

11 Sivan 5776
June 17, 2016



Bava Kamma Daf 17

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Chizkiah's Funeral

It is written: *And they did honor at his (King Chizkiah's) death.* This teaches us that they established a house of Torah study by his grave.

Rabbi Nassan and the Rabbis argue: One said that this academy remained there for three days, and one said that it remained for seven days. Others say that it remained for thirty days.

The *Gemora* cites a *braisa*: *And they did honor at his death.* This is referring to Chizkiah the king of Judah, about whom there were thirty-six thousand warriors with bare shoulders (*as a sign of mourning*) who marched before him; this is the opinion of Rabbi Yehudah. Rabbi Nechemiah, however, said to him: Did they not do the same before Achav? Rather, in the case of Chizkiah, they placed a Torah scroll upon his coffin and declared: This one fulfilled all that which is written here!

The *Gemora* asks: But do we not even now do the same thing (*when appropriate*)?

The *Gemora* answers: We only bring out the Torah scroll, but do not place it on the coffin.

Alternatively, the *Gemora* answers that we also place it on the coffin, but do not say: He fulfilled that which is written here.

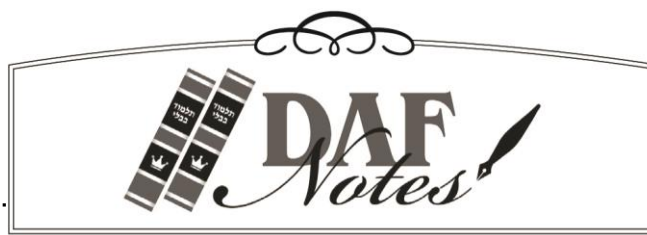
Rabbah bar bar Chanah said: I was once following Rabbi Yochanan for the purpose of asking him about the above matter. He, however, at that moment went into the bathroom. When he came out and I put the matter before him, he did not answer until he had washed his hands, put on his *tefillin* and recited the blessing over them. He then said to us: Even if we also say: He fulfilled that which is written here, we do not say: He taught that which is written here.

The *Gemora* asks: But did not the *Tanna* say: The study of Torah is important by the fact that Torah leads to the practice of *mitzvos*? [*It would seem that the praise that "he fulfilled the Torah" is greater than "he taught the Torah"!?*]

The *Gemora* answers: This, however, offers no difficulty; the latter statement deals with studying Torah (*and the performance of mitzvos is more important than learning*), whereas the former statement refers to teaching Torah (*and teaching Torah is more important than the performance of mitzvos*).

Rabbi Yochanan said in the name of Rabbi Shimon ben Yochai: What is the meaning of the verse: *Praiseworthy are you that sow beside all waters, who send forth the feet of the ox and the donkey?*

This teaches us that whoever is occupied with the studying of Torah and with kindness, is worthy of the inheritance of two tribes (*Yosef and Yissachar*).



This may be proven from that which it says: *Praiseworthy are you that sow*. Now, sowing can signify charity, as it is written: *Sow for yourselves for charity; reap in kindness*. And water can signify Torah, as it is stated: *Ho! Everyone that is thirsty go to the waters*.

And he is worthy of the inheritance of two tribes: He is worthy of a canopy like Yosef, as it is written: *A charming son is Yosef...the girls stepped on a wall to look at him*. He is also worthy of the inheritance of Yissachar, as it is written: *Yissachar is a strong-boned donkey (which the Targum explains is referring to property)*.

There are others who say: His enemies will fall before him, as it is written (*with respect to Yosef*): *With them he shall gore nations together, to the ends of the earth*. He is worthy of understanding like Yissachar, as it is written: *And from the children of Yissachar which were men that had a profound understanding of the times to know what Israel ought to do*. (17a)

WE SHALL RETURN TO YOU, ARBAAH AVOS

Mishna

How is the foot of the animal considered a *mu'ad*? It is *mu'ad* to break things as it is walking. An animal is *mu'ad* to walk in a normal manner and break things that are in its way. If it was kicking or if pebbles were shooting out from beneath its feet, and it broke utensils, the owner is liable to pay half damages. If it stepped on a utensil and broke it and the broken piece fell on another utensil and broke it, the owner will be liable to pay full damages for the first one, and he will pay half damages for the second one. Chickens are *mu'ad* to break things as they are walking. If something was tied to its legs, or if it was jumping, and it broke utensils, the owner is liable to pay half damages. (17a)

Explaining the Mishna

Ravina said to Rava: Why does the *Mishna* say “foot” and “animal” (*are mu'ad to break things*)? They are both the same case?

The *Gemora* answers: “Foot” is the main category and “animal” is the sub-category.

