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DAF Notes
Insights into the Daily Daf
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Bava Kamma Daf 22

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o"h

Tzvi Gershon ben Yoel (Harvey Felsen) o"h

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

Fire

It was stated: Rabbi Yochanan said: One is liable for the damage caused by his fire on account of it being "his arrows" (*it is as if he shot out an arrow which caused damage*). Rish Lakish, however, maintained that fire is regarded as "his property" (*just as he is liable when he is negligent and his ox damages, so too, he is liable for the negligence regarding his fire*).

The *Gemora* explains: Rish Lakish differed from Rabbi Yochanan, for he contends that one's arrows emerge directly from human force, whereas fire does not emerge from human force (*it spreads by itself*).

Rabbi Yochanan differs with Rish Lakish, for he may say that his property contains tangible substance, whereas fire has no tangible substance. [*At this point, the difference between them would be regarding a case where he set a fire using someone else's coals; Rabbi Yochanan will hold that he is liable, for the fire is "his arrows," whereas Rish Lakish would exempt him from liability, for it cannot be regarded as "his property."*]

The *Gemora* asks on Rish Lakish from our *Mishna*: If a dog took a cookie (*with a coal stuck to it*) and went with it to a pile of grain where it ate the cookie and set the pile on fire, full payment must be made for the cookie, whereas for the grain, only half damages will be paid. Now this ruling (*that he pays half damages for the grain*) is understandable according to the view that the liability for fire is on account of "his arrows" that caused it, for the fire, in this case, can be considered the arrows of the dog (*and since the fire spread through the force of the dog, it is regarded as a case of tzroros – pebbles, and the owner is liable to pay half damages*). But according to the one who holds that fire is regarded as "his property," why indeed should the owner of the dog be liable? The fire, in this case, is not the property of the dog owner!?

The *Gemora* answers: Rish Lakish may reply: The *Mishna*'s ruling deals with a case where the burning coal was thrown by the dog upon the grain. Full compensation must be made for the cookie (*because of shein*), but only half will be paid for the damage done to the actual spot upon which the coal had originally been thrown (*not because of "fire," but on account of "pebbles"*), whereas there will be no liability at all for the rest of the grain.

Rabbi Yochanan, however, understands the *Mishna* to be referring to a case where the dog actually placed the coal upon the grain. Full compensation must be made for the cookie (*because of shein*) as well as for the damage done to the spot upon which

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the coal had originally been placed (*on account of regel*), whereas for the rest of the grain, only half damages will be paid (*since it is the force of his dog that is causing the damage*).

The *Gemora* asks on Rish Lakish from the following *Mishna*: A camel was laden with flax and it passed through a public domain. The flax enters a shop and catches fire by coming in contact with the shopkeeper's candle and sets fire to a mansion. The owner of the camel is liable (*for it was his negligence that allowed the flax to catch fire*). If, however, the shopkeeper left his candle outside, the shopkeeper is liable. Rabbi Yehudah says: In the case of a Chanukah candle (*where the mitzvah is for it to be placed outside*), the shopkeeper would not be liable. Now this (*that the camel owner is liable for the damage caused by the fire*) is understandable according to the view that that the liability for fire is on account of "his arrows" that caused it, for the fire, in this case can be considered the arrows of the camel (*and since the fire spread through the force of the camel, it is regarded as a case of tzroros – pebbles, and the owner is liable to pay half damages for the mansion*). But according to the one who holds that fire is regarded as "his property," why indeed should the owner of the camel be liable? The fire, in this case, is not the property of the camel owner!?

The *Gemora* answers: Rish Lakish may reply that the camel, in this case, set every bit of the mansion on fire.

The *Gemora* asks: If so, let us examine the concluding clause: If, however, the shopkeeper left his candle outside, the shopkeeper is liable. Now, if the camel set the entire mansion on fire, why indeed should the shopkeeper be liable (*the camel owner is also negligent, for he could have prevented the camel from rubbing against the entire mansion*)?

Rav Huna bar Manoach answers in the name of Rav Ika: The rulings apply to a case where the camel stood still in order to urinate (*and the camel owner could not budge it from its place as it was setting the mansion on fire; this is regarded as an unavoidable damage and he cannot be held accountable for it*). The *Gemora* explains the rulings: In the first case of the *Mishna*, the camel owner is liable, for he should not have overloaded his camel with flax. In the last case, the shopkeeper is liable, for he should not have left his candle outside.

The *Gemora* asks on Rish Lakish from the following *Mishna*: If one sets a pile of grain on fire, where a goat was bound to it and a slave was near it, and all were burned, there is liability for the grain and the goat. [*In general, there is a principle of kim leih bid'rabbah minei (whenever someone is deserving of two punishments, he receives the one which is more severe). In this case, however, he is not regarded as a murderer, for the slave could have run away.*] If, however, the slave was bound to it and the goat was near it, and all were burned, there is no liability for the grain and the goat (*for he incurs the death penalty for killing the Canaanite slave; this, in turn, exempts him from any incidental monetary liability*). Now this (*that he is regarded as a murderer*) is understandable according to the view that that the liability for fire is on account of "his arrows" that caused it, for the fire, in this case can be considered the arrows of the arsonist, and he is therefore

exempt from any incidental monetary liability. But, according to the one who holds that fire is regarded as "his property," why should there be an exemption? Would there be an exemption also in the case of his bull killing a slave? [*The Torah explicitly states that there is liability, so why should his fire be any different?*]

The *Gemora* answers: Rish Lakish may reply that the exemption refers to a case where the fire was actually put upon the body of the slave, for the principle of *kim leih bid'rabbah minei* applies (*whenever someone is deserving of two punishments, he receives the one which is more severe*).

