



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

Bava Metzia Daf Ayin Ches

MISHNA

- If one rents a donkey to lead it on a mountain, and he instead led it in a valley, or visa-versa, even if the two paths are of equal distance, and the donkey dies on the way, he is chayuv.
- If one rented a donkey to lead it on a mountain and he instead led it in a valley. If the donkey slipped and was hurt or killed, he is patur (it is less likely to slip in the valley). If the animal overheated and died, he would be chayuv (the valley is hotter, and caused the death). If he rented the donkey to lead it in the valley and he instead led it on the mountain, if the donkey died from slipping, he is chayuv. If the donkey died from overheating, he is patur. If the donkey died because of the climb, he is chayuv.
- If someone rented a donkey and it became "hivrika" (blind) or it was taken for the work of the king, the owner may tell the renter, "you must accept the animal as is (it is your mazal as well that caused this at this time)". However, if the donkey died or broke a limb (rendering it totally unusable), the owner must give him another donkey for the rental period.

GEMARA

- **Q:** Why is it that the first part of the Mishna doesn't make a difference between causes of death, but the second case makes a difference? **A:** In the yeshiva of **R' Yannai** they said, in the first case where the animal did not die due to a fall or to the heat, we say it was the air that killed it, and because it went to a place it wasn't supposed to have gone, we blame the death on the air of that place, and the renter is therefore chayuv. **A2: R' Yose bar Chanina** said, the first case is discussing where it died from exhaustion, and because it went to a place it was not supposed to go, we blame it on that place and the renter is chayuv. **A3: Rabbah** said, the first case is discussing where the donkey was bitten by a snake and died, and because this happened in a place that the renter should not have taken the animal to, he is chayuv. **A4: R' Chiya bar Abba in the name of R' Yochanan** said, the first case of the Mishna follows **R' Meir**, who says that anyone who changes from the intent of the owner is called a gazlan, and he is therefore chayuv.
 - **Q:** Which ruling of **R' Meir** is meant? It can't be where he says in a Mishna that a dyer who dyed wool in the wrong color must pay for the value of the wool (which suggests that he is koneh the wool like a gazlan, because he didn't follow the instruction of the owner), because it may be that in that case he is koneh the wool by changing it, but in the case with the donkey, where he does not change the donkey, maybe he would say that he is not koneh like a gazlan!? It also can't be where he says in a Braisa that money collected for Purim must be given to the poor people on Purim, and the poor people must use it for food, and not for any other purpose. Presumably, this is because we must follow the intent of the donor, who gave it for that purpose. We see that he holds that the intent of the property owner is what must be followed, which is why when he deviates from the agreement in the case of the donkey, he is chayuv for any damage that takes place. This can't be the ruling that is referred to, because in that case the poor person used money for a purpose other than the one given to him. Therefore, he is actually considered to be a gazlan. However, in the case of the donkey, maybe **R' Meir** would not hold that he is chayuv!? **A:** It must be from the following ruling of **R' Meir** from a Braisa, where **R' Shimon ben Elazar** said in the name of **R' Meir**, that if a poor person is given money to buy a shirt, he may not use the money to buy a talis, and visa-versa, because by doing so he would do different than the intent of the one who gave him the money. We see from here that **R' Meir** says the owner's intent must be followed.

- **Q:** Maybe the reason he may not change from the donor's intent in that case is because the donor made a Neder to buy the poor person a shirt, and if the poor person uses the money for something else, people will think that the donor did not follow through on his promise!? **A:** If that was the reason, **R' Meir** would have said the intent must be followed "so as to avoid suspicion". Instead, he said it is "because he is doing different than the intent of the donor". From here we see that it is because he deviated from the donor's intent that he may not do so, and we see that **R' Meir** holds that one who deviates from an owner's intent is called a gazlan.

HASOCHER ES HACHAMOR V' HIVRIKA

- **Q:** What does "hivrika" mean? **A:** In Bavel they said it means a condition that makes the animal blind. **Rava** said it means a disease of the animal's legs.

OY SHENAASIS ANGARYA...

- **Rav** said, this is only if it was taken into temporary service of the king, but if it was taken away permanently, the owner would have to provide the renter with another donkey. **Shmuel** said, in both cases it may be that the owner does not have to provide another animal. Rather, if the animal was taken away in the direction in which the renter was headed (and will eventually be given back when they come across another donkey headed in that direction), the owner does not need to supply another animal. If it was taken away in a different direction, the owner must provide another animal for the renter.
 - **Q:** A Braisa says, that if a rented donkey becomes blind or deranged, the owner does not have to provide another donkey, but if the animal died or was put into service for the king, he would have to provide the renter with another donkey. Now, according to **Rav** we can say that our Mishna is discussing a temporary service and the Braisa is discussing a permanent service. However, how can we explain the contradiction between the Mishna and the Braisa according to **Shmuel**? We can't say that the Mishna is discussing where it was taken in the direction that the renter was heading and the Braisa is talking about where it was taken in another direction, because the Braisa then quotes **R' Shimon ben Elazar** who makes this distinction, which would mean that the **T"K** says there is no such distinction!? **A: Shmuel** would say that he follows the opinion of **R' Shimon ben Elazar**. **A2:** The entire Braisa is actually the opinion of **R' Shimon ben Elazar** and the Braisa is missing words and should make the distinction even in the beginning, and the Braisa then says, this distinction is important, because we find elsewhere that **R' Shimon ben Elazar** makes this distinction as well.
 - **Q:** How can we say the entire Braisa is the view of **R' Shimon ben Elazar**? The Braisa said that if the animal was blinded or became deranged, the owner would not have to replace the donkey, yet we find elsewhere that **R' Shimon ben Elazar** holds that if one rented a donkey to ride on and it became blind or deranged the owner *would* have to replace it with another donkey!? **A: Rabbah bar R' Huna** said, the case of renting a donkey to ride on is different, and it is only in that case that he would have to replace for blindness and it becoming deranged.
 - **R' Pappa** said, if the donkey was rented to transport glass, any slight disability would have to be replaced with a new donkey as well (because it would not be able to transport such fragile goods).