Ravina asked: But let us consider the end part of this *Mishna*: The “tooth” of an animal is a *mu'ad*... and an “animal” is a *mu'ad*. What are the main categories and sub-categories there? [*The Mishna there is dealing with cases where the animal is eating fruits and vegetables; that is not a sub-category!?*]

Rava replied in jest: I answered one; now, you answer the other.

Rav Ashi explains that *Mishna*: The *Mishna* mentioned the “tooth” of a wild beast and it then mentions the “tooth” of a domestic animal. The Scriptural verse states animal – so the *Mishna* teaches us that a wild beast is included in the category of “animal.”

The *Gemora* asks: Shouldn't it mention the case of “animal” first?

The *Gemora* answers: Since an exposition is dear to the *Tanna*, he mentions that one first.

The *Gemora* asks: If so, why didn't the *Tanna* of our *Mishna* mention “animal” before “foot”?

The *Gemora* answers: It does not make sense to state the sub-category (*of “animal”*) before mentioning the main category (*of “foot”*).

Alternatively, the *Gemora* answers that the *Tanna* mentions “foot” in the opening of this chapter because

“foot” was mentioned in the end of the previous chapter.
(17b)

Pebbles

The *Gemora* cites a *braisa*: An animal is *mu’ad* to walk in a normal manner and break things that are in its way. What is the case? An animal enters into the premises of the damaged party and does damage - either with its body while it is walking, or with its hair while it is walking, or with the saddle which is upon it, or with the load which is upon it, or with the bit in its mouth, or with the bell on its neck. Similarly in the case of a donkey that does damage with its load, the payment must be in full. Sumchos says: In the case of pebbles (*which were shooting out from beneath its feet*) or in the case of a pig burrowing (*with its snout*) in a garbage dump, causing pebbles to shoot out which damaged utensils, the payment is also in full.

The *Gemora* asks: Did the first *Tanna* mention anything about pebbles (*what is Sumchos coming to argue about*)?

The *Gemora* answers: It is as if there are some missing words in the *braisa*, and this is what it should say: In a case where pebbles shoot out in a normal manner, the owner is liable to pay for half the damages. If a pig burrows (*with its snout*) in a garbage dump, causing pebbles to shoot out which damaged utensils, the owner is liable to pay for half the damages. Sumchos says: In the case of pebbles or in the case of a pig burrowing in a garbage dump, causing pebbles to shoot out which damaged utensils, the payment is also in full.

The *Gemora* cites another *braisa*: In the case of chickens flying from one place to another and breaking utensils with their wings, the payment must be in full. However, if the damage was done by the wind from their wings, only half the damages will be paid. Sumchos, however, says: In both cases, the payment must be in full.

The *Gemora* cites another *braisa*: In the case of chickens hopping upon dough or upon fruits, and they either dirtied or pecked at them, the payment must be in full. However, if the damage resulted from their stirring up dirt or pebbles, only half damages will be paid (*since it is indirect*). Sumchos, however, says: In both cases, the payment must be in full.

The *Gemora* cites another *braisa*: In the case of chickens flying from one place to another and utensils were damaged by the wind from underneath their wings, only half the damages will be paid. This anonymous *braisa* is in accordance with the *Chachamim*.

Rava asked: We can understand that Sumchos holds that the force from a person is regarded as being directly from his body (*and that is why the owner pays full damages for the pebbles shooting out*); however, what do the *Chachamim* hold? If one’s force is regarded as being directly from his body, the owner should pay in full; and if he holds that it is not regarded as being directly from his body, then he shouldn’t pay at all!?

Rava therefore said: In truth it is regarded as being directly from his body, and the reason one only pays half damages in the case of pebbles is because it is a *Halachah l’Moshe mi’Sinai* (*they have received through an oral tradition that the owner is only liable to pay half damages*).

Rava said: Whatever would make an object *tamei* (*some type of touching – a direct contact*) in the case of a *zav* (*a man who has an emission similar but not identical to a seminal discharge*) will in the case of damage involve full payment, whereas that which would not make an object *tamei* (*if the zav threw something onto a person who was tahor*) in the case of a *zav* will in the case of damage (*pebbles*) involve only half damages.



The *Gemora* asks: Was Rava's sole intention to teach to us the *halachah* of pebbles?

