



Daf In Review – Weekly Chazarah

Maseches Bava Kamma, Daf 10 – Daf

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vI'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

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- The Gemara had asked that the Mishna seems to contradict itself, by seemingly following the **Rabanan** (who say that keren in the property of the nizik pays half damages) in the beginning, and following **R' Tarfon** (who says that keren in the property of the nizik pays full damages) at the end. **R' Elazar in the name of Rav** said, the entire Mishna can follow **R' Tarfon**. The beginning of the Mishna is discussing a case where only the nizik has rights to the property for produce and both, the mazik and the nizik, have rights to use it for their animals. Therefore, with regard to shein, it is considered to be the property of the nizik (and the mazik is chayuv for shein) and with regard to keren it is considered a public area, and even **R' Tarfon** agrees that he only pays half damages.
 - **Q: R' Kahana** said that he repeated this to **R' Zvid** of Neharda'ah, who said that this answer can't be correct. The Mishna says that shein is a muad only to eat things that are fitting for it to eat. This suggests that if it ate something not fitting for it to eat he would only pay half damages. Now, since this is taking place in the property of the nizik, he should have to pay full damages for that according to **R' Tarfon**!? **A:** Rather, we must say that the Mishna follows the **Rabanan**, and the Mishna should be understood as follows – there are five cases of tam, and those 5 can become 5 cases of muad, whereas shein and regel are immediately a muad. Where are they immediately a muad? When it takes place in the property of the nizik. (According to this understanding, the Mishna at the end is not referring to keren, but is rather referring to shein and regel).
 - **Q: Ravina** asked, the Mishna in the next perek picks up off of this Mishna and asks, “what is the case of the ox that damages in the property of the nizik”. Now, if you say that our Mishna is talking about the case of keren in the property of the nizik, this question makes sense. However, if the Mishna is referring to shein and regel, what is the later Mishna asking with reference to our Mishna!? **A: Ravina** therefore said, that when the Mishna mentions “shor hamuad”, it refers again to keren, and then adds that keren in the property of the nizik, is actually subject to a machlokes between **R' Tarfon** and the **Rabanan**. The Mishna then says, there are other things that are a muad as well – the wolf, the lion, the bear, the bardelas, the leopard, and the snake. In fact, a Braisa says just like this explanation of the Mishna.

V'LO LIRBOTZ

- **R' Elazar** said, it is only considered unusual if the keilim he sat on are large keilim. However, if they are small, it would be considered usual, and the animal would be a muad to do so.
 - **Q:** Maybe we can say that a Braisa supports **R' Elazar**. The Braisa says, an animal is a muad to walk in its usual way and to break and crush people, animals, and keilim. We see that an animal is a muad to break keilim. It must be that it is referring to smaller keilim! **A:** It may be that the Braisa is talking about where the animal crushes it with the side of its body, which is usual, and the Mishna is discussing where the animal went and sat on the keilim, which is unusual even if it is a small keili.

HAZI'EIV V'HA'ARI...

- **Q:** What is a bardelas? **A: R' Yehuda** said it is a “nafriza”, which **R' Yosef** explained to be an “appa”.
 - **Q:** A Braisa says, **R' Meir** says that a “tzavo'ah” is also a muad animal, and **R' Elazar** says that a snake is also a muad animal. **R' Yosef** there explained that “tzavo'ah” is an appa. Since **R' Meir** is adding this animal to the list of the Mishna, it can't be that a bardelas is an appa, because then what is **R' Meir** adding!? **A: R' Meir** is referring to a male tzavo'ah, and a bardelas is a female tzavo'ah.
 - **Q:** In the Mishna **R' Elazar** said that a snake is the *only* animal that is always a muad, so why in the Braisa does he say that it is *also* a muad? **A:** We must take out the word “also” from the statement of **R' Elazar** in the Braisa.

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- **Shmuel** said, if in the reshus harabim a lion pounces on an animal, rips it apart, and eats it as he rips it apart, the owner of the lion is patur, because this is normal for a lion to do, and it is therefore the mazik of shein, for which one is patur in the reshus harabim. However, if the lion tore apart the animal and only ate it after the animal was dead, the owner is chayuv, because this is not normal for a lion to do, and therefore he is chayuv for keren.
 - **Q:** We find pesukim that suggest that a lion does tear apart an animal and not eat it until later on!? **A:** The lion does that when it wants to feed its cubs or its lioness, or when it needs the food for later. However, if it intends to eat it now, it will not wait for the animal to die before eating it.
 - **Q:** A Braisa says that if an animal goes into the property of the nizek, tore apart an animal, and then ate it, the owner of the mazik animal is chayuv for full damages. This presumably includes the case of a lion, and we see it is considered to be normal for him to do so!? **A:** The case in the Braisa is where he tore it for storage but then decided to eat it.
 - **Q:** How do we know that the lion initially was not going to eat it and then later changed its mind? Also, in **Shmuel's** case we should say he is patur when he eats the animal after it dies, because we should say that the lion changed its mind there too!? **A:** **R' Nachman bar Yitzchak** said, we should understand the cases as discussing one case of where the lion tore apart the animal to put it away for later and another case of where the lion pounced and ate while alive, and in both those cases he pays full damages when it is in the property of the nizek, because both of those cases are normal cases of shein. **A2:** **Ravina** said that **Shmuel** was discussing a case of a domesticated lion, according to **R' Elazar**, who says it is not normal for such a lion to attack.
 - **Q:** If it is not normal for the lion to attack, then **Shmuel** should even say that he is chayuv when the lion pounces and eats the animal while it is alive!? **A:** **Ravina** was explaining the Braisa, not the statement of **Shmuel**.
 - **Q:** If so, the owner should only have to pay half damages, since it is unusual for such an animal to attack!? **A:** The case is that the lion became a muad.
 - **Q:** If so, why does the Braisa teach this as a toldah of shein? It should be a toldah of keren!? **KASHYEH.**

MISHNA

- What is the difference between a tam and a muad? The only difference is that a tam pays half damages from the body of the animal, and a muad pays full damages from the "Aliyah".

