



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

Bava Metzia Daf Mem Gimme!

MISHNA

- If a person gives money to a moneychanger to watch, if the money was tied up in a bundle the moneychanger may not use it. Therefore, if the money was lost, he is not chayuv. If the money was given loose, he may use it, and therefore, if it is lost, he is chayuv.
- If a person gave money to a private person to watch, whether the money was tied in a bundle or given loose, he may not use it and therefore if it was lost he is patur.
- With regard to a storeowner, **R' Meir** said he is treated like a private person, and **R' Yehuda** says he is treated like a moneychanger.

GEMARA

- **Q:** Why is it that if the money is tied up in a bundle the moneychanger may not use it? **A: R' Assi in the name of R' Yehuda** said, the case is where the money was tied and sealed (which shows that the owner does not want it used). **R' Mari** said the case is where the bundle was tied with an unusual knot. **Others** say that **R' Mari** asked, what would be the halacha if the money was tied with an unusual knot, and to that the Gemara remains with a **TEIKU**.

MUTARIN YISHTAMEISH BAHEN...

- **R' Huna** said, the moneychanger would even be chayuv for an oneis.
 - **Q:** The Mishna gives the case of where the money was lost, which suggests that it was *not* an oneis!? **A:** The Mishna is referring to a case where it was lost even with an oneis (e.g. it sunk on a ship at sea).
- **R' Nachman** said, the moneychanger would *not* be chayuv for loss due to an oneis.
 - **Q: Rava** asked **R' Nachman**, according to you that he is not chayuv for an oneis, it must mean that he is not considered to be a borrower. If so, since he is not getting paid he should be considered a shomer chinam and should be patur even for a regular loss!? **A: R' Nachman** said, I will admit that he is considered to be a shomer sachar (and that is why he is chayuv for a regular loss). He becomes a shomer sachar with the benefit that he receives that if a good deal comes along he will use this money to enter the deal.
 - **Q: R' Nachman** asked **R' Huna**, a Mishna says that if the gizbar of hekdesht mistakenly gave money of hekdesht to a moneychanger to watch, if he gave it loose and the moneychanger used the money, the gizbar is chayuv for me'ilah (it is as if he is using the money of hekdesht, because by giving it loose he has given permission for the moneychanger to use it). Now, according to you, since the moneychanger is chayuv for an oneis, this means that the money is viewed as if it were loaned to the moneychanger. If so, even if the moneychanger did not use it the gizbar should be chayuv as soon as he gives the money to the moneychanger!? **A: R' Huna** said, the Mishna means he would be chayuv even if he did not use it. The reason it said "if he used it" is to stay consistent with the verbiage in the earlier case of the Mishna.

MISHNA

- If a shomer used the deposit and later destroyed it, **B"V** say that he bears the greater loss (if it was worth more when he used it, he pays that amount, and if it was worth more when he destroyed it, he pays that amount). **B"H** say, he pays according to the value at the time of its removal. **R' Akiva** says, he pays according to the value at the time of the claim.

GEMARA

- **Rabbah** said, 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.

The reason for the first ruling is, if the barrel was still in existence, he could have returned it and not have had to pay anything. Therefore, in effect, he is stealing it at the time he destroys it, and a Mishna says that a gazlan has to pay based on the value at the time that he stole. The reason for the second ruling is, that at the time it broke he did nothing. The reason he is chayuv is because of the act of stealing he did previously. At that time it was only worth 1 zuz, so that is what he has to pay.

- **Q: B”H** said he must pay “according to the value at the time of its removal”. What does that mean? It can’t refer to the time it was destroyed, because if the case is where it was worth less than when he stole it, all would agree that he pays the higher amount based on when he stole it!? It can’t be referring to where it was worth more at the time it was destroyed, because then **B”H** is saying the same thing as **B”S**!? **A:** It must mean that **B”H** hold that he always pays based on the value when it was removed from the owners.
 - **Q:** Based on this, **Rabbah** would have to hold like **B”S**!? **A: Rabbah** would say, if the price increased at the time that he destroyed it, all would agree that he pays the higher value. The machlokes is when the value decreased at the time that it was destroyed. In that case **B”S** say that shlichus yad is chayuv even without a loss taking place, so he is chayuv as soon as he took it, and any decrease in value is therefore considered to have taken place in his own possession, whereas **B”H** hold that shlichus yad is only chayuv if there is some loss, and he therefore does not “own” it until a loss occurred. Therefore, since it is worth less at that time, he only pays the lower amount.
 - **Q:** Based on this, when **Rava** said that shlichus yad is chayuv even without a loss taking place, he is following **B”S**!? **A:** We will say that the case here is that he used the barrel to step on (as a step-stool) to get birds, and the machlokes is regarding one who borrows an item without permission – **B”S** say he is considered to be a gazlan, and therefore if it later decreases in value that is considered to have happened in his possession and he therefore must still pay the higher amount, whereas **B”H** holds that he is considered to be a borrower, therefore it is not considered to be in his possession, and when the value decreased it is considered to have done so in the owner’s possession.
 - **Q:** Based on this, when **Rava** said that according to the **Rabanan**, one who borrows without permission is considered to be a gazlan, he is following **B”S**!? **A:** Rather, we must say that the machlokes is regarding improvements made to the stolen item – **B”S** say such improvements belong to the owner, and **B”H** say they belong to the gazlan, which is actually a machlokes between **R’ Meir and R’ Yehuda** in a Braisa.

R’ AKIVA OMER KISHAAS HA’TVI’AH

- **R’ Yehuda in the name of Shmuel** paskened like **R’ Akiva**, and said that **R’ Akiva** agrees that if there are witnesses who saw him steal the item, that he would have to pay the value based on the time it was stolen. This is based on a pasuk that says he must pay based on the time of his guilt. When he admits to it without witnesses, that time is the time he is in Beis Din. When there are witnesses, it is considered to be at the time of the stealing. **R’ Oshaya** said to **R’ Yehuda**, you say that he agrees when there are witnesses, but **R’ Assi in the name of R’ Yochanan** said that he argues in the case of witnesses as well, because even then he is considered to have become guilty only when he is standing in Beis Din.
 - **R’ Zeira** asked **R’ Abba bar Pappa** to ask **R’ Yaakov bar Idi** whether **R’ Yochanan** paskened like **R’ Akiva**. **R’ Yaakov bar Idi** told him, “**R’ Yochanan** said that the halacha is always like **R’ Akiva**”.
 - **Q:** What was meant by the word “always”? **A: R’ Ashi** said he meant that even if there are witnesses, the halacha follows **R’ Akiva** that he pays based on the value at the time of the claim. **A2:** We can also say that he meant that if after the shomer moved the item he put it back in its place and it broke there, he would still be chayuv. This comes to exclude the view of **R’ Yishmael**, who says that returning a stolen item without the knowledge of the owner is sufficient and prevents liability.
- **Rava** paskened like **Beis Hillel**.