

Today's Daf Digest is dedicated
In loving memory of **שרגא פייוול דוד בן קמואל**
The Abramowitz family

OVERVIEW of the Daf

1) Taking the straw left in the public domain (cont.)

The Gemara resolves what appeared to be a contradiction between two rulings of R' Huna.

2) **MISHNAH:** The Mishnah discusses the liability of one who falls causing a second person to trip upon him.

3) Identifying the author of the Mishnah

R' Yochanan asserts that the Mishnah is not limited to being the opinion of R' Meir who maintains that one who trips is considered negligent, but the Mishnah could even be explained according to Rabanan who maintain that one who trips is an **אוונט**. In this case there is liability because the one who fell should have stood back up.

R' Nachman bar Yitzchok maintains that there is liability even if he couldn't stand up because he should have issued a warning.

R' Yochanan explains why he did not explain like R' Nachman bar Yitzchok.

R' Yochanan's position is unsuccessfully challenged.

Another unsuccessful attempt to challenge R' Yochanan is presented.

Rava clarifies the halacha of the previously-cited Baraisa.

The Gemara elaborates on the rationale behind Rava's

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Distinctive INSIGHT

Stopping in the middle of the street

לא, כשעמד לפוש

The Mishnah taught the case of two peddlers who were walking in the street. The first one tripped and fell to the ground. The second peddler was injured and his wares became damaged when he then fell over the first peddler. The first peddler is responsible for the damages to the second one. R' Yochanan recognizes that the simplest explanation of the Mishnah is that this reflects that opinion of R' Meir, who says **נתקל פושע**—one who stumbles in the street is negligent, and the first peddler is liable for any mishaps due to his falling. Nevertheless, R' Yochanan explains that the Mishnah can also be understood according to Rabbanan, who say that one who stumbles is not responsible for falling. The first peddler is liable because he should have stood up after he fell. This is where his negligence occurred.

Rav Nachman b. Yitzchak adds that even if the first peddler did not have time to stand up, he still should have alerted passers-by to avoid him. His not warning these people is the source of his negligence. R' Yochanan contends that if he could not get up quickly, he understandably could not warn others of his being an obstacle.

The Gemara shows that Rav Nachman is correct, from the Mishnah on 31b. Two people were in the street, one carrying a beam, followed by another carrying a barrel. If the one carrying the beam stopped, and the one carrying the barrel bumped him and the barrel broke, the owner of the beam is liable. The assumption is that stopping in the street to adjust one's load is not an act of negligence, yet the holder of the beam is liable. This must be due to our expectation that he at least warn others that he has stopped. The Gemara answers, according to R' Yochanan, that he stopped to rest. Rashi explains that stopping to rest in the street is unacceptable, and this in and of itself was his negligence. Rabbeinu Chananel says that even R' Yochanan agrees that in this case he should have warned others to stay clear of his beam.

Rambam writes (Chovel u'mazik 6:8) that if the barrel was first in the line, and the barrel carrier stopped short to rest and was rammed by the beam, the owner of the beam is exempt. This is also the ruling of Shulchan Aruch (C.M. 379:63). The Gr"א explains that the barrel carrier had no right to stop to rest in the middle of the street. This explanation concurs with the explanation of Rashi to our Gemara. ■

REVIEW and Remember

1. Is tripping an act of negligence or an unavoidable accident?

2. What is the liability for someone who trips on someone else and causes a third person to trip on him?

3. Why is the first person who trips liable for damages to the second person's body as well as for his property?

4. Why is there no liability when a person carrying a jug and a person carrying a beam bump into another causing damage?

HALACHAH Highlight

Liability for damages that result from short stopping one's car

היה בעל הקורה ראשון ובעל חבית אחרון וכו'

If the one carrying a beam was in front and the one carrying a barrel was behind him etc.

Shulchan Aruch¹ rules that in a case where someone carrying a barrel is walking behind someone carrying a beam and the one carrying the beam stops, the beam bearer is liable for the damage he causes to the barrel if the one carrying the barrel walks into the beam. Liability, however, is limited to a case where the one carrying the beam stopped to rest without warning the person carrying the barrel behind him. If the one carrying the beam stopped to merely adjust the beam on his shoulders he is exempt even if he did not warn the person behind him who was carrying the barrel. The reason the owner of the beam is exempt in this case is that he was distracted by the beam slipping and he was unable to give a warning to the person walking behind him.

Pischei Choshen² discusses the application of this halacha to the case of a car that comes to a sudden stop while driving on the street and as a result of the sudden stop the car behind was damaged from hitting the lead car. Initially, he writes that it would seem that the owner of the car that stopped suddenly and caused the collision is responsible to pay for the damages to the car that hit his car. The reason is that we consider this a case of damages caused by a person (אדם המזיק) rather than damages caused by a בור and that is the reason for liability for

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clarification.

Rava's explanation is successfully challenged and the Gemara reinterprets Rava's ruling.

The assertion that a person's body could be considered a pit is successfully challenged and the Gemara reverts back to its original understanding of Rava. The earlier challenge is resolved.

4) Falling because of the first one

R' Pappa and R' Zevid offer different explanations for the case mentioned in the Baraisa of a person who tripped because the first one fell.

5) MISHNAH: The Mishnah begins a discussion of liability when two people who are each carrying different items in the public domain run into one another. ■

the car. He then expresses hesitation regarding this parallel. The reason the person carrying the beam is responsible to pay for the barrel is that anything which is on a person is considered part of his body and thus it is categorized as אדם המזיק. Although one could argue that while the car is in motion it is considered an extension of the driver, however, once the car stops it is no longer considered an extension of the driver's body and should be considered a regular case of בור. Once the car is categorized as a בור the exemption from paying for damages to utensils applies and the driver of the car that came to a sudden stop should be exempt from paying for the damage to the other driver's car. ■

1. שר"ע חו"מ סי' שע"ט סע' ב'

2. פתחי חושן הל' נזיקין פ"א הע' ע"ט ■

STORIES Off the Daf

"He should have gotten up, and didn't" שהיה לו לעמוד ולא עמד

The Steipler, zt"l, said that the more one has potential to be truly great in Torah, the more hardships and difficulties he has learning. These challenges can assume many forms, both physical and emotional. And such hardships can be very discouraging.

When Rav Aharon Lieder, shlit"א, was asked how to overcome the spiritual paralysis that a spiritual fall naturally causes, he offered a very helpful strategy. "We say when we complete every chu-

mash, חזק חזק ונתחזק, 'Be strong, be strong, and we will be strengthened.' We see from this that we must always be strong no matter what befalls us. In whatever situation, no matter where one has fallen, he must not let this get to him in any way. On the contrary, he should immediately pick himself up and do his utmost to avoid falling in the future.

"We learn this from Bava Kama 31. There we find that two potters were coming down the street, one in front of the other. One tripped and the other one tripped over the first, so the first must pay damages. Rav Yochanan explains there that the first is responsible for the damages of the second since he

didn't get up. Even if the potter is not responsible for his actual fall, he is obligated if he did not get up and remained an obstacle in the path of the other who came behind him.

"The same is true in spiritual matters. One who falls in avodas Hashem is not yet considered a willful sinner since 'Hashem is not a tyrant,' as we find in Avodah Zara 3. A person is not an angel. But if he fell, why didn't he immediately get back up again? This is the meaning of the verse (Mishle 24:16), 'The tzaddik falls seven times, and rises.' A tzaddik is not one who doesn't fall; a tzaddik is one who gets up after each fall!"¹ ■

נטעי אשל חלק א' ע' שע"ז ■