



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

### Bava Metzia Daf Tzaddik Zayin

- There was a person who borrowed a cat to scare away the mice. The mice ganged up on the cat and killed it. **R' Ashi** asked, what is the halacha in this case? Is it as if it died in the course of the work it was borrowed to do (and the borrower would be patur) or not? **R' Mordechai** told him, **Avimi of Hagraunya in the name of Rava** said, if a man was killed by women there is no recourse, meaning that one need not expect something that is totally unexpected, and therefore the borrower would be patur in this case.
  - **Others** said that the case was that the cat ate too many mice and died from overeating. **R' Ashi** asked, what is the halacha in this case? Is it as if it died in the course of the work it was borrowed to do (and the borrower would be patur) or not? **R' Mordechai** told him, **Avimi of Hagraunya in the name of Rava** said, if a man died from being mezeveh too many times, there is no recourse, meaning that one need not expect something that is totally unexpected, and therefore the borrower would be patur in this case.
- **Rava** said, if one wants to borrow something and be patur if anything happens to it, he should ask the owner to bring him a drink of water as he is borrowing the item. If the owner is smart, he will tell the borrower "first borrow, and then I will give you a drink".
- **Rava** said, a teacher of children, one who plants vineyards and takes a share, a butcher, a blood letter, and a city barber (all these people are city employees and are therefore considered to be working for all the people of the city), if they are working when they lend an item, it is considered to be lent while the owner is working for the borrower.
  - The **Rabanan** told **Rava**, "Rebbi (meaning **Rava**) is considered lent to us as at all times, because of the Torah you teach us, and therefore we would be patur for anything that you lent to us". **Rava** was upset at hearing that and asked, "are you trying to take away all of my money!?" **Rava** said, "in fact, you talmidim are considered to be working for me, not me for you, because I can decide to teach whatever I want, whereas you cannot dictate to me what to teach".
    - The Gemara says, in truth, **Rava** is considered to be working for them on the "yoma d'kallah" (before Yom Tov when he must teach them regarding the Yom Tov, and can't change the topic), and they are considered to be working for him the rest of the year.
- **Mareimar bar Chanina** rented a mule to the people of Chuzai, and he went with them to load the animal. The renters were negligent and the animal died. **Rava** said they were chayuv to pay. The **Rabanan** said to **Rava**, the owner was working for the renters at the time of the rental (he was helping them load) so they should be patur!? **Rava** was embarrassed. At the end it was discovered that he had only gone to watch the loading, not to help, and therefore was not considered to be working for them, and **Rava's** psak was therefore correct.
  - **Q:** According to the view that one is even patur for negligence if the owner was working for him, we can understand why **Rava** was embarrassed. However, according to the view that for negligence he is always chayuv, why did **Rava** get embarrassed? **A:** The case was that the mule was stolen, not through negligence. **Rava** said they should be chayuv, and the **Rabanan** asked that he should be patur, because the owner was working for them. That is why **Rava** was embarrassed. At the end it was discovered that he had only gone to watch the loading, not to help, and therefore was not considered to be working for them, and **Rava's** psak was therefore correct.

### MISHNA

- If one borrows a cow, with the arrangement that it should be a loan for half the day and a rental for half the day, or that it should be a loan for today and a rental for tomorrow, or he borrowed

one cow and rented a second one, and the cow died, and the lender says it was the borrowed cow that died, or it was on the day of borrowing or the time of borrowing that the cow died, and the borrower says "I do not know", he is chayuv.

- If the renter said that it was the rented animal that died, or it was during the rental day or the rental time that it died, and the lender says "I do not know", he is patur.
- If the owner said it was the borrowed cow that died and the borrower said it was the rented cow, the renter swears that it was the rented cow that died, and he is then patur.
- If both of them say they do not know which one died, they divide the amount in question.

#### GEMARA

- **Q:** It seems that we can learn from here, that if someone tells a second person "You owe me a maneh" and the second person says "I do not know", he would be chayuv. This would refute **R' Nachman**, who says that in that case that he would be patur, for we learned that regarding that case **R' Huna and R' Yehuda** say he is chayuv and **R' Nachman and R' Yochanan** say he is patur!?  
**A:** We can answer as **R' Nachman** said elsewhere, that the case is that there was a claim that required the second person to swear, and because he cannot swear (because he truly does not know) he must pay.
  - **Q:** What would be the case of a claim requiring an oath to be taken, which therefore results in the party unable to make the oath being required to pay? **A:** It is like **Rava** said, that if someone said to another person "you owe me 100" and the other person responds "I owe you 50, and don't know about the other 50", since the second person can't swear that he doesn't owe him the other 50, he must pay.
    - Based on this, we would explain the beginning of our Mishna as dealing with a case of 2 cows and the end of the Mishna as dealing with a case of 3 cows, as follows. The owner says he gave two cows – to be used half the day as a loan and half the day as a rental, or one day as a loan and the next day as a rental, and both cows died. The owner claims that both died during the time of borrowing. The borrower responds that one did die during the time of borrowing, but I don't know during which period the other cow died. Since he can't swear regarding the second cow, he must pay. The last case of the Mishna is where the owner says he gave 3 cows – 2 as a loan and one as a rental, and two of the cows died. The owner says the 2 borrowed cows died. The borrower says that one of the borrowed cows died, and with regard to the other cow, "I don't know if it was the borrowed or the rented". Since he can't swear regarding the second cow, he must pay.