

## OVERVIEW of the Daf

### 1) An animal that kills and damages (cont.)

Rava explains why he feels that the earlier-cited Baraisa reflects even the opinion of R' Akiva and not just Shimon HaTeimani as was suggested by the other rabbi of the Beis Hamidrash.

This explanation is unsuccessfully challenged.

### 2) An assessment for damages

The Gemara inquires whether we make an assessment for damages to determine whether the object used should have caused this degree of injury.

On the fourth attempt the Gemara demonstrates that we do an assessment for damages.

### 3) Spitting

R' Pappa asserts that one is liable for spitting on another only if it hits his body but not if it hits his clothing.

In the name of R' Yosi bar Avin it is inferred that one is not liable for verbally humiliating another.

### 4) Humiliation

The Gemara inquires whether Tanna Kamma expresses a lenient or stringent position.

It is demonstrated that he subscribes to a lenient position.

The Gemara teaches that time is not given to the assailant to pay for damages but for humiliation the assailant is given time and the distinction relates to whether the victim suffered a loss of value.

### 5) Injuring oneself

A contradiction between the Mishnah and a Baraisa is noted whether a person is permitted to injure himself.

Rava answers that a person is not permitted to wound himself but is permitted to humiliate himself.

The Gemara unsuccessfully challenges the assertion that one is permitted to humiliate himself.

The assertion that one is not permitted to injure himself is challenged.

The Gemara concludes that there is a dispute between Tannaim whether a person is permitted to injure himself.

The Gemara inquires after the Tanna who maintains that one is not permitted to injure himself.

On the third attempt the Gemara demonstrates that R' Elazar HaKapar is the Tanna who maintains that one is not permitted to wound himself.

### 6) Filing a claim for damages

Rabbah bar bar Chana cited a Baraisa that taught that if someone accused of damaging claims that the "victim" instructed him to do it he will be exempt.

Rava rejected this ruling but instead of dismissing it altogether he suggests an explanation for the Baraisa.

This interpretation is unsuccessfully challenged.

### 7) Cutting down fruit trees

Rav rules that a palm tree that bears a kav of dates may not be

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## Distinctive INSIGHT

### The ten gold pieces to do a mitzvah

דאמרליה אנה בעינא למעבד הא מצוה

Rabba bar bar Channa taught a Baraisa where someone accused someone else of killing his ox or of chopping down his tree. The accused admitted that he had done so, but he claimed that the owner had instructed him to do so. The halacha is that the accused is exempt from paying for damage.

According to the Gemara's conclusion, Rav explains that the Baraisa is dealing with an ox or tree which were required to be destroyed, and that the owner complained that he wanted to perform the mitzvah of destroying this property. He accuses the other fellow of snatching his mitzvah, and he asks for ten gold coins, the compensation for the value of someone who steals another's mitzvah. Nevertheless, because the accused claims that he acted only after being asked to do so, he is exempt.

Rashi explains that the reason the ox had to be destroyed is that it was a שור הנסקל, an ox which had killed people, and it had been judged by the court to be killed by stoning. Rambam and Rosh explain that the animal was a wild and destructive animal which was goring and destroying property. Afikei Yam explains that these Rishonim avoided the case which Rashi used, because a שור הנסקל needs to be killed by the court, and it is not incumbent upon the owner or other individuals to do the job. In either case, the mitzvah is (Devarim 16:3) "You shall eradicate evil from your midst." ש"ך writes (C.M. 382, #1) that the mitzvah is to remove obstacles (see Rambam, הלכות רוצח פ"א ה"א).

The source for this value is the Gemara in Chullin (87a). Someone slaughtered an animal, and before he covered the animal's blood with dirt, someone else came and did the mitzvah. Rabban Gamliel charged the intruder ten gold coins for snatching the other's mitzvah. According to the conclusion, the Gemara notes more precisely that the compensation is for the blessing upon the mitzvah which the other might have recited.