GEMARA

- **Q:** What is meant by "Aliyah"? **A:** **R' Elazar** said, it means that the mazik must pay with the best of his properties. We find a use of the word "maaleh" in this way in a pasuk, where it refers to the best, and tells us that Chizkiyahu was buried next to Dovid and Shlomo.
 - A pasuk says that the king was buried with besamim and zenim. **R' Elazar** said, zenim means many types of besamim. **R' Shmuel bar Nachmeini** said, it refers to besamim that smell so beautiful, that whoever smells them ends up in the aveirah of znus.
 - A pasuk says that Yirmiyah said the people "dug a pit to trap me". **R' Elazar** said, this refers to the people suspecting him of being with a zonah. **R' Shmuel bar Nachmeini** said, they suspected him of being with a married woman.
 - **Q:** We find that a zonah is referred to as a deep pit, but according to **R' Shmuel bar Nachmeini**, why does the pasuk refer to the married woman as a deep pit? **A:** Being mezaneh with a married woman is also included in the category of a zonah.
 - **Q:** The pasuk says that Yirmiyah said the people wanted to have him killed. If they said he was with a zonah, that wouldn't make him chayuv misah!? **A:** This refers to when they threw him into a pit of sludge.
 - **Rava** darshened, that Yirmiyah davened to Hashem, that when these people who wanted his death give tzedakah, Hashem should cause that they give it to people who are really not

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deserving of the tzedaka, and in that way they will not have the zechus of having given tzedakah.

- The pasuk says that they did honor for Chizkiyahu upon his death. This teaches that they established a yeshiva at his kever. **R' Nossan and the Rabanan** argue: one says they did so for 3 days and the other says they did so for 7 days. Others say that they did so for 30 days.

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- A Braisa says, that they did honor for Chizkiyahu when he died. **R' Yehuda** says, this refers to the 36,000 people that ripped their clothing in mourning for him. **R' Nechemya** asked, this can't be what the pasuk means, because this was done for Achav as well. Rather, the pasuk means that they put a Sefer Torah on his coffin and said "this person has fulfilled everything that is written in this Torah".
 - **Q:** They do that for tzaddikim now as well, so why was that considered to be extra special? **A:** Today they take out the Torah, but they don't lay it on the aron. **A2:** Even today they put it on the aron, but they don't say "this person fulfilled..." **A3: Rabbah bar bar Chana** said that he heard from **R' Yochanan**, that today we even say "this person fulfilled..." However, by Chizkiya they said "he taught everything written in this Torah".
 - **Q:** We have learned that fulfilling is greater than learning!? **A:** Teaching to others is greater than fulfilling.
- **R' Yochanan in the name of R' Shimon ben Yochai** darshened a pasuk to teach, that one who is involved in Torah and chessed will merit to the inheritance of two Shevatim – Yosef and Yissachar – the glory of Yosef and the wealth of Yissachar. Others say this means the person's enemies will wall in front of him as they do for Yosef, and that the person will merit a high level of understanding, like Yissachar.

HADRAN ALACH PEREK ARBA'AH AVOS!!!

PEREK KEITZAD HAREGEL -- PEREK SHEINI

MISHNA

- In what way is regel a muad? It is a muad to break things as it walks in its normal way. An animal is a muad to walk normally and break things. If the animal was kicking, or pebbles shot up from under its feet as it walked, and broke keilim in that way, the owner would only pay half damages.
- If the animal stepped on a keili and broke it, and a piece of that keili flew and broke another keili, the owner would pay full damages for the first keili and only half damages for the second keili.
- Chickens are a muad to walk normally and break things as they do so. If there was something tied to the chicken's leg, or if it was hopping around, and it broke keilim, the owner would pay half damages.

GEMARA

- **Q: Ravina** asked **Rava**, regel and "animal" are the same thing, so why does the Mishna list them as two separate cases of muad? **A: Rava** said, regel refers to the avos, and "animal" refers to the toldos.
 - **Q: Ravina** asked, in the next Mishna which says "shein is a muad..., an animal is a muad...", what are the avos and toldos there (the Mishna is discussing the animal who eats, which is clearly the av as well)? **A: R' Ashi** explained, that Mishna first refers to the shein of a wild animal, and then to shein of a domesticated animal. We would think the pasuk only refers to domesticated animals, so the Mishna teaches that this is not the case.
 - **Q:** If so, why didn't the Mishna list the case of the domesticated animal first, since it is mentioned in the pasuk? **A:** The Tanna considers the one learned from a drasha to be more dear to him, and therefore mentions it first.
 - **Q:** So, why in our Mishna is regel listed first, given that that is the one for which a drasha is not needed? **A:** Regarding shein they are both avos, so the Tanna chooses the drasha first. Here, one

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is an av and one is a toldah, so the Tanna chooses to list the av first. **A2:** The last Mishna ended with regel, so regel is the first one to be mentioned here.

