



OVERVIEW of the Daf

1) The common denominator of the general categories of damages

The Gemara wonders what is included when the Mishnah notes the common denominator of the general categories of damages.

Abaye suggests it refers to one who causes damage by placing an object on his roof that falls onto another's property.

The Gemara pinpoints the exact case of liability for this case.

Rava suggests it refers to a **בור** that rolls around the feet of people and animals.

The Gemara pinpoints the exact case of liability for this case.

R' Ada bar Ahavah asserts that it refers to damage caused by releasing garbage into the public domain.

The Gemara pinpoints the exact case of liability for this case.

Ravina maintains that it refers to a case of a wall that collapsed into the public domain.

The Gemara pinpoints the exact case of liability for this case.

2) Clarifying the term **חב**

R' Yehudah in the name of Rav explains that the Tanna of the Mishnah was a Yerushalmi and thus used the term **חב**

(Continued on page 2)

Today's Daf Digest is dedicated by the Langsner Family
 In loving memory of their grandfather and great-grandfather
ר' שלמה מאיר בן ר' מיכאל, ע"ה
 Raitzik

REVIEW and Remember

- Under what conditions is one responsible for a knife that fell off his roof and caused damage?
- Is one permitted to dump his garbage into the public domain?
- Is one responsible for the damage caused when his wall falls into the public domain?
- What is the point of dispute between R' Yishmael and R' Akiva?

Distinctive INSIGHT

An obstacle placed in the street and kicked by a passerby
רבא אמר לאתויי בור המתגלגל ברגלי אדם וברגלי בהמה וכו'

After it listed the four major categories of damage, the Mishnah noted that there is a category of damage that can be derived from a **צד השוה**, a common denominator lesson, from the other categories. Our Gemara now attempts to find the precise case which can only be determined from cross referencing the lessons of other categories of damage, and which is not comparable to one category alone.

Rava suggests that the case is where an obstacle was kicked through the street by the feet of people and animals. Rashi explains that the case is where an obstacle was placed in the street by someone, but it did not cause any damage in that original position. It was displaced to a different location by being kicked by people or animals, and it caused damage in its new position. Although it only damages in its new location, the halacha is that the person who originally put the item in the street is responsible for any damage this obstacle now causes. Rashi also explains that the text should not read that the object caused damage while it was in motion, with the person who kicked it being liable. Tosafos explains that Rashi rejected this case because the Gemara later (27b) says that people do not pay close attention where they step in the street (**אין דרך של בני אדם להתבונן בדרכים**). Therefore, we would not hold a passerby to be responsible if he inadvertently kicked an object and it damaged while in motion. The one who actually placed the item down would also not be liable for damage caused as the item moves, having been kicked by a passerby, because this condition would place the situation under the category of **אש** / fire. Fire is a damage propelled by a "רוח מצויה—normal wind," but Rashi holds that an obstacle being kicked and causing damage while in motion is not considered to be a damage propelled by a "normal wind."

Tosafos, however, maintains a text in the Gemara which teaches that if the object damages while in motion there would be liability for the one who kicked it. Although the rule is that people do not pay close attention to where they step, nevertheless people are not expected to bump into things with such force that they cause an object to fly away and cause damage. The Gemara (according to his text) then asks that if this would be the case, the person who kicked it would bear total responsibility, and no liability would be carried by the one who placed the object.

Tosafos concludes by explaining why this case is distinct from the case of a burning ember which is carried by a dog to a different location, where only the owner of the ember is liable (23a). ■

HALACHAH Highlight

Using a magnet to move an object from a public domain to a private domain

לא תוויי אבנו סכיני ומשאו שהניחן בראש גגו ונפלו ברוח מצויה והזיקו
 To include one's rock, knife or package that one left on his roof that fell down in a normal wind and caused damage

There was a baby that required a bris milah on Shabbos and a gentile was asked to carry the baby to the shul for the bris. Without informing the gentile, they stuck the *mila* knife into the blanket that was wrapped around the baby so that he should transport the knife to the shul as well. After the baby arrived and the gentile left they realized that the knife had fallen out of the blanket. Someone was sent to look for the knife and discovered that it had fallen right outside the doorway to the shul. It happened to be that in the shul there was a strong magnet and the rabbi suggested that the magnet should be placed on the threshold of the shul and allow it to pull the knife into the shul. His rationale for permitting this was that the effect the magnet has on the knife is indirect (גרמא) which should be permitted for the sake of performing the mitzvah of bris milah.

