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Mishna

If there were two potters walking in a public domain one behind the other, and the first one stumbled and fell, and the second one stumbled on the first one, the first one is liable to pay for the damages that he caused to the second