- A Braisa says, an animal is a muad to walk as usual and break things. For example, an animal that goes into the property of the nizek and damages with its body as it is walking, or with its hair, or its saddle, or its bit, or its bell, all as it is walking, or a donkey that damages with its package as it is walking, the owner must pay full damages. **Sumchos** says, if the damage was done with tzroros (pebbles that shot out) or from a pig that was poking in the garbage, the owner must pay full damages.
 - **Q:** If the pig did damage, obviously the owner must pay!? **A:** The Braisa means that the pig made a pebble shoot out and do damage, and **Sumchos** teaches that he holds that the owner must pay for full damages.
 - **Q:** Where was tzroros mentioned that **Sumchos** discussed it? **A:** The Braisa is missing words, and should say that the **T”K** holds that for tzroros the owner only pays half damages, and if a pig pokes around and causes a pebble to shoot out and damage, the owner also pays half damage. **Sumchos** then argues and says that in these cases the owner pays full damages.
 - A Braisa says, if chickens were flying (flapping, since they don’t truly fly) around and broke keilim with their wings, the owner pays for the full damage. If they damage with the wind from their wings, the owner pays half damages. **Sumchos** says he pays full damages.
 - A Braisa says, if chickens were jumping on a dough or on fruit and they made them dirty, or pecked at them with their beaks, the owner must pay full damages. If they caused dust or pebbles which then damaged the food, the owner pays half damages. **Sumchos** says he pays full damages.
 - A Braisa says, if a chicken was flapping around and the wind from under its wings broke kelim, the owner pays half damages.
 - This Braisa follows the **Rabanan** (who argue on **Sumchos**).
 - **Rava** said, the view of **Sumchos** is understandable, because he holds that one’s force is like one’s body itself. However, what is the view of the **Rabanan**? If they hold it is like the body itself, the owner should pay for full damages. If it is not like the body, they shouldn’t even have to pay half damages!? **Rava** then said, the **Rabanan** hold that it is like the body itself, however, the halacha of tzroros is a Halacha L’Moshe MiSinai that the owner only pays half damages.
 - **Rava** said, any type of contact that if made by a zav would make the thing that was touched tamei, in a case of damages would obligate payment for full damages. Any type of contact that if made by a zav would leave thing that was touched tahor, in a case of damages would obligate payment for half damages.
 - **Q:** Is **Rava** coming to teach us the halacha of tzroros? **A:** **Rava** is teaching the halacha of an ox pulling a wagon where the wagon does damage, in which case the halacha is that the owner would be chayuv for full damage. A Braisa says this halacha specifically as well.
- A Braisa says, if chickens were pecking at the rope of a bucket, which caused the rope to sever and the bucket to break, the owner must pay for full damages.
 - **Q:** **Rava** asked, if an animal stepped on a keili, which caused it to roll away, and it broke in that other place, what is the halacha? Do we look at the beginning of the chain of events and consider the breaking to have been done by the animal’s body, or do we look at the time of the breaking, in which case we would view this as a case of tzroros? **A:** We should be able to answer this from **Rabbah**, who says that if a person throws a keili off a roof, and another person breaks the keili as it is falling down, it is the person who threw it off the roof who is chayuv, because the second person is considered to have broken a keili that was “already broken”. We see that we follow the beginning of the chain of events.
 - It may be that this was clear to **Rabbah**, but that **Rava** was not clear what the result would be.
 - **Q:** Maybe we can bring a proof from a Braisa. The Braisa says, a jumping chicken is not considered to be a muad, but some say that it is a muad. Now, certainly all would consider a jumping chicken to be a muad!? Rather, it must be referring to where it jumped and caused a keili to shoot out and break elsewhere. Maybe that is the case and one view is that we follow the start of the chain of events and the other view is that we look to the actual breaking of the

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keili!? **A:** The case may be where the chicken shot out pebbles, making this a case of tzroros, and the machlokes is the machlokes between the **Rabanan** and **Sumchos**.

- **Q:** Maybe we can bring a proof from a Braisa. The Braisa says, if chickens were pecking at a string, causing the rope to sever and the bucket to break, the owner must pay full damages. We see that we follow the beginning of the chain of events!? **A:** The Braisa may mean that he is chayuv full damages only on the string. Although this would seem to be unusual (and therefore a toldah of keren), the case may be where there was dough on the string, which makes it normal for the chickens to peck at the string.
 - **Q:** The Braisa says “and the bucket broke”, which suggests that the payment obligation is referring to the bucket as well!? **A:** We can say that the Braisa follows **Sumchos**, who says that for tzroros one must pay full damages.
 - **Q:** The end of the Braisa says, if a piece of the broken keili then flew off and broke another keili, the owner must pay full damage for the first keili and half damage for the second keili. Now, according to **Sumchos** why would he pay half damage!? You can’t say that since this second keili broke from a force (the first keili) that itself broke from a force (the string) and that is why it is different, because we find the **R’ Ashi** did not know whether **Sumchos** held any different in this type of case, and if the Braisa is to be explained as such, he could have learned from here!? Rather, we must say that the Braisa follows the **Rabanan**, and we see that we follow the first event in a chain of events!? **A:** **R’ Bibi bar Abaye** said, the case may be where the chicken was pushing the bucket the entire time, until the time of the breaking. So, it was actually the chicken itself that caused the breaking.

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- **Q: Rava** asked, when one must pay half damages for tzroros, is this payment limited to the value of the damaging animal, or must it be paid even in excess of the value of the damaging animal? On the one hand, we never find half damage that is paid beyond the value of the damaging animal, but on the other hand, we never find a toldah of regel that is limited to payment based on the value of the damaging animal. **A:** The Braisa quoted earlier says, a jumping chicken is not considered to be a muad, but some say that it is a muad. Now, certainly all would consider a jumping chicken to be a muad!? Rather, it must be referring to where it jumped and caused a pebble to shoot out and break a keili, and the machlokes is that the **T”K** holds that the owner must only pay up to the value of the damaging chicken, and the other Tanna holds that he must for the full amount of half the damage!
 - This is no proof. It may be that the machlokes is that the **T”K** holds like the **Rabanan** and the other Tanna holds like **Sumchos**.
 - **Q:** Maybe we can answer based on a Mishna. The Mishna says, if a dog take a cookie with a coal from the oven and goes and eats it by a stack of grain, and eats the cookie and leaves the coal which then burns down the stack, the owner of the dog must pay full damages for the cookie and only half damages for the stack. A Braisa says, the half damages is limited to the value of the dog. This seems to be, because payment for tzroros is limited to the value of the damaging animal!? **A:** This can’t be the correct understanding, because the Braisa then says that **R’ Elazar** says that he must pay for the full damages, but limited to the value of the dog. Now, if this was a case a tzroros, then **Sumchos** would hold he must pay full damage, but it would not be limited to the value of the damaging animal, so that can’t be the explanation for **R’ Elazar’s** view. Rather, we must say that the case is that the dog did something unusual with the coal, and **R’ Elazar** holds like **R’ Tarfon**, who says that one pays full damages for keren that takes place in the reshus of the nizik, and this payment is limited to the value of the damaging animal.
 - **Q:** It is not correct to say that the Braisa must be talking about a case of keren and that **R’ Elazar** follows **R’ Tarfon**. The reason we felt forced to say that is because we needed to explain why **R’ Elazar** says the owner must be full damages. We can instead say that **R’ Elazar** holds like

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Sumchos, who says that tzroros pays full damages, and also holds like **R' Yehuda**, who says that a muad's payment is a combination of half damages as a tam and half damages as a muad, and therefore, regarding tzroros, the first half is paid only up to the value of the damaging animal (which is what **R' Elazar** was referring to) and the second half is paid even beyond that value. **A: R' Sama the son of R' Ashi** said to **Ravina**, **R' Yehuda** only holds that way regarding something that was first a tam and then became a muad. However, when something is a muad from the start, he would not say this. Therefore, this can't be the explanation of **R' Elazar**! Rather, we must say that the case is where the dog had already done this three times. **R' Elazar** says that there is a muad for tzroros, and the **T"K** says that there is no muad for tzroros.

