



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

Bava Kamma Daf Pey Vuv

- **Q: Rabbah** asked, what is the halacha regarding an injury that causes unemployment and a temporary depreciation in value? Is the mazik chauv for such a temporary loss? For example, if he injured the person's arm and it is temporarily disabled, but will fully heal. **A:** A Mishna says, if a child hits a parent but does not cause a wound, or a person who causes a wound to another person on Yom Kippur, he is chayuv in all 5 payments. Now, presumably, hitting them without making a wound is referring to a case where he temporarily disabled their arm, and we see that he is still chayuv to pay.
 - The Gemara says, this is no proof. The Mishna may be talking about a case where the child made his parent deaf, without causing a wound.
 - **Q: Rabbah** has said that a child who makes his parent deaf is chayuv misah, because deafness is caused by the creation of a wound in the ear!? **A:** The case of the Mishna is where the son shaved the father's head, thereby decreasing his value, without causing a wound.
 - **Q:** The hair will grow back, so if that is the case of the Mishna, we still see that a person must pay for a temporary decrease in value!? **A:** The case is that he removed his father's hair with a cream, which removes the hair *permanently*.
 - He would have to pay for pain, because the case is that the father had open skin on his head, and the cream caused him pain. He must then spend money to treat those irritations, which is why the son must pay for healing. The case is that the father's profession was being a clown, and he cannot effectively do that with the open wounds on his head, so the son must pay for unemployment as well. Clearly, there is embarrassment associated with this as well, and the son must pay for this as well.
 - With regard to **Rabbah's** question, we find that **Abaye** says the mazik must pay for the temporary damage, and **Rava** says that he does not need to do so.
- If a person cuts off the hand of someone else's eved ivri, **Abaye** says he must pay the value of the hand to the slave, and the value of the unemployment to the master. **Rava** says both payments go to the slave, he is to buy a piece of land with that money, and the master has the rights to the produce of that land.
 - The machlokes is only where the loss in value of the slave affects the master. However, if the loss in value did not affect the master, for example, a person cut off the tip of the ear or the nose of the slave, all would agree that the entire payment would go to the slave.

BOSHES HAKOL LEFI HAMIVAYESH VIHAMISBAYESH

- The Mishna follows the view of **R' Shimon** of a Braisa. The Braisa says, **R' Meir** says, when assessing embarrassment, we view the victim as if he was once wealthy and has lost his wealth (which results in a middle of the road valuation), since all Yidden come from Avrohom, Yitzchak, and Yaakov. **R' Yehuda** says, a greater person is assessed according to his level, and a lesser person according to his level. **R' Shimon** says, with regard to wealthy people, we view them as if they have lost their wealth. With regard to poor people, we view them as the least among them. Now, our Mishna says we assess based on who did the embarrassing and who was embarrassed. That clearly doesn't follow **R' Meir**. It also can't follow **R' Yehuda**, because the Mishna later says that one is chayuv for embarrassing a blind person, but according to **R' Yehuda** he would not be chayuv. Therefore, the Mishna must follow **R' Shimon**.
 - **Q:** Maybe we can say that the Mishna even follows **R' Yehuda**, and **R' Yehuda** meant that if a blind person embarrasses someone he does not have to pay, but would agree

with the Mishna, that if someone embarrasses a blind person, he would have to pay? **A:** The Mishna later makes a difference between a sleeping person that is embarrassed, and a sleeping person that embarrasses someone else. Since it doesn't make that same difference regarding a blind person, it suggests that the Mishna holds that in both cases the one who embarrasses would be patur. Therefore, the Mishna can't be said to follow **R' Yehuda**, and must be following **R' Shimon**.

- **Q:** A Braisa says, if a person intended to embarrass a small person and instead embarrassed a large person, he must give to the large person the money for embarrassing a small person. If he intended to embarrass a slave and instead embarrassed a free man, he gives the free man the money he would be chayuv for embarrassing a slave. Now, this Braisa seems not to follow **R' Meir, R' Yehuda, or R' Shimon!**? [The Gemara understood the Braisa as referring to a poor person as a "small person" and to a rich person as a "large person". Based on this, it can't follow **R' Meir** because he says all people are looked at as being of equal financial wealth. It can't follow **R' Yehuda**, because he says there is no embarrassment for a slave, and it can't follow **R' Shimon**, because he says that if one intends to embarrass one person and instead embarrasses another, he is patur!?] **A:** The Braisa can follow **R' Yehuda**. Although he says we would never pay a slave for embarrassment, he would agree that in this case we would assess the embarrassment of a slave so that we can pay that amount to the free man. **A2:** We can say the Braisa follows **R' Meir**. When the Braisa says small and large, it is referring to a katan and an adult, which are assessed differently. We find that **R' Pappa** says that a katan is capable of being embarrassed.

