says, how do we know that if blisters develop from the wound, or if the wound healed and came back, that the mazik must pay for the healing and for the unemployment? The pasuk says “rak shivto yitein v’rapo yirapei”. We would think that he must pay even if the blisters are not from the wound. The pasuk therefore says “rak”, which limits payment to when it is caused by the wound. **R’ Yose bar Yehuda** says that the word “rak” teaches that he is patur to pay for blisters even if they are caused by the wound.
 - Some say that **R’ Yose bar Yehuda** meant that he is fully patur, like the view of the **Rabanan** in the last Braisa. Others say that he meant he is patur only from unemployment, like the view of his father, **R’ Yehuda** in the earlier Braisa.
 - **Q:** Why would we think he must pay for blisters not caused by the wound? **A:** It means if the victim disobeyed doctor’s orders and that caused the wound to develop blisters. We would think he must pay. The pasuk of “rak” teaches that he does not pay for that.
 - If the mazik says, “I will heal you myself”, the victim can tell him, “you are like a lion in ambush”, and he can insist on getting money for a doctor. If the mazik says he will bring a doctor that will heal for free, the victim can say “a doctor that charges nothing is worth nothing”. If the mazik says he will bring a doctor from far away, the victim can refuse this, because a doctor from far away is less concerned with the outcome of his treatment.
 - If the victim says “give me the money and I will heal myself”, the mazik can refuse and say “you will make it worse and cost me more money”! If the victim says, “set an amount to give me and you will be chayuv nothing more than that”, the mazik can say “you will make it worse and people will disparage me for not healing you”.
- A Braisa says, all of them (the other 4 types of payment) are paid even when payment is made for damages.
 - **Q:** How do we know this? **A: R’ Zvid in the name of Rava** said, the words “petza tachas patza” teach that pain must be paid for even if damages are paid.
 - **Q:** Those words are needed to teach that a shogeg is treated like a meizid, and an onies is treated like a willful act!? **A:** The extra word of “tachas” allows for another drasha.
 - **R’ Pappa in the name of Rava** said, that “v’rapo yirapei” teaches that payment for healing must be made even if payment for damages is made.
 - **Q:** Those words are needed for the Braisa of **R’ Yishmael** (quoted above)!? **A:** If for that purpose the pasuk should have said “v’rofeh yirapei”.
 - **Q:** We mentioned earlier that these words are needed to teach that he must heal blisters that develop from the wound!? **A:** If the words only teach that, the pasuk should have repeated the same word twice. The fact that it switched from “rapo” to “yirapei” teaches a second drasha.
 - **Q:** From the fact that we have to say that one is chayuv for these 4 payments even if he pays for damage, it must be that he would be chayuv where there is no damage. What is the case where these things are present without actual damage? **A:** Pain would be where he was burned with a spit or hit him with a nail on his fingernail, where no wound is suffered. Healing would be where the person was nursing a wound and the attacker put a cream on him that changed his skin to white, in which case he must pay to heal his skin back to normal. Unemployment would be where he locked the victim in a room and prevented him from working. Embarrassment would be where he spat in the victim’s face.

SHEVES ROYIN OSO K’ILU HU SHOMER KISHU’IN

- A Braisa says, regarding unemployment, we view him as if he is a cucumber watchman. Although this may seem unfair [the Gemara explains, because when the victim gets healthy he will be able to earn more than a cucumber watchman], it is not unfair, because he was already paid for the value of his arm or leg.
- **Rava** said, if his arm was cut off, the mazik must pay for the arm and for unemployment as if he were a cucumber watchman. If he broke his leg, he must pay for the leg and for unemployment as if he were a doorman. If he blinded him, he must pay for the eye and for unemployment as if he were a millstone grinder. If he deafened him, he would have to give the victim his total value (a deaf person is not fit for any work).

- **Q: Rava** asked, what if he cut off his hand and was not appraised, and then his leg was broken and he was not appraised, and then he was blinded and he was not appraised, and was then deafened? Do we say that he is just given his total value, or do we say that he must be appraised for each step in the damages and would get separate payment for each one? The damage and healing and unemployment wouldn't change based on the method used, but the pain and embarrassment would. If you will say that since he was not appraised he is given his total value and that's it, what is the halacha if he was appraised at each step in the process, but he was not paid the money yet? Do we say that the appraisals separate the injuries and separate payments must be made, or do we say that they are all now combined into one total payment? **TEIKU**.