- **Q:** We find that **Rava** questions whether there is a muad by tzroros or not. According to this we should say that the answer is dependent on the view of the machlokes!? **A:** **Rava's** question is only according to the **Rabanan** who argue on **Sumchos**. The Braisa can be understood as having both views follow **Sumchos**, and the reason that the **T"K** says the owner pays half damages is because the case is where the dog acted in an unusual manner, and the machlokes is whether to hold like **R' Tarfon** or not.
- **Q:** That would mean that **R' Elazar** follows **R' Tarfon**, but we don't find that **R' Tarfon** limits the damages to the value of the damaging animal!? **A:** He does hold that way. The view of **R' Tarfon** is based on a kal v'chomer from keren that takes place in the reshus harabim. However, the kal v'chomer is limited with the concept of "dayo" (we can't learn out something more than in the basis from where it is learned) and therefore he would hold that although keren in the property of the nizek pays for full damage, he would say that the payment is limited to the value of the damaging animal.
- We mentioned earlier, that **Rava** asked whether there is the concept of muad for tzroros or not. Do we compare it to keren, or do we say that since it is a toldah of regel there is no concept of muad?
 - **Q:** Maybe we can bring a proof from a Braisa. The Braisa said, a jumping chicken is not considered to be a muad, but some say that it is a muad. Now, certainly all would consider a jumping chicken to be a muad!? Rather, it must be referring to where it jumped and caused a pebble to shoot out and break a keili, and the case is that the chicken had already done this three times. The machlokes is that **T"K** holds that there is no muad for tzroros and the other Tanna holds that there is!? **A:** It may be that this only happened once and the machlokes is whether to hold like **Sumchos** or the **Rabanan**.
 - **Q:** Maybe we can bring a proof from the following. If an animal dropped wastes onto a dough, **R' Yehuda** says the owner must pay full damages and **R' Elazar** says that he need only pay half damages. Presumably the case is where this happened 3 times and the machlokes is whether there is muad by tzroros!? **A:** The case may be where it was done once, and they are arguing in the machlokes between **Sumchos** and the **Rabanan**.
 - **Q:** It is not usual for an animal to do this, so this is a case of keren, and not tzroros!? **A:** The case is where the animal was trapped in a narrow space and had nowhere to drop the wastes other than on the dough.
 - **Q:** If that is the machlokes, why doesn't **R' Yehuda** just say that halacha follows **Sumchos** and **R' Elazar** say that the halacha follows the **Rabanan**? **A:** **R' Elazar** wanted to teach that even though the wastes come from within the body, it is still considered to be a case of tzroros.
 - **Q:** Maybe we can bring a proof from a Braisa taught by **Rami bar Yechezkel**, which says that if a rooster sticks its head into a glass keili, and crows there and breaks the keili, the owner must pay full damages. **R' Yosef** said that **Rav** said, if a horse or donkey made their noises and thereby broke a keili, they pay only half damages. Presumably the cases are where this was done three times and they argue in whether there is muad for tzroros!? **A:** The case may be where it was done once, and they are arguing in the machlokes between **Sumchos** and the **Rabanan**.
 - **Q:** It is not usual for an animal to do this, so this is a case of keren, and not tzroros!? **A:** The case is where there were seeds in the keili, so it is not unusual for the animals to stick their heads in.

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- **Q: R' Ashi** asked, if the tzroros was done in an unusual way, does it cut the half damages in half, and make it a quarter of the damages? **A:** We can answer from the fact that **Rava** asks whether there is muad for tzroros, it must mean that there is no unusual way that would make it a quarter damages.
 - This is no proof. It may be that **Rava** was asking, that if there is no case of quarter payment, then do we say that there is muad for tzroros. Therefore, the Gemara remains with a **TEIKU**.
- **Q: R' Ashi** asked, according to **Sumchos**, is the force of a force that damages given the same status as a single force or not? Does **Sumchos** agree that there is a Halacha L'Moshe MiSinai that says that tzroros pays half damages and he applies it to the force of a force, or does he not have the tradition of this Halacha L'Moshe MiSinai at all? **TEIKU**.

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HUYSA MIVA'ETES OY SHEHAYU TZROROS...

- **Q:** Does the Mishna mean to say “if the animal kicked intentionally and did damage, or it did tzroros in the normal way, the owner pays half damage”, which would mean the Mishna follows the **Rabanan**, or does the Mishna mean to say “if the animal kicked intentionally and did damage, or it did tzroros from the intentional kicking, the owner pays half damage”, which would mean that in a case of normal tzroros the owner would pay full damages, which would mean that the Mishna follows **Sumchos**? **A:** The later part of the Mishna says that if the animal stepped on a keili and broke it, and a piece of that keili then flew and broke another keili, the owner must pay full damages for the first keili and half damages for the second keili (since it was damaged with tzroros). Now, if the Mishna follows **Sumchos**, he would have to pay full damages on the second keili as well. You can't say that the case is that the first keili was broken with tzroros, so that the second keili is “a force of a force” and in that case say that **Sumchos** holds that the owner must only pay half damages for the second keili, because we find that **R' Ashi** asks what **Sumchos** would hold in this case and doesn't answer from the Mishna. It must be that the Mishna is to be understood like the first option, and the Mishna is following the **Rabanan**.
 - **R' Ashi** understands the Mishna to be following the **Rabanan**, and asks that since for regular tzroros the mazik only pays half damages, if the tzroros was done in an unusual way, would that lower the payment to half of that (a quarter of the damages) or not? **TEIKU**.
- **Q: R' Abba bar Mamal** asked **R' Ami**, if an animal was walking in a place full of pebbles, so that it is impossible for the animal to walk there without shooting out a pebble, and the animal walked there and intentionally kicked a pebble that went and damaged something, do we say that since it was impossible to walk there without shooting out a pebble it is considered normal, or do we say that since the animal did it with intention it is considered to be not normal? **TEIKU**.
- **Q: R' Yirmiya** asked **R' Zeira**, if tzroros happens in the reshus harabim, would he be chayuv to pay for damages? Do we compare it to keren, which is chayuv in the reshus harabim, or to regel, which is patur in the reshus harabim? **A: R' Zeira** said, it makes more sense to say that it is a toldah of regel.
 - **Q:** What about if the tzroros was kicked from the reshus harabim and damaged something in the reshus hayachid? **A:** He said, it was kicked in a place where it would be patur, so he would be patur for the damage.
 - **Q:** A Braisa says, if the animal was walking and shot out a pebble and broke something, whether in the reshus harabim or the reshus hayachid, he is chayuv. This seems to say that he is chayuv for tzroros even in the reshus harabim!? **A:** The case is that the pebble shot out of reshus harabim and damaged something in the reshus yayachid.
 - **Q: R' Zeira** said that in that case he is patur as well!? **A:** He retracted that ruling.
 - **Q:** The Mishna said that if the animal breaks a keili, and a broken piece flies and breaks a second keili, he is chayuv full damages on the first and half damages on the second. A Braisa on this Mishna says, that this is if the damage happened in the reshus of the nizik. However, if it happened in the reshus harabim, he would be patur on the first keili and chayuv on the second keili. We see that he is chayuv for tzroros in the reshus harabim!? **A:** The case is that the pebble shot out of reshus harabim and damaged something in the reshus yayachid.