The *Gemora* answers: No, Rava meant to tell us the *halachah* regarding a heifer drawing a wagon (*that the wagon being pulled by the heifer is regarded as an extension of the animal*). [*If a zav were to sit in a wagon that passed over tahor objects, they would become tamei; so too, with respect to damages. If the wagon rides over utensils and breaks them, the owner will be liable in full. However, if pebbles would shoot out from beneath the wagon and break utensils, he would only be liable in half the damage; this would be just like the halachah of a zav, where the object would remain tahor in such a type of case.*]

The *Gemora* cites a *braisa* which supports Rava: An animal enters into the premises of the damaged party and does damage - either with its body while it is walking, or with its hair while it is walking, or with the saddle which is upon it, or with the load which is upon it, or with the bit in its mouth, or with the bell on its neck. Similarly in the case of a donkey that does damage with its load, or a heifer which damaged by pulling a wagon, the payment must be in full.

The *Gemora* cites a *braisa*: If chickens were pecking on a rope of a bucket, and the rope snapped causing the bucket to break, they are liable to pay full damages. (17b)

Beginning or the End?

Rava inquired: If an animal pounced upon a utensil but it didn't break, and it rolled to another place and broke there, what is the *halachah*? Do we consider the beginning of the process, and it is regarded as if the animal itself broke the utensil (*in which case the owner will be liable to pay in full*), or do we look at when the utensil actually broke, and then it would be regarded as a

case of "pebbles" (*in which case the owner will only be liable to pay for half the damages*)?

The *Gemora* attempts to resolve this from that which Rabbah said: If one threw a utensil from the top of a roof and someone else comes and breaks it with a stick, the second person is exempt from liability, for we can say to him (*the owner of the utensil*), "He broke a broken utensil." [*Evidently, Rabbah considers the beginning of the process, and that is why the utensil is regarded as broken even before it actually hits the ground and breaks!*]

The *Gemora* rejects the proof, by saying that although it was clear to Rabbah (*that we consider the beginning of the process*), it was still a matter of inquiry to Rava.

The *Gemora* attempts to resolve the inquiry from the following *braisa*: A chicken hopping is not regarded as *mu'ad*. Others say that it is *mu'ad*.

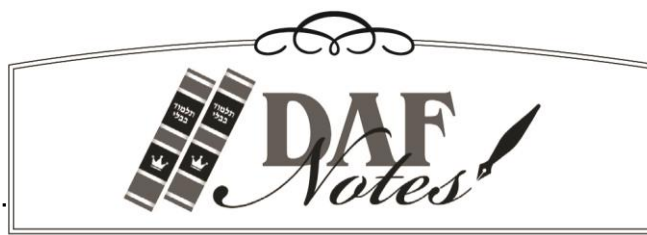
The *Gemora* clarifies the *braisa*: It cannot be referring to ordinary hopping, for obviously, it is *mu'ad* for a chicken to hop. It must be referring to a case where the chicken hopped and caused a utensil to shoot out – it broke when it landed on the ground. One *Tanna* holds that we consider the beginning of the process and the other *Tanna* follows the time that the utensil actually breaks.

The *Gemora* rejects this argument: The *braisa* is referring to a case where the chicken hopped and pebbles shot out causing a utensil to break. One *Tanna* holds like Sumchos and one holds like the *Chachamim*. (17b – 18a)

INSIGHTS TO THE DAF

Haman and his Daughter

Rava inquired: If an animal pounced upon a utensil but it didn't break, and it rolled to another place and broke there, what is the *halachah*? Do we consider the



beginning of the process, and it is regarded as if the animal itself broke the utensil (*in which case the owner will be liable to pay in full*), or do we look at when the utensil actual broke, and then it would be regarded as a case of “pebbles” (*in which case the owner will only be liable to pay for half the damages*)?

The *Gemora* attempts to resolve this from that which Rabbah said: If one threw a utensil from the top of a roof and someone else comes and breaks it with a stick, the second person is exempt from liability, for we can say to him (*the owner of the utensil*), “He broke a broken utensil.” [Evidently, Rabbah considers the beginning of the process, and that is why the utensil is regarded as broken even before it actually hits the ground and breaks!]

The *Gemora* rejects the proof, by saying that although it was clear to Rabbah (*that we consider the beginning of the process*), it was still a matter of inquiry to Rava.

Tosfos writes that if one throws a stone or shoots an arrow onto a utensil, and someone else comes and breaks the utensil first, the second person is definitely liable to pay for the damages. We cannot say in this case that “he broke a broken utensil,” for if the utensil would be considered broken immediately, there would never apply the *halachah* of “pebbles,” for we would always consider the utensil to be broken as soon as the pebbles shoot out from the animal. Tosfos concludes that the logical distinction between throwing a stone at a utensil and throwing the utensil itself is a simple matter.