Rav Tzvi Pesach Frank¹ addressed this question and one of the issues he discussed is the dispute how to categorize damage caused by fire. When a person ignites another person's pile of grain is it considered his money that it causing the damage (אשור ממונו) or is it considered as if the person himself sent out the fire, similar to shooting an arrow (אשור משום חצו)? R' Yochanan, whose opinion we follow, maintains that fire is similar

(Overview. Continued from page 1)

rather than the term חייב.

3) Paying damages from the best land

A Baraisa presents a dispute between R' Yishmael and R' Akiva regarding the meaning of the Torah's instruction to pay from the "best land."

The Gemara challenges its initial understanding of R' Yishmael, and R' Idi bar Avin offers an alternative explanation.

Rava challenges this explanation and R' Acha bar Yaakov offers another explanation of R' Yishmael's opinion.

R' Yishmael and R' Akiva cite the basis for their respective positions.

In response to R' Akiva's exposition R' Yishmael explains how he incorporates both his גזירה שוה as well as R' Akiva's verse.

Two possible explanations of R' Akiva's comment regarding hekdesch are suggested and rejected. ■

to shooting an arrow. An application of this case is addressed in our Gemara when it discusses the case of a person who puts a stone, knife or package on a roof that is blown down by a common wind and causes damage. According to R' Yochanan this is considered as if the person himself inflicted the damage and he is fully responsible to pay for the damages. Similarly, a person who places down a magnet in order to pull an object from a public domain to a private domain is fully liable since it is considered as if he pulled the object with his hands and is not permitted even for the sake of performing a bris milah. ■

1. שו"ת הר צבי או"ח ח"א סי' קלי"ב. ■

STORIES Off the Daf

Falling objects

"הכותל והאינן שנפלו..."

A man was having trouble with his electricity and summoned an electrician to repair his system. The fuses that required repair were high up on the living room wall. He brought a ladder to examine the fuses and repair them. After he completed the repair, he accidentally left a pair of pliers on the topmost rung of the ladder. He climbed down, but a quarter of an hour later the tool somehow fell and shattered a valuable lamp that rested near the bottom of the ladder.

Although no one was in the house at the time and there was no obvious breeze

in the house, predictably, the owner of the house claimed that the electrician must pay the damage. The electrician, for his part, denied it.

When Rav Yisrael Grossman, zt"l, was confronted with this inquiry he said, "At first glance we may have thought that this case would follow the laws of damages caused by fire which damages through motion, just as we find in Bava Kama regarding a person whose item blew off of a roof. From the Rishonim in Bava Kama 6 we find that this is not so. There we see that one is obligated to pay damages for a wall or tree which fell on another. However, the רא"ש states that this case should be likened to בור since the wall or tree falls because of some kind of internal flaw and not as a result of another power, like the wind, moving it. This

is not the same as an object which was actually blown from the roof. Since it is likened to בור, the electrician is not obligated to pay because we learn from the verse that one is not liable to pay for vessels damaged in a בור. This is also the halachah regarding a wall or tree that fell, as we find in סימן תט"ז, חושן משפט, "חושן משפט, סימן תט"ז."

However, when the Steipler, zt"l, was asked about the case, he responded, "How could it be that the pliers could be considered something that fell because of some internal flaw like a weak tree or wall? It must have been that a wind entered or a door slammed and put it off balance! Either way, some outside force caused it to fall and he must pay for objects damaged, just like the halachah of his item that fell off the roof!"¹ ■

1. מובא בתחלת שו"ת משכנות ישראל