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- **Q: R' Zeira** said that in that case he is patur as well!? **A:** He retracted that ruling.
- **Q: R' Yochanan** said, there is no difference in the laws of half damages between the reshus hayachid and the reshus harabim. Presumably this means to say that one is chayuv for tzroros in the reshus harabim!? **A:** The case is that the pebble shot out of reshus harabim and damaged something in the reshus yayachid.
 - **Q: R' Zeira** said that in that case he is patur as well!? **A:** He retracted that ruling.
 - **A2:** We can also answer that **R' Yochanan** was talking about keren, and not regular tzroros.
- **R' Yehuda Nesiah and R' Oshaya** were sitting on the porch of **R' Yehuda**, and one of them asked, if an animal swishes its tail and damages in the reshus harabim, would the owner be chayuv? The other one answered, you can't expect the owner to hold down the tail the entire time! The first one asked, if so, we should say that keren is patur for this reason!? The other one answered, keren is abnormal, and swishing of the tail is not.
 - **Q:** Since it is normal, what was the question to begin with? **A:** He was asking about a case where there was excessive swishing of the tail.
- **Q: R' Eina** asked, what is the halacha if the animal damaged something by moving his male eiver? Do we say that just like keren is done with an intent, this movement happens with an intent, or do we say that keren has intent to damage and here there is no intent to damage? **TEIKU.**

HATARNEGOLIN MUADIN L'HALECH KIDARKAN ULISHABER...

- **R' Huna** said, when the Mishna says he must pay half damages, that is only where the thing became attached to the chicken's leg on its own. If a person tied it to the chicken's leg, that person would be chayuv for full damages.
 - **Q:** If it became attached on its own, who would be chayuv for the half damages? If you mean that the owner of the attached item would be chayuv, what exactly is the case? If he had put away the item, then he is an oneis!? If he didn't put it away, then he is at fault and should be chayuv for full damages!? Rather, you will say that the owner of the chicken should be chayuv. He would not be chayuv for full damages, because this is a case of his animal creating a bor, in which case the person is patur. However, for that same reason he should be patur from half damages as well!? **A:** The case is that the chicken threw the item and damaged as tzroros, which is why the owner is chayuv for half damages. We must say that **R' Huna's** statement was not made on our Mishna, but as a stand-alone statement. He was asking what the halacha would be with a hefker item. **R' Huna** said, that if no one attached it to the chicken, no one would be chayuv. If someone tied it there, that person would be chayuv. **R' Huna bar Manoach** explained, in this case he would be chayuv on the basis of a bor that is kicked around by people from one place to another.

MISHNA

- How is a shein a muad? To eat things that are appropriate for it to eat. An animal is a muad to eat fruits and vegetables. If the animal ate clothing or keilim, the owner must only pay half damages.
 - This is only in the reshus hanizik. In the reshus harabim he would be patur. However, if he benefitted, he would have to pay for the amount of benefit to the animal.
 - How does he pay for what he benefitted? If the animal ate from in middle of the road, the owner must pay for the amount of the benefit. If he ate from the sides of the road, he must pay for the amount of the damage. If he ate from the entrance to a store, he must pay for the amount of the benefit. If he ate from inside the store, he pays for the amount of the damage.

GEMARA

- A Braisa says, shein is a muad to eat things appropriate for it to eat. How so? If an animal goes into the reshus of the nizik and eats and drinks things appropriate for it to eat and drink, the owner must pay full damages. Similarly, if a wild animal goes into the reshus of the nizik and tears apart an animal and eats the meat, the owner must pay full damages. If a cow ate barley or a donkey ate "karshinin", or a dog drank oil, or a pig ate meat (which are not typical for these animals) the owner must still pay full damages.

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- **R' Pappa** said, based on this Braisa that even something that is only eaten when necessary, but is not typical for an animal to eat, is still called “eating” for purposes of shein, if a cat eats dates or a donkey eats fish, the owner would have to pay full damages.
- There was a donkey that ate bread and the basket and **R' Yehuda** said the owner must pay full damages for the bread and half damages for the basket.
 - **Q:** Since it is normal for it to eat the bread, it is also normal for it to eat the basket!? **A:** It first ate the bread and then ate the basket.
 - **Q:** A Braisa says that if an animal ate bread, meat, or cooked food the owner pays half damage. Presumably this refers to an animal like a donkey, and we see it is not normal for it to eat bread!? **A:** The Braisa is referring to a wild animal.
 - **Q:** A wild animal normally eats meat, so how could the Braisa say it is not normal!? **A:** The Braisa is discussing roasted meat. **A2:** The Braisa is referring to deer, which do not eat meat. **A3:** The Braisa is discussing domesticated animals, but the case is where the food was on a table, which is therefore not normal for the animal to eat from.
- There was a goat that climbed onto a barrel to get a turnip. The goat ate the turnip and broke the barrel. **Rava** said the owner must pay full damages for the turnip and for the barrel, because he said that it is normal for it to eat the turnip, and therefore normal for it to climb the barrel to get it.