MISHNA

- If a person embarrasses a naked person, or embarrasses a blind person, or a person who is sleeping, he is chayuv. However, if a sleeping person embarrasses someone, he is patur.
- If a person fell from a roof and injured and embarrassed a person through the fall, he is chayuv for the damage, but patur for the embarrassment. A person is only chayuv for embarrassment if he intended to embarrass.

GEMARA

- A Braisa says, if a person embarrasses someone who is naked, he is chayuv for the embarrassment, but the level of embarrassment is much less than if he would have embarrassed a person with clothing. If a person embarrasses someone in a bathhouse, he is chayuv for the embarrassment, but the level of embarrassment is much less than if he would have embarrassed a person in the market.
 - **Q:** Is a naked person capable of being embarrassed? **A:** **R' Pappa** said, the case is that the person was wearing clothing, and a wind came and lifted his robe, thereby exposing him. A person then came and lifted the robe even more, thereby embarrassing him.
 - **Q:** Is a person in a bathhouse capable of being embarrassed? **A:** The Mishna is actually referring to one who is bathing at a river, without totally undressing, and a person came and exposed the bather, thereby embarrassing him.
- **Q:** **R' Abba bar Mamal** asked, what if a person embarrassed a sleeping person, who died in that sleep, thus never realizing that he was embarrassed? **R' Zvid** explains, do we say that payment is made for the feeling of embarrassment, and this person never had that feeling, or do we say that the payment is for degrading the person, and this person was degraded in front of other people, even though he himself never knew it. **A:** A Braisa says, **R' Meir** says, a cheireish and a katan are paid for being embarrassed, but a shoteh is not. Now, a katan is not capable of having feelings of embarrassment. It must be he is paid because he was degraded in front of others!
 - **Q:** If the reason is for degradation in front of others, why doesn't one pay when he embarrasses a shoteh? **A:** A shoteh is already fully degraded to people.
 - The Gemara says, the Braisa is no proof, because it may be talking about a katan that is capable of being embarrassed, as **R' Pappa** discusses elsewhere.
 - **R' Pappa** says that **R' Abba bar Mamal's** question was, do we pay for embarrassment because of the person's feeling of embarrassment, or do we pay for the feelings of embarrassment of the person's family (in which case even the sleeping person who died should get paid).

- Based on this explanation, maybe we can answer from the Braisa quoted above regarding a katan. Now, if we say payment is for the feelings of the family, that is why we pay a katan. If not, why would we pay a katan, who is incapable of having feelings of embarrassment!
 - **Q:** If the reason is for embarrassment of the family, why doesn't one pay when he embarrasses a shoteh? **A:** A shoteh has already fully embarrassed his family.
 - **R' Pappa** says, the Braisa is no proof, because it may be talking about a katan that is capable of being embarrassed, as we find in a Braisa.

HAMEVAYEISH ES HASUMAH...

- Our Mishna, which says that a blind person is chayuv if he embarrasses somebody, does not follow **R' Yehuda**, who says in a Braisa that a blind person is patur for embarrassment, from going into galus (for killing by accident), from malkus, and from being put to death by Beis Din.
 - He holds he is patur from embarrassment based on a gezeira shava from eidim zomemim – just as they are not included in those halachos, they are not included in the halachos of embarrassment either.
 - He holds a blind person is patur from galus. In a Braisa **R' Yehuda** says that the pasuk of “b'lo re'os” teaches that a blind person would not be subject to galus if he kills b'shogeg. **R' Meir** says that the pasuk comes to include a blind person in the galus obligation.
 - He says a blind person is patur from being put to death by Beis Din based on a gezeirah shava from galus.
 - He says a blind person is patur from malkus based on a gezeirah shava from one being put to death by Beis Din.
- A Braisa says, **R' Yehuda** says, a blind person is not chayuv for embarrassment, and **R' Yehuda** would make patur a blind person from all monetary laws in the Torah. He learns this from a pasuk that mentions the death penalty, galus, and monetary laws. He darshens that this teaches that anyone who is subject to the laws of the death penalty and galus are subject to the monetary laws. A blind person, who is not, is not subject to monetary laws.
- A Braisa says, **R' Yehuda** says, a blind person is not chayuv for embarrassment, and **R' Yehuda** would make patur a blind person from all mitzvos in the Torah.
 - **R' Shisha the son of R' Idi** said, this is based on a pasuk that says “v'zos hamitzvah hachukim v'hamishpatim (monetary laws)”. We darshen that whoever is included in the monetary laws is included in all mitzvos and chukim. A blind person is not, so he is patur from all mitzvos and chukim.
 - **R' Yosef** (who was blind) said, initially I said that if someone would tell me that the halacha is like **R' Yehuda**, who says a blind person is patur from doing the mitzvos, I would make a party, because I do the mitzvos even though I'm blind (and that is greater than doing the mitzvos based on an obligation). However, now that **R' Chanina** has said that one who is commanded to do a mitzvah and does it is greater than one who does it when not commanded, I will make a party if someone tells me that we do *not* pasken like **R' Yehuda**.