

OVERVIEW of the Daf

1) Delivering the cow with the owner's slave

The Gemara questions why the delivery of the cow to the owner's slave constitutes an acquisition for the borrower.

Shmuel suggests that the Mishnah refers to a Jewish slave who is not owned by his master.

Rav explains how the Mishnah could be explained even if the slave is a gentile slave.

Rav's explanation is unsuccessfully challenged.

It is suggested that a Baraisa supports Rav's interpretation.

R' Ashi rejects this proof.

R' Ashi's interpretation of the Baraisa is unsuccessfully challenged.

2) The acquisition to become a borrower

R' Huna asserts that one must use the borrowed hatchet to acquire it.

The implication of this ruling is clarified.

It is noted that R' Huna's position is at odds with R' Ami and R' Elazar.

3) Compensation

Shmuel issues a number of rulings related to payment of stolen property.

R' Bibi bar Abaye unsuccessfully challenges Shmuel's ruling regarding payment to a private person.

Another unsuccessful challenge to Shmuel's position is recorded.

Rava issues a ruling related to compensation for a broken barrel of wine whose price fluctuates.

A qualification to this ruling is added. ■

REVIEW and Remember

1. Who owns the body of a slave?

2. On what point do R' Huna and R' Ami disagree?

3. Regarding compensation, what is the difference between stealing sacred property and damaging sacred property?

4. What was Rava's ruling concerning the porters who broke a barrel of wine?

Distinctive INSIGHT

Figuring the price of the barrel of wine

הני שקולאי דתברו חביתא דחמרא לחנוואה וכו'

The Gemara brought a ruling of Shmuel regarding someone who had stolen a bunch of dates, and how the method of restitution is somewhat different depending upon whether the dates were stolen from a regular person or from הקדש.

Now, the Gemara brings a case of men who were hired to transport a barrel of wine, and, due to their negligence, it was smashed. Rashi and Tosafos explain that this barrel could be sold on the market day for five zuz, and on non-market days it can be sold for four zuz. Rava rules that if they pay for the damage before the next market day, they only have to replace the barrel of wine, which will actually only cost them four zuz. In this way, the owner will not lose any opportunity, and he will be able to take the barrel to market and sell it for five zuz. If the workers do not pay for it before the next market day, they must pay the owner five zuz, to make up for the lost opportunity the owner would have had to sell the barrel at the market.

Rava then adds one stipulation, and that is that if the owner had another barrel which was not broken, and he made no effort to sell that one on the market day, the workers can simply pay four zuz. The owner's lack of interest to participate in the market exchange indicates that he would not have sold the one that was broken, either.

חכמת מנחם explains that the relevance of Rava's case in our Gemara is that just as the manner of evaluating dates is not fixed, and it changes depending upon circumstances, so too it is with this barrel of wine which was broken. The price for restitution for the barrel of wine is a function of different variables.

Chazon Ish (Bava Kamma 8, #14) explains that normally, if someone has a balance at the grocery store to pay five zuz, he cannot simply give the grocer a barrel which currently sells for four zuz, and then claim that he has paid his bill because the barrel can be sold for five on the market day. The barrel is only worth four on the day he gave it, and that is all he has paid. In our case specifically the workers who broke the barrel can suffice in giving a barrel currently worth four, because the barrel they broke had two values assigned to it. There is the current value, and the market day value, and there is therefore no set value for the damage. The workers are therefore allowed to use the dual value in the payment scheme. ■

HALACHAH Highlight

Calculating the damage caused by a watchman

האי מאן דגזיל חביצא דתמרי מחבירו

Regarding the one who stole a cake of dates from his friend

Divrei Gaonim¹ addressed the following question. Reuven lent Shimon two gold earrings that were, together, worth one hundred zuz. One of the earrings was lost and the one that remained was only worth thirty zuz, since it is no longer part of a pair. Reuven wanted Shimon to pay him seventy zuz since that is the amount the pair lost as a result of the lost earring, whereas Shimon claimed that each earring was worth fifty zuz and since he lost one earring he should not have to pay any more than that. After some deliberation Divrei Gaonim concluded that Shimon should pay seventy zuz which represents Reuven's total loss.

The author of Shoel U'Meishiv² addressed this case in his approbation to Sefer Divrei Gaonim and asserted that the answer to this inquiry could be found in our Gemara. The Gemara relates that one who steals a barrel of dates must pay back his victim forty nine zuz, the value of a bar-

rel of dates. R' Bibi bar Abaye questioned this ruling since the victim should be able to claim that he would sell the dates one at a time rather than together and by doing so he would collect fifty zuz rather than forty nine. R' Huna the son of R' Yehoshua answers that when calculating damage we do so in a way that is lenient for the damager as is evident from the method employed to calculate the value of a damaged field, i.e. calculating the damage in terms of a larger field. The source for this ruling indicates that this lenient approach is limited to damagers (and thieves) but does not extend to watchman and calculating how much they have to pay.

Sefer Kol Eliyahu³ also addressed a similar case of someone who gave a salesman a pair of earrings to sell and he lost one of them. After he mentions the opinion of others, Kol Eliyahu ruled that the salesman is obligated to pay the loss that was caused to the pair rather than the individual earring's value and he based his ruling on our Gemara that we make a lenient assessment for a damager but there is no precedent to follow a lenient assessment for a watchman. ■

1. דברי גאונים כלל צ"ו סי' נ"ח.
2. דברי השואל ומשיב מובא בהסכמתו לספר דברי גאונים.
3. קול אליהו ח"א חו"מ סי' י"ד. ■

STORIES Off the Daf

Not to transgress with the holy

“נתנה לחבירו הוא מעל וחבירו לא מעל”

Our Gemara notes that the rules of stealing from a regular person are not necessarily the same as those we find for מעילה, when one steals from the holy, from הקדש.

Every person who is trusted with material goods is, to an extent, a caretaker for הקדש, as he is expected to take of tithes from his produce, to appropriate tzeddaka from his money, and to even treat his intellectual abilities as holy.

HaRav Shimon Shkop was asked how to view Hashem's bestowing of wisdom and understanding among

the members of the Jewish nation. He noted that a person who has the gift of insight and the ability to perceive and inculcate Torah knowledge must consider himself not as an individual, but rather as a contributor to his people. He must designate a portion of his time to share with and teach others, and to impart to them the fear of Heaven. If he uses his abilities for the sake of the community, he will then merit developing and acquiring even greater levels of understanding, as Hashem entrusts him with greater resources of wisdom and insight. The Gemara¹ tells us that a teacher gains more knowledge from his students than he does from his own instructors or peers. The obvious meaning of this is that the challenge of preparing a lesson forces a

person to research a topic more clearly and thoroughly than he would if he studied for his own personal development.

According to the insight of HaRav Shimon Shkop, we have arrived at a further insight to this Gemara. The fact that one shares his knowledge by teaching others is a form of tzedaka and kindness. Just as financial charity leads to Hashem's granting further wealth, this also applies in the realm of Torah study. One who appreciates that his skills are God-given can be trusted with further intellectual capacity, for he will again utilize it to service Klal Yisrael. ■

1. תענית ז. ■