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## REVIEW and Remember

1. What is involved in the process of making an assessment for death?  
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2. Explain אין נותנין זמן לחבלות.  
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3. How did R' Yochanan refer to his clothes?  
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4. How much does one pay for stealing someone else's mitzvah?  
\_\_\_\_\_

# HALACHAH Highlight

## Calculating the medical costs

אמדוהו והבריא נותנין לו כל מה שאמדוהו

If he was evaluated and had a quick recovery the victim is given the total amount that was estimated for his medical treatment

Rambam<sup>1</sup> writes that the method for calculating ריפוי – medical costs—is as follows. We estimate how long the victim will be ill and what the cost of treating him will be for that duration of time and the assailant pays that total immediately. The assailant does not make daily payments, and this method of payment, emphasizes Rambam, was set up for the benefit of the assailant. If, however, the assailant chooses to make daily payments he is permitted to do so. Sema<sup>2</sup> explains that the benefit the assailant has from making one lump payment up front is that it discourages the victim from trying to take advantage of him. A vindictive victim could easily take steps to prolong his recovery in order to punish his assailant by driving up the cost of his medical care. By assessing the victim's condition and allowing the assailant to pay that fixed amount up front the victim has an incentive to recover during the time that was allotted for his recovery. Although there is the possibility that the assailant will pay more than necessary, for example if the victim recovered faster than expected, nevertheless, since that outcome is uncommon this method serves the best interest of the assailant.

Regarding the source that this method was enacted for the benefit of the assailant, Magid Mishnah<sup>3</sup> suggests that it is based on an earlier Gemara. The Gemara earlier (85a) taught that the

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Toras Chaim, in the name of Or Zarua, brings a source for the sum of ten gold pieces as the value for a mitzvah. The Torah tells us (Bereishis 24:22) that the servant of Avraham gave Rivka “two bracelets on her hands, the weight of ten pieces of gold.” What is the significance of the Torah's recording the weight of these bracelets? It is to teach us that he paid Rivka for the privilege of his now being able to recite a blessing to Hashem (as he proclaimed, “Blessed is Hashem, the God of my master Avraham” - ibid. v. 27) for his having completed his mission. This is why Rabban Gamliel assessed the one who placed the dirt on the blood ten “gold pieces”, and not ten dinarim or selaim. The gold reflects the price paid in the verse in Bereshis. ■

victim may not demand that the assailant give him the medical costs so that he could treat himself out of concern that the victim will not properly treat himself and then blame the assailant for not providing sufficient resources for his recovery. The difficulty with that Gemara is that our Gemara teaches that an estimation of the total medical costs is made immediately following the injury and that amount is paid immediately. Why then is the victim not permitted to take that money and treat himself? This restriction indicates that the enactment is set up for the benefit of the assailant and when he is concerned that the victim will try and take advantage of him he can decide that he doesn't want to pay the medical costs up front and will make daily payments so he can be assured that the treatments are being administered properly. ■

1. רמב"ם פ"ב מהל' חובל ומזיק הי"ד והט"ז

2. סמ"ע חו"מ סי' ת"כ ס"ק כ"א

3. מגיד משנה על הרמב"ם הנ"ל

# STORIES Off the Daf

## The value of a Mitzvah

ליטן לו עשרה זהובים

One time, a certain meshulach ate with the Chasam Sofer and had the distinction of being chosen to sit right next to the gaon, who spent much of the time in conversation with his guest. When the meal came to a close, the Chasam Sofer even honored the meshulach by asking him to lead the bentching. “As you know, the gemara in Bava Kama 91 states that the mitzvah of kisuy hadam which involves only one berachah has a value of ten golden coins. Bentching consists of four berachos, so you have already raised forty gold coins!”

The meshulach was not pleased with this point and piped up, “It is impossible to support the kollelim in Eretz Yisrael with the mitzvah of zimun and the like—only

with ‘mezumanim,’ cash in hand.”

From the instant the meshulach blurted out this expression it was clear from the Chasam Sofer's expression that he was very disturbed. The meshulach, who was a clever person, immediately tried to explain what he meant to placate the gaon. “This can be compared to a certain Jew who received a huge check from Rothschild that would help him pay off his debts which were due that very day. Unfortunately, by the time the poor man got to the bank it was after closing time. The door was locked and no light was discernible from within. The hapless fellow began to bang on the doors and beg that they open up and cash the generous check, but of course, no one responded since all the clerks were long gone.

“This is what I meant. Of course, the berachos, like every mitzvah, are very precious and well worth at least ten golden coins, yet until one can access this fortune

he needs to find funds to support Torah. If he cannot procure the needful, he will be penniless until the bank opens just like the poor man with Rothschild's check clutched in his hands.”

Although this explanation somewhat mollified the Chasam Sofer, from that day on he absolutely lost interest in exchanging even a word with that meshulach.<sup>1</sup> ■

1. טובך יביעו ע' ס"ד

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cut down.

This ruling is unsuccessfully challenged.

R' Chanina reports that his son died prematurely because he cut down a fig tree prematurely.

Ravina asserts that one is permitted to cut down a fig tree if the wood is more valuable than the fruit.

A Baraisa is cited that supports this ruling. ■