The Rogatchover Gaon uses this Tosfos to explain a *Gemora* in Megillah (16a). As Haman was leading Mordechai through the streets, they passed by Haman’s house. Haman’s daughter witnessed the scene and thought that Mordechai was leading her father. She took the bowl from the bathroom and threw it on her father’s head. When she realized that it was her father, she fell off the roof and died. This explains that which is written: *And*

Haman hurried to his house, mourning and with his head covered. He was in “mourning” on account of his daughter, and “his head was covered” because of what occurred to him.

The question is asked that the sequence is reversed!? The verse should have stated that “his head was covered” and then he was in “mourning” Why was he mourning before his head was covered?

The Rogatchover Gaon suggests the following: Immediately after Haman’s daughter threw the bowl down, she realized her mistake, and she threw herself off the roof before the bowl landed on her father’s head. According to Tosfos, who distinguishes between when the utensil was set into motion, and when the stone was set into motion, we can explain as follows: She (*like the utensil*) was considered dead at the beginning of her descent; however, Haman’s head was not covered until the bowl actually landed on his head. This explains why the verse mentions that he was in mourning even before his head was covered.

Fender Bender

By Rev Avi Lebovitz

Reuven is driving behind Shimon and smashes into Shimon’s car, destroying his fender and causing \$500.00 worth of damage. Shimon continues to drive home and gets into a terrible accident that completely totals his car. Reuven claims that he should not be liable for paying for the damage that he caused, because even if had he not caused the damage, it would have happened due to the later accident. Is Reuven obligated to pay?

The Reshash learns from Tosfos that Reuven is responsible. Tosfos says that although in the case of the *Gemora* where one throws a vessel from the roof and the other one smashes it before it hits the ground, the



thrower is liable to pay and the smasher is exempt; in a case where one throws a stone at a utensil and before it hits the ground, someone else smashes it, the smasher is liable and therefore the thrower is exempt. The argument that “he broke an already broken item,” only applies to a case where the damaged item itself was thrown, not when another item was thrown at it. The logic is clear. When one throws a stone at a utensil, he has no connection to the utensil until the stone makes contact with it, so if prior to that, someone else smashes the utensil, the smasher is fully responsible.

Based on this, the Reshash says that if Reuven smashes Shimon’s vessel, but later a fire occurs and burns the broken vessel, Reuven is responsible to pay for the damage he caused. Why? Because even if Reuven would smash the vessel after the stone has been thrown, he would be obligated to pay; certainly if he broke the utensil prior to the fire heading to Shimon’s home, Reuven is liable to pay. Similarly, in the case of the car accident, Reuven would be obligated to pay, because even if at the time of the fender bender there was already a train headed right at Shimon’s car and it would definitely be destroyed, Reuven is liable for the damage he caused.

DAILY MASHAL

Charity is like Sowing

Rabbi Yochanan said in the name of Rabbi Shimon ben Yochai: What is the meaning of the verse: *Praiseworthy are you that sow beside all waters, who send forth the feet of the ox and the donkey?* This teaches us that whoever is occupied with the studying of Torah and with kindness, is worthy of the inheritance of two tribes (*Yosef and Yissachar*).

This may be proven from that which it says: *Praiseworthy are you that sow.* Now, sowing can signify charity, as it written: *Sow for yourselves for charity; reap in kindness.*

And water can signify Torah, as it is stated: *Ho! Everyone that is thirsty go to the waters.*

And he is worthy of the inheritance of two tribes: He is worthy of a canopy like Yosef, as it is written: *A charming son is Yosef...the girls stepped on a wall to look at him.* He is also worthy of the inheritance of Yissachar, as it is written: *Yissachar is a strong-boned donkey (which the Targum explains is referring to property).*

Why is the giving of charity regarded as “sowing”? Rabbi Karr suggests that when someone gives charity, the results are sometime clear and sometimes not so clear. It is possible to perform charity and kindness and not see the results for a long time. Sometimes the results may take days, weeks, months, years, or even generations before the results of the charity are seen or known. It is in this way that charity is planted like a seed in the ground that blooms much later, and only then will you see the results of what was planted.

Learning Torah leads to fulfillment of Mitzvos

The simple meaning in this is that a person needs to be educated to know how to fulfill the Mitzvos properly. Another possible interpretation is that it is the spirit of holiness that accompanies learning Torah that enables the fulfillment of the Mitzvos.

There is a story told about the Vilna Gaon who was one time involved in helping a young man who was blind to find a shidduch. After successfully organizing the match, the Gaon also performed the ceremony as the Mesader Kiddushin. As they were standing under the chuppah, the Gaon turned to the groom, quoted the Gemara in Kiddushin that it is forbidden for a man to betroth a woman without seeing her, and instructed the blind man to gaze upon his bride. The groom obeyed the instructions – and miraculously his sight was restored and he fulfilled the requirement of seeing his bride prior to the ceremony.