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Bava Metzia Daf 83

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Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**

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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

Issi Ben Yehudah said that if an item that a *shomer* (guardian) is guarding breaks in front of witnesses, the *shomer* is not exempt through taking an oath, and he is exempt only if he brings witnesses who testify that he was not negligent.

Rabbi Yochanan says that a *shomer* who moves a jug that he is guarding from place to place and he slips and it breaks, the *Chachamim* decreed that he is exempt through taking an oath, because otherwise, no one would move a jug for his friend from place to place. [Rabbi Yochanan is answering the contradiction that Rabbi Meir in our Mishna holds that a *shomer*, who slips and breaks the jug, is exempt, even though he states elsewhere that someone who slips is considered negligent, and the answer is that it is a decree of the *Chachamim* that the *shomer* who breaks a jug is exempt through taking an oath.]

Rava says that according to Rabbi Yochanan, if the *shomer* slips and breaks a jug, he takes an oath that he didn't break it deliberately and he is exempt. [Rava is explaining that according to Rabbi Meir, someone who slips is negligent, and even so, he is exempt because of the decree of the *Chachamim*, so he can't take an oath that he wasn't negligent,

and instead, he takes an oath that he did not break the jug deliberately.]

Rav Yehudah holds that a *shomer chinam* (unpaid custodian) who is guarding a jug and he moves it from place to place and he slips and it breaks, he takes an oath and he is exempt, while a *shomer sachar* (paid custodian) is liable to pay.

Rabbi Eliezer says that the *halachah* is in accordance with Rabbi Meir that both a *shomer sachar* and a *shomer chinam* take an oath and are exempt, but he doesn't understand why a *shomer sachar* is exempt, since he is liable for negligence, and even a *shomer chinam* would be liable if he slipped on level ground.

If someone asks his friend to buy for him four hundred barrels of wine and the agent claims that he bought the wine and it turned into vinegar; since such a significant event has a voice (*the word travels*), the agent must prove that he bought wine with the money, not vinegar. [This is in accordance with Issi, who holds that any time it is possible to prove something with witnesses, a person must bring witnesses and otherwise, he must pay.]

If someone is hired to transport barrels and he carried two barrels at a time on his shoulders with



a stick that was bent in the middle and the barrels break, Rabbi Chiya bar Yosef decreed that he must pay half. [*Two barrels are too much for one person to carry in this fashion and too little for two people; however, it is usual for a person to make the effort and carry two at a time, and therefore it is close to being both an accident and a negligence and he pays half.*]

If a worker carried the barrels with a stick that is bent like a hook at the ends, and he tied two barrels to the ends; if the barrels break, he must pay for the complete cost. [*It is regarded as a negligence because it is usual to tie a load to the stick that requires two people to carry it, and since he carried by himself a load that requires two people, he is liable to pay for it completely.*]

If someone hires workers and he instructs them to start early and to end late; if it is a place that the custom is that workers do not start early and end late, he may not force them.

Even if he is paying them more than the usual, he may not force them to start early and end late, because the workers can say, "That which you are paying us extra is in exchange for doing better work and not to work early and late."

If a person hires workers in a place where the custom is to provide them with food, or the custom is also to provide them with sweets, he must follow the custom.

When a worker departs from his house to go to

work, he may delay his departure until daybreak, but at the end of the day he may not end his work and go home until nightfall. [*In a place where there is an established custom regarding what time the workers start and end the day, the custom should be followed unless the employer tells him that he is hiring him with the laws of a worker according to the Torah.*]

Rabbi Zeira lectured, and others say: Rabbi Yosef learned: What is meant by: You make darkness, and it is night: wherein all the beasts of the forest do creep forth? You make darkness, and it is night — this refers to this world, which is comparable to night; wherein all the beasts of the forest do creep forth — to the wicked that are inside, who are like the beasts of the forest. The sun arises — for the righteous; the wicked are gathered in — for Gehinnom; and lay them down in their habitations — not a single righteous man lacks a habitation as befits his honor. Man goes forth to his work — i.e., the righteous go forth to receive their reward; and to his labor until the evening — as one who has worked fully until the very evening.

Rabbi Elozar, son of Rabbi Shimon, once met an officer of the [Roman] Government who had been sent to arrest thieves: How can you detect them? he said. Are they not compared to wild beasts, of whom it is written: Therein [in the darkness] all the beasts of the forest creep forth? (Others say: he referred him to the verse: He lies in wait secretly as a lion in his den.) Maybe, [he continued,] you take the innocent and allow the guilty to escape? The officer answered: What shall I do? It is the

King's command. The Rabbi said: Let me tell you what to do. Go into a tavern at the fourth hour of the day. If you see a man dozing with a cup of wine in his hand, ask what he is. If he is a learned man, [you may assume that] he has risen early to pursue his studies; if he is a day laborer, he must have been up early to do his work; if his work is of the kind that is done at night, he might have been rolling thin metal. If he is none of these, he is a thief; arrest him. The report [of this conversation] was brought to the Court, and the order was given: Let the reader of the letter become the messenger. Rabbi Elozar, son of Rabbi Shimon, was accordingly sent for, and he proceeded to arrest the thieves. Thereupon Rabbi Yehoshua, son of Karchah, sent word to him: Vinegar, son of wine! How long will you deliver up the people of our God for slaughter! Back came the reply: I weed out thorns from the vineyard. Whereupon, Rabi Yehoshua retorted: Let the owner of the vineyard himself [God] come and weed out the thorns.

One day a fuller met him, and dubbed him: Vinegar, son of wine. The Rabbi said to himself: Since he is so insolent, he is certainly a culprit. So he gave the order to his attendant: Arrest him! Arrest him! When his anger cooled, he went after him in order to secure his release, but did not succeed. Thereupon he applied to him, [the fuller] the verse: Who keeps his mouth and his tongue, keeps his soul from troubles. Then they hanged him, and he [R' Elozar son of R' Shimon] stood under the gallows and wept. They [his disciples] said to him: Master, do not grieve; for he and his son seduced a betrothed maiden on the Day of

Atonement. [On hearing this,] he laid his hand upon his heart and exclaimed: Rejoice, my heart! If matters on which you [sc. the heart] are doubtful are thus, how much more so those on which you are certain! I am well assured that neither worms nor decay will have power over you. Yet in spite of this, his conscience disquieted him. Thereupon he was given a sleeping draught, taken into a marble chamber, and had his abdomen opened, and basketsful of fat removed from him and placed in the sun during Tammuz and Av, and yet it did not putrefy. The Gemora asks: But no fat putrefies!? The Gemora answers: [True,] no fat putrefies; nevertheless, if it contains red streaks, it does. But here, though it contained red streaks, it did not. Thereupon, he applied to himself the verse: My flesh too shall dwell in safety.