The *Gemora* asks: If so, what is the novelty of this teaching?

The *Gemora* answers: The ruling is necessary in the case where the goat belonged to one person and the slave to another (*and the principle of kim leih bid'rabbah minei would still apply*).

The *Gemora* on Rish Lakish from the following *Mishna*: If one sends out a fire in the hands of a deaf-mute, an imbecile or a minor (*and it consequently burned someone's haystack*), he is not liable for damages according to the laws of man, but he is liable according to the laws of Heaven. Now this (*that he is exempt according to the laws of man*) is understandable according to the view that that the liability for fire is on account of "his arrows" that caused it, for the fire, in this case can be considered the arrows of the deaf-mute (*and since he was the one who set the fire, the sender will not be liable*). But according to the one who holds that fire is regarded as "his property," why indeed should he be exempt from liability? If he would have given over his bull to a deaf-mute, an imbecile or a minor, would he not be liable for its damages?

The *Gemora* answers: Rish Lakish had stated in the name of Chizkiyah: He is only exempt under the laws of man if he gave him a regular coal, and the deaf-mute fanned it. However, if he gave him a fire, he is liable. Why? This is because there will certainly be damaged caused by such an act. Rabbi Yochanan, on the other hand, says that even in the case of a ready flame, he is not liable, because he maintains that it was only the holding of the deaf-mute that caused the damage. There will not be liability unless he gives him chopped wood, wood chips and an actual flame.

Rava said: A verse and a *braisa* support Rabbi Yochanan: The verse states: *If a fire shall go forth*. This implies that the fire went out by itself (*from his property and spread into his neighbor's field*). Yet the verse concludes: *the one who kindles the blaze shall pay*. It can be derived from here that one is liable for his fire damaging on account of it being "his arrows" (*and that is why the verse regards it as if he himself set fire to the grain*).

The *braisa* states: The Torah begins by discussing damages caused by his property but concludes with damages caused by man. It can be derived from here that one is liable for his fire damaging on account of it being "his arrows." (22a – 23a)

INSIGHTS TO THE DAF

Laws of Heaven

The *Gemora* cites a *Mishna*: If one sends out a fire in the hands of a deaf-mute, an imbecile or a minor (*and it consequently burned someone's haystack*), he is not liable for damages according to the laws of man, but he is liable according to the laws of Heaven. If, however, he sent out the fire in the hands of a competent person, the competent person is liable for the damages. It would seem that in the case where the sender sent the fire with a competent person, the sender is not liable at all, even under the laws of Heaven!

The Ram"a (C"M: 32:2) rules that if one sends out false witnesses to testify against someone, and they cause that fellow a loss, the sender is not liable at all, even under the laws of Heaven. This is because we say that there cannot be a *shliach* to commit a transgression.

The Sha"ch disagrees and maintains that the sender will be liable to pay under the laws of Heaven. He explains the distinction between the two cases. The sender will always be liable under the laws of Heaven. The reason that the sender is not required to pay at all in the case of the fire is only because once the competent person is liable, there is no place for the sender to be liable as well!

DAILY MASHAL

Actions or Results

Rabbi Yochanan (Tannis 29a) said as follows: Were I living in those days, I would have ordained the fast for the tenth of Av; for on that day the greater part of the Beis Hamikdosh was burned. The *Chachamim* maintained that the day when the calamity began should be observed as a fast-day.

The Kotzker Rebbe asked from that famous Nimukei Yosef in *Bava Kamma*. Rabbi Yochanan said: One is liable for the damage caused by his fire on account of it being "his arrows" (*it is as if he shot out an arrow which caused damage*). The Nimukei Yosef explains that this is why one is permitted to light candles Friday afternoon even though they will be burning on *Shabbos*; since the candles were lit from before *Shabbos*, which is when he shot the arrow. According to this, why is Rabbi Yochanan stating here that he would have declared the fast on the tenth of Av if the fire started on the ninth?

The answer is that regarding *Shabbos* and damages, we are concerned with the action; when it occurred and how it happened. Regarding the Beis Hamikdosh being destroyed; we are not concerned with the action, rather with the result and it was burned on the tenth of Av. This is why Rabbi Yochanan said that if he were living in those days, he would have ordained the tenth of Av as the fast day.

The Avnei Neizer answers that the fire of the Beis Hamikdosh was a Heaven-sent fire and that is constantly being lit - that is why Rabbi Yochanan thought the fast should be on the tenth - we do not look at the beginning.