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- **Ilfa** said, if an animal is in the reshus harabim and sticks out its neck and eats food from the back of another animal, the owner is chayuv for full damages, because eating from the back of an animal is considered to be eating in the reshus of the nizik.
 - **Q:** Maybe we can prove that a Braisa supports this halacha. The Braisa says, if someone has his basket slung over his shoulder to his back, and an animal comes and eats from it, the owner is chayuv to pay for the food. **A:** It may be that the Braisa is discussing a case where the animal jumped to reach the food. This is not normal for it to do, and therefore is considered to be keren, for which one is chayuv in the reshus harabim.
- **Q: R' Zeira** asked, what would be the halacha if the animal took produce from the reshus hayachid, and dragged it to, and eventually ate it in, the reshus harabim? **A:** A Braisa taught by **R' Chiya** said, if a pile of food was partially in the reshus harabim and partially in the reshus hayachid, if the animal ate it inside the reshus hayachid the owner is chayuv, if not he is patur. Now, presumably the case is that the pile was dragged into the reshus hayachid and we see that he is chayuv!?
 - This may not be a proof, because the Braisa may mean that he is chayuv for the part of the pile that was initially in the reshus hayachid and patur for the part that was not. Or, it may be that the Braisa is discussing long stalks of aspasta. Since each stalk is partially in each reshus, we follow the location of the animal who eats it. However, in a case of regular produce, where some stalks are in the reshus harabim and others are in the reshus hayachid, it may be that we follow the location of the stalks, and not of the animal.

ACHLA KSUS...

- **Rav** said, when the Mishna says he is only chayuv in the reshus of the nizik, it is even going on the case of where the animal ate clothing and keilim. The reason he would be patur in the reshus harabim is because the person who left his clothing or keilim in the reshus harabim did something not normal, therefore, if the animal comes and also does something not normal (and eats these things), he will be patur. **Shmuel** said that the Mishna means to say that for fruit and vegetables he would only be chayuv in the reshus of the nizik. However, for eating keilim (which is keren), he would even be chayuv in the reshus harabim.
 - **Reish Lakish** said like **Rav**. **Reish Lakish** follows his shitah elsewhere where he said that if there are 2 animals in the reshus harabim, one is walking and one is sitting down, if the walking animal kicked the sitting animal, the owner would be patur (it is not normal for an animal to sit in the reshus harabim, and

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is also not normal for the animal to intentionally kick the other animal). However, if the sitting animal kicked the walking animal, he would be chayuv. **R' Yochanan** said like **Shmuel**.

- **Q:** Do we have to say that **R' Yochanan** even disagrees with **Reish Lakish** in the case of the 2 animals? **A:** It may be that he would agree in that case, because that is certainly not normal for an animal to sit in middle of the reshus harabim. However, he may hold that leaving keilim or clothing in the reshus harabim is normal, because people will often put down their items to allow themselves to rest.

V'IHM NEHENIS MISHALEMES...

- **Q:** How much is considered to be the amount he benefitted? **A:** **Rabbah** said it is the value of the straw it would have taken to fill the animal in the way it is now filled. **Rava** said it is the value of barley when it is cheap. There is a Braisa to support each view.
- **Q:** **R' Chisda** repeated to **Rami bar Chama** a question that was asked among the talmidim. The question was, if a person lives in another's chatzer without the owner's knowledge, does he have to pay him rent or not? What is the case? If it is a chatzer that is not meant to be rented and a person who doesn't need to rent a place, then the person living there cannot be said to have benefitted, and the owner cannot be said to have lost anything, so it would be obvious that nothing needs to be paid. If it is a chatzer that is meant to be rented out and a person that needs to rent a place to stay, then he has benefitted and the owner has lost out, so clearly he would have to pay. Rather, the case must be where the chatzer is not meant to be rented out, but the person needs to rent a place to stay. In that case, can the one living there say "you have not lost anything so I do not need to pay you anything", or could the owner say "you have benefitted from me, so you need to pay me"? **A:** **Rami bar Chama** said, we can answer this from our Mishna which says that the owner of the animal must pay for the benefit he got. We see that one must pay for a benefit that he receives.
 - **Q:** **Rava** asked, the case of the Mishna is a case where one benefitted and the other suffered a loss, whereas the case of the question was where one did not suffer a loss, so they are very different!? **A:** **Rami bar Chama** held that the cases are similar, because he holds that fruit left in the reshus harabim is considered to be hefker.
 - **Q:** Maybe we can answer the question from a Mishna. The Mishna says, if a person owns fields that surround another person's field on three sides, and the outer person puts up fences that enclose the inner person on three sides, we don't make the inner person contribute to the cost of the fence. This suggests that if he owned fields on all 4 sides and enclosed the entire inner field with a fence, the inner person would be obligated to contribute to the fence, even though this is a case of the inner person benefitting and the outer person not losing anything! **A:** That case is different, because the outer person can say, "if not for the inner person I could have just surrounded my outer perimeter with a fence, but now I have to surround my inner perimeter as well". Therefore, he has caused him a loss and that is why he has to pay.
 - **Q:** The end of that Mishna says, **R' Yose** says, if after being fenced in on the 3 sides, the inner person fences the 4th side on his own, we make him contribute for the other 3 sides as well. This suggests that if it was the outer person who put up the fence on the 4th side as well, the inner person would not be obligated to pay anything. We see that he is patur even where he benefits, but where the other person is not losing anything!? **A:** The Mishna may mean that if the outer person puts up an expensive fence, the inner person can say that he would have only put up a cheap fence and contributes to the amount of a cheap fence. However, if the inner person put up an expensive fence on the 4th side, we make him contribute to the expensive fence on the other 3 sides as well.
 - **Q:** A Mishna says, if a 2 story house (a different person owning each floor) collapsed, and the owner of the lower floor refuses to rebuild, the owner of the upper floor may rebuild the lower floor and live there until the owner of the lower floor pays him for all expenses spent on building the lower floor. Now, this suggests that the owner of the upper floor does not need to pay rent for the time that he was living there, and we see that in a case where one benefits and the other does not lose, no payment needs to be made!? **A:** That case is different, because the owner of the lower floor is obligated to

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provide the ability for there to be an upper floor, and therefore the owner of the upper floor may live there rent-free until he is paid for the expenses.

