



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

### Bava Basra Daf Tzaddik Gimmel

- **Q:** A Mishna says, if an ox gored a cow and we find a dead fetus from the cow at its side, and we don't know whether this miscarriage happened before the goring or as a result of the goring, the owner of the ox must pay half damages for the cow and  $\frac{1}{4}$  damages for the offspring. Now, according to **Rav**, who said above that we follow majority for monetary matters, why don't we say that most pregnant cows give birth, and therefore this fetus definitely died because of the goring!? **A:** In this case, even though we are sure that it is the goring that caused the miscarriage, we are not sure if the goring animal attacked from in front, in which case it was the fear of the impending attack that caused the miscarriage, not the actual contact, and the owner of the goring animal would therefore be patur, or if the animal attacked from behind, in which case it was the contact that caused it, and the owner would be chayuv. Therefore, it is a case of money that is in doubt, and we therefore say that the money is split.
- **Q:** Maybe we can say that the machlokes between **Rav** (majority is followed in monetary matters) and **Shmuel** (majority is not followed in monetary matters) is actually a machlokes among Tanna'im in a Braisa. The Braisa says, if an ox is grazing and a dead ox is found next to it, even if the dead ox was gored or bitten, and the grazing ox is a muad to gore or bite, we do not say that it is the grazing ox that killed the dead ox. **R' Acha** says, if there are mating camels and a dead camel is found next to them, we say it is certain that the mating camel killed that dead camel (most camels get violent when mating, and based on this **R' Acha** would certainly argue with the **T"K** in the first case as well). Based on the theory that majority and chazakah are equally as persuasive, maybe we can say that **Shmuel** holds like the **T"K** and **Rav** holds like **R' Acha**? **A:** **Rav** would say that the **T"K** would agree with him, because the **T"K** only holds that way regarding chazakah, but would agree that we do follow majority. **Shmuel** would say that **R' Acha** would agree with him, because he only holds that way regarding chazakah, but would agree that we would not follow the majority.
- **Q:** Our Mishna said, if someone sells produce without specifying whether it will be for planting or for eating, and the buyer planted it and it didn't grow, even if it was flaxseed (which is usually purchased for planting), the seller is not chayuv to reimburse. The use of the word "even" suggests that the Mishna is teaching that even though most flaxseed is used for planting, still, we would not follow the majority! This refutes **Rav**!? **A:** Although our Mishna can't follow **Rav**, he has other Tanna'im to rely on, because the machlokes between **Rav** and **Shmuel** is actually a machlokes in a Braisa. The Braisa says, if someone sells produce without specifying whether it will be for planting or for eating, and the buyer planted it and it didn't grow, if it was garden seeds, which are never eaten, he would be chayuv to reimburse. If it was flaxseed, that is occasionally eaten, he would not be chayuv. **R' Yose** said, he would have to reimburse for flaxseed as well (we see that he follows the majority, since the majority of flaxseed is used for planting). The **Rabanan** said to him, many people use flaxseed for reasons other than planting.
  - **Q:** Which two shitos share the machlokes of **Rav** and **Shmuel**? It can't be **R' Yose** and the **Rabanan** that answered him, because it may be that they both follow the majority, only that **R' Yose** says we follow the majority of flaxseed, which is sold for planting, and the **Rabanan** say we follow the majority of people who buy flaxseed, which use it for other purposes!? **A:** It would either be the machlokes between the **T"K** and **R' Yose**, or the machlokes between the **T"K** and the **Rabanan**.
- A Braisa says, what must the seller pay for? Only the cost of the seed, and not the expenses of planting that were spent by the buyer. **Others** say that he must even pay for the expenses as well.
  - **R' Chisda** said, the "Others" is the view of **R' Shimon ben Gamliel**.

- **Q:** Where do we find this view of **R' Shimon ben Gamliel**? It can't be from our Mishna, where the **T"K** discusses flaxseed, and **R' Shimon ben Gamliel** then said, if the seller sold inedible garden seed, he would be chayuv if nothing grew. Now, the **T"K** would seem to agree with that. We must say that the machlokes is that the **T"K** holds that he is only reimbursed for the cost of the seed, and **R' Shimon ben Gamliel** holds that he must pay for the expenses spent for the planting as well. This can't be the source for **R' Shimon ben Gamliel's** view, because we can just as easily say that it is the **T"K** who holds that the seller must pay for the expenses and it is **R' Shimon ben Gamliel** who holds that he only gets reimbursed for the seeds!?

**A:** That is not a question, because whenever a later Tanna is mentioned, he is coming to add onto what the first Tanna said. Therefore, it must be that **R' Shimon ben Gamliel** holds that the seller must pay for the buyer's planting expenses as well.

  - **Q:** Maybe the entire Mishna is the view of **R' Shimon ben Gamliel**, and after stating that he says he does not have to pay when the seeds are flaxseed, the Mishna explains, the reason for this is because **R' Shimon ben Gamliel** holds that when selling garden seeds he would be chayuv, but when selling anything that is even somewhat edible, he would not be chayuv!?

**A:** Rather, the source for **R' Shimon's** view is a Braisa. The Braisa says, if someone gave wheat to a grinder to be ground, or flour to a baker to be baked, or an animal to a shochet to be shechted, and in each case the person did not do his job properly, he would be chayuv to pay for the item given to him, because he is considered to be a shomer sachar. **R' Shimon ben Gamliel** says he must also pay for the embarrassment caused to the person and his guests. We see that **R' Shimon** holds that when one is chayuv for a monetary loss, he must also pay for the related expenses.

  - Similarly, **R' Shimon** said, there was a great custom in Yerushalayim, that if someone was given the responsibility of preparing a meal and he ruined the meal, he would have to pay for the embarrassment caused to the person and his guests. There was another great custom in Yerushalayim, that they would hang a cloth over their doors when they were serving meals, to notify people in need of meals that the house was currently serving. If a house didn't have the cloth hanging, the people knew that it was not mealtime and therefore not to go to that house looking for a meal.