

OVERVIEW of the Daf

1) מתה מחמת מלאכה (cont.)

R' Kahana and R' Assi challenge Rav's ruling that the borrower must pay the full value of the borrowed object and assert that he should only be responsible to supplement its remaining value.

The Gemara rules in favor of R' Kahana and R' Assi's position.

A related incident is recorded.

Another example of מתה מחמת מלאכה is presented.

A second version of this incident is offered.

Rava offers advice for a borrower to clear himself of responsibility.

Rava cites examples where the exemption of בעליו עמו applies.

Rava and the other rabbis discuss the parameters of בעליו עמו.

An incident involving a rented animal is presented.

Rava's ruling in this incident was challenged but it turned out that due to another detail the ruling was accurate.

The cause for Rava's embarrassment in this incident is analyzed.

2) **MISHNAH:** The Mishnah discusses cases where someone has another's property as a part-loan part-rental and the liability he has for that item.

3) Claims of certainty

The Gemara infers from the Mishnah that the defendant must pay if one person claims to another that he is owed a maneh and the defendant responds that he does not know. This refutes the position of R' Nachaman and R' Yochanan who maintain that the defendant is exempt.

The dispute between R' Nachman and R' Yochanan

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REVIEW and Remember

1. If a borrowed ax breaks, how much is the borrower liable to pay?

2. Explain פשיעה בבעלים.

3. Why was Rava embarrassed over his ruling?

4. What is the reason to obligate a defendant who responds "I don't know" to a certain claim against him?

Distinctive INSIGHT

Do municipal employees work for everyone or for no one?
 כולהון בעידן עבדתייהו כשאלה בבעלים דמו

Rava taught examples and applications of the law of שמירה בבעלים. This is where a watchman is exempt from paying for damage or various mishaps that may occur to the item in his care, if the item is lent or otherwise placed in his charge by someone who is in his employ. If one is hired to teach the children of the city to read, if someone is a gardener who works for the city or if someone is a city butcher, doctor or barber—in all these cases, if someone borrows something from them, the borrower is exempt due to the rule of שואל בבעלים. Rava qualifies his statement and says that the rule of שאילה בבעלים applies if the lending took place "בעידן עבדתייהו—while they were working." Rashi explains that the exemption only applies if the borrowing was done, for example, when the town butcher was working for this person. This suggests that it is not enough to be considered בבעלים if the butcher was involved in general work, for the townspeople at large.

Rambam also rules that the city worker must be on task for this particular person in order for the exemption to apply. Rivash (cited in Shitta Mikubetzes) explains that the novelty of this halacha is that although this worker was hired by the entire city, and not by this particular individual, if he is now working for one person, the halacha of שאילה בבעלים applies.

Ritva disagrees with the explanation of Rashi and Rambam. He holds that a municipal worker is hired by the entire city, and everyone is viewed as his employer, whether he is working for any one person, or whether he is performing a communal task. When he is involved with this community-wide job, anyone in the city who borrows from him is exempt due to שאילה בבעלים.

Rosh (סימן ו') writes in the name of Ra'aved that when Rava says "while [the municipal worker] is working," it does not actually mean that the lending must take place in the middle of the butcher's performing shechita or the barber's giving a haircut, but rather it means that the lending takes place during his work hours, as long as he is expected to be available to perform his task. What is excluded, however, is the time when the civic employee is not on the job and therefore not expected to be performing his function.

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 in honor of the Shloshim of our father
אהרן דב בן אפרים הלוי
 by his family

HALACHAH Highlight

A rabbi's right to choose what to learn

אדרבה אתון שאילתון לי וכו'

The opposite is true, you are borrowed to me etc.

The Gemara relates that the rabbis told Rava that he is working for them. Rashi¹ explains that the rabbis were saying to Rava that he is considered as though he works for them since he teaches them Torah. Therefore, if one of them would borrow a cow from Rava and it was to die the borrower would be exempt since it is a circumstance of **שאלה בבעלים**. Upon hearing this assertion Rava informed them that their perception is backwards and the rabbis are considered as though they are working for him. Rashi² explains that Rava considered it as though they work for him since when he wants to begin learning another massechta in order not to forget its contents they cannot protest his decision.

Teshuvos Eretz Tzvi³, elaborated on this Gemara in response to an inquiry from the Imrei Emes. Imrei Emes asserted that Rava's declaration that he can switch the material that is being studied for his own interest contradicts the Gemara in Avodah Zarah (19a) which states that a student will only succeed in his learning when he studies what interests his heart (מה שלבו חפץ). Eretz Tzvi answered that a careful reading of

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against R' Huna and R' Yehudah on this matter is recorded.

R' Nachman's position is defended.

This defense is challenged by asserting that the case is similar to a case of Rava. ■

Rashi provides a hint to resolve this difficulty. Rashi explained that Rava's assertion that he could choose the topic that is studied is limited to when there was a concern for violating the prohibition against forgetting Torah. When that was not a concern the statement in the Gemara in Avodah Zarah prevails and Rava would be compelled to study what interested his students.

A second resolution suggested by Eretz Tzvi is that when students wish to study one massechta and the rebbi wishes to study another, the rebbi can choose the massechta of his choice by invoking the principle of **חייך קודמים**—one has the right to prioritize his needs before the needs of others. Therefore, when the rebbi has no particular preference the students should be given the choice of what they want to study but if the rebbi does have a preference of what he wants to study he has the right to impose that interest on others. ■

1. רש"י ד"ה שאיל.

2. רש"י ד"ה אתון.

3. שו"ת ארץ צבי ח"א סי' צ"ב. ■

STORIES Off the Daf

No rhyme or reason

"לא דינא ולא דינא..."

The Rambam rules that when the Jewish people are faced with a calamity, they should never claim that it just came about by happenstance. To make such a claim is actually cruel, since whatever happens to the Jewish people is sent to us from Hashem to encourage us to change. Instead of living in denial and suffering the consequences, people should find their weak points and do teshuvah.

In this regard Rav Yitzchak Zilberstein, shlit"א, once said, "During this last period of tensions in Israel, we have seen Arab women who are not afraid to kill even highly trained soldiers and officers in the Israeli Army. This seems quite

unnatural since the soldiers are also well armed. This phenomenon has antecedents in Bava Metzia 97, regarding a man who is killed by a woman—it is **לא דינא ולא דינא**—it is without rhyme or reason. Rashi explains that he should not have fallen into her hands. Surely we should arouse ourselves to find what may be a cause for this and do teshuvah!

"In my limited understanding this could be the result of women in our government who speak with audacity against Hashem and His Torah, finding fault with anything holy and making a terrible chilul Hashem. Hashem is responding to this bizarre audacity by giving Arab women the chutzpah to attack and overpower armed officers.

"This is likely also a result of women who dress and act in a manner not befitting a bas Yisrael. Before we comment about the behavior of another we should first make a concerted effort to correct

what is wrong within our own dalet amos. Women should work on dressing and acting with tznius while men should avoid seeing what is unseemly. People who work on themselves spiritually as a result of the troubles we are facing are the true commandos of the Jewish people. Who can tell how many lives are saved by guarding one's eyes from licentiousness or dressing modestly even once!"¹ ■

1. טובך בייעו, ח"ב, ע' קכ"ח ■

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Nesivos HaMishpat notes that earlier (96b) the Gemara says that a wife is committed to be of service to run the household, so a husband would be exempt if he borrows from her. This is true around the clock, as opposed to a city worker, who is sometimes off-duty. The distinction is that a worker is hired under the condition that when he is not working, his commitment is stopped. ■