- **Q:** That same Mishna says, **R' Yehuda** says that “even the owner of the upper floor who lived in the place of the other person without his knowledge must pay rent”. We see that when one benefits and the other doesn't lose, the benefiter must still pay!? **A:** In that case the owner of the ground floor does lose, because by someone living there, the walls become dirty and the house is no longer new.
- This question was sent to the yeshiva of **R' Ami**, and he said, what has the person who lived in the chatzer done to the owner, and what loss or damage has he caused him? For sure he should not have to pay! When the question was asked to **R' Chiya bar Abba**, he said we must look into this further. When they asked him again he said “If I would have come up with an answer, I would have sent it to you!”
- We have learned, that in the case where one benefits and the other person does not lose, **R' Kahana in the name of R' Yochanan** said he does not have to pay and **R' Avahu in the name of R' Yochanan** said that he does have to pay.
 - **R' Pappa** said that **R' Avahu** did not hear this explicitly from **R' Yochanan**. What happened was that **R' Avahu** said in front of **R' Yochanan** that such a person would have to pay and **R' Yochanan** remained quiet. He thought the silence served as a sign of agreement. In truth, the silence was based on the fact that there was no proof to this concept from the Mishna that they were discussing.

----- Daf ㄨ ---21-----

- **R' Abba bar Zavda** asked **Mari bar Mar** to ask **R' Huna** whether one who lives in another person's chatzer without the owner's knowledge must pay rent. Before being able to ask him, **R' Huna** passed away. However, **Rabbah the son of R' Huna** said, that his father said in the name of **Rav** that he does not have to pay rent. He said that his father also said “if someone rents a house from Reuven he is to pay rent to Shimon”.
 - **Q:** Why would he pay rent to Shimon? **A:** He meant to say, if he rented the house from Reuven, and it turns out that the house actually belonged to Shimon, he must pay rent to Shimon.
 - **Q:** This contradicts the first ruling, because Shimon didn't know about the person living there, so why should he have to pay Shimon rent? **A:** The case is that Shimon was trying to rent the space. Therefore, it is a case of where Shimon is losing out, and therefore he must be paid.
- **R' Chiya bar Avin in the name of Rav** said, one who lives in another person's chatzer without the owner's knowledge does not have to pay rent. Also, if someone rents a house from the town he is to pay rent to the owners.
 - **Q:** Why would he pay rent to “the owners”? **A:** He meant to say, if he rented the house from the town, and it turns out that the house actually belonged to certain people, he must pay rent to these people.
 - **Q:** This contradicts the first ruling, because the owner didn't know about the person living there, so why should he have to pay rent? **A:** The case is that the owners were trying to rent the space. Therefore, it is a case of where they are losing out, and therefore they must be paid.
- **R' Sechora in the name of R' Huna in the name of Rav** said, that the person who lives in the chatzer of another without his knowledge does not need to pay rent, because he saves it from the sheidem that attack empty houses. **R' Yosef** said, he does not have to pay because he maintains the house while he is there.
 - The difference between these reasons would be where the owner was using this house to store things (the sheidim wouldn't come, but maintenance is not being done either).
 - A person built a mansion on a garbage dump owned by orphans. **R' Nachman** took the mansion from the man until he paid the orphans for the use of the property. He said the person must pay, because the orphans had been renting out that land for a small amount of money, and it wasn't sitting totally useless.

KEITZAD MISHALEMES MAH SHENEHENIS...

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- **Rav** said, the Mishna means that if the animal turns its head to the side of the reshus harabim and eats produce from the side, the owner will have to pay for the damage. **Shmuel** said, that even in this case the owner would be patur, because it is a regular case of shein in the reshus harabim.
 - **Q:** According to **Shmuel**, what is the case of where the owner is chayuv for the animal eating on the “side of the street”? **A:** Where the animal walked away from the middle and went to the side of the street and ate there.
 - **Q: R’ Nachman bar Yitzchak** asked, the Mishna says that if the animal ate from the opening of the shop, the animal’s owner pays for the benefit, not for the damage. Now this is clearly a case of where the animal turned its head, and yet we see he only pays for the benefit!? **A:** He himself answered, the case may be where the store was at a corner that jutted out into the reshus harabim, so that the animal was able to eat without having to turn to the side.
 - **Some say** that all agree that if the animal turned its head and ate, the owner would be chayuv to pay for damages. The machlokes is where a person built a wall somewhat into his property, leaving a piece of his property outside his wall, and abutting the reshus harabim. If the person left fruit on that piece of property outside the wall and an animal went and ate it, **Rav** says that he would be patur, and **Shmuel** says that he would be chayuv.
 - **Q:** Should we say that they would also argue regarding a bor left in a person’s reshus – and **Rav** who says that the animal would be patur when he ate from that area (showing that he holds it to be a reshus harabim) would say that he would be chayuv for this bor, and **Shmuel** who says that the animal would be chayuv would hold that the person would be patur for bor? **A: Rav** could say that a bor would be patur. It is only regarding eating of fruit that the owner can tell the owner of the fruit “you have no right to leave your fruit open right next to the reshus harabim and then claim that I am responsible if my animal eats it”. **Shmuel** could say that he would be chayuv for the bor, because the animal does not see them and can easily be damaged by it. However, with regard to the fruit, the animal can see them and its owner must therefore bear responsibility to watch it from damage.
 - **Q:** Maybe we can say that the question of whether an animal is chayuv for eating fruits in the reshus harabim when it had to turn its head to eat it, is actually a machlokes among Tanna’im. A Braisa says, **R’ Meir and R’ Yehuda** hold, if an animal eats from the middle of the street he must pay for the benefit, but if he eats from the sides of the street, he must pay for the damage. **R’ Yose and R’ Elazar** say, it is normal for an animal to walk, not to eat. Now, what is meant by that last statement? Maybe we can say that they are arguing regarding an animal that turned its head to eat. The **T”K** holds that he would only pay for the benefit, and **R’ Yose** would hold that he is chayuv for damages!? **A:** They do not argue in that machlokes. They argue in whether the pasuk that requires “u’bi’eir bisdei achier” for shein to be chayuv comes to exclude the reshus harabim, or does it come to exclude the reshus hamazik.
 - **Q:** How can we even think that a mazik would be chayuv for shein in his own property!? He can tell the nizek, “why are your fruits in my property!?” **A:** We can say that the machlokes among these Tanna’im is the halacha of **Ilfa and R’ Oshaya** (where the animal ate off the back of another animal in the reshus harabim, and whether that is considered to be the reshus of the nizek or not).

MISHNA

- If a dog or a goat jumped off a roof and broke keilim that they landed on, they must pay full damages, because they are a muad to jump (and is therefore a toldah of regel). If a dog took a cookie which still had a coal attached to it, and ate the cookie near a stack of produce, and left the coal there, which caused the stack to catch on fire and burn, the owner must pay full damages for the cookie and half damages for the stack of produce.

GEMARA

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- The Mishna seems to say that he is chayuv for the broken keilim only because the animal jumped off the roof. This suggests that if the animal fell off the roof and broke keilim, the owner would be patur. We see that this Tanna holds that if something began with negligence and ended up being an oneis, the person would be patur. In fact, a Braisa clearly says that if the animals fell off, the owner would be patur.
 - **Q:** Whether a person who did something that began with negligence and ended with oneis is chayuv is actually a machlokes. How would the view that says the person is chayuv understand our Mishna and the Braisa? **A:** He will say that the case is that the keilim were against the wall, so that if the animal would have jumped, he would not have landed on the keilim. Therefore, it is not even considered to be a case of initial negligence.
 - **R' Zvid in the name of Rava** said, there are times when the owner would be chayuv even if the animal fell, for example, if the wall was a narrow wall, and so the owner should have realized that the animal would fall.
- A Braisa says, if a dog or goat jumped and broke a keili, if they jumped to a higher place they are patur. If they jumped to a lower place they are chayuv. If a person or chicken jumped and broke a keili, they are chayuv whether they jumped to a lower place or to a higher place.
 - **Q:** Another Braisa says that the dog and goat are patur whether they jumped to a lower place or to a higher place!? **A: R' Pappa** said, this Braisa is discussing where the animal jumped down in an abnormal way – the dog jumped the entire distance, and the goat scrambled down and then jumped at the end (usually it is the other way around).
 - **Q:** If so, why are they patur? It should be a toldah of keren!? **A:** The Braisa means that they are patur from paying full damages, but would be chayuv to pay for half damages.

----- Daf כב ---22-----

HAKELEV SHENATAL

- **R' Yochanan** says that a person is chayuv for the damage of his fire on the basis that it is treated as his “arrows” (his force). **Reish Lakish** says he is chayuv because the fire is considered to be his property. **Reish Lakish** doesn't hold like **R' Yochanan**, because he says that arrows move from his force, and a fire moves without the person's force. **R' Yochanan** doesn't hold like **Reish Lakish**, because he says that property is tangible and fire is not tangible.
 - **Q:** Our Mishna gave the case of the dog with the coal. Now, according to the view that fire is chayuv as a force, the reason the owner of the dog is chayuv is because the fire was the force of the dog (and it is therefore tzroros). However, if one is chayuv for fire because it is his property, this fire is not the property of the owner of the dog, so why is he chayuv? **A: Reish Lakish** will answer, the case here is where the dog threw the coal. The Mishna should be understood as saying that he is chayuv full damages for the cookie, he is chayuv half damages for the burning of the place where the coal landed (either because that is tzroros or because that is unusual and is keren), and is patur for the burning of the rest of the stack. **R' Yochanan** would say that the Mishna is to be understood as a case where the dog put the coal down onto the stack. Therefore, for the cookie and for the place of the coal, he is chayuv for full damages, and for the rest of the stack he only pays half damages (a fire is “his arrows” and is therefore considered to be tzroros of the dog).
 - **Q:** A Mishna says, if an overloaded camel's packages catch fire from inside a store as it passes by (because the load was too large to pass through the streets), and then set a house ablaze, the camel owner is chayuv. If the storekeeper had kept a fire outside and that is what caused the camel to catch fire, the storekeeper is chayuv. **R' Yehuda** says, if the fire left outside was Ner Chanuka, the storekeeper is patur. Now according to **Reish Lakish**, the fire is the property of the storekeeper, not the camel owner, so according to **Reish Lakish**, why is it that the camel owner is chayuv? **A: Reish Lakish** would answer, that the case in the Mishna is where the camel came into direct contact with the entire house, in which case it is like the area where the coal was placed in the case of the dog, and that is why he is chayuv.

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- **Q:** If so, why is the storekeeper chayuv if he had the fire outside the store? **A:** The Mishna is discussing the case in which the camel stayed in one place to urinate, and the owner therefore could not move it. During this time the entire house caught on fire. In the first case, the camel was overloaded and therefore the owner is considered to have been negligent and it is he who is therefore chayuv. In the second case, it is the storekeeper who was negligent by putting his fire outside, and he is therefore the one who is chayuv.
- **Q:** A Mishna says, if a person sets fire to a stack of grain and there is a slave that is tied to it and a goat that is next to it, and the slave and goat are killed by the fire as well, he is patur from paying for the grain and the goat, because he is chayuv misah (and the principle of “kam lei b’dirabah minei” teaches that one does not pay for money damages when the same act will give him the death penalty). Now, according to **Reish Lakish**, since fire is considered to be the property of the person, he should not be put to death for the killing of the slave, because one is not put to death for the murder done by his property!?! **A:** The case is where he actually lit the slave on fire, and that is why he is directly responsible for that killing. The chiddush is that even if the slave belongs to one person and the goat belongs to someone else, he will still be patur from paying for the goat, because he is chayuv misah for the killing of the slave.
- **Q:** A Mishna says, if someone gives a fire to a cheiresh, shoteh, or katan, and they cause damage with it, the person is patur in Beis Din, but is chayuv by the laws of Heaven. Now, according to **Reish Lakish**, just as a person would be chayuv if he gave his ox to a cheiresh to watch and the ox damaged, he should also be chayuv if his fire damaged, since his fire is considered to be his property!?! **A:** **Reish Lakish** has said in the name of **Chizkiya** that the Mishna is discussing where he gave the cheireish a coal and the cheireish fanned it into a fire. However, if he had given him an actual flame, the person *would* be chayuv for any damage that was done with it.
- **Rava** said, the pasuk and a Braisa support the view of **R’ Yochanan**. The pasuk says “ki seitzei aish”, which suggests that the fire goes out on its own, and the pasuk also says “the one who lights the fire must pay”, which suggests that he is only chayuv when he lit the object on fire. We see that the Torah considers a spreading fire to be the “arrows” of the one who lit it. The Braisa darshens these pesukim in exactly the same way. We see that the Braisa also holds that fire is considered to be the “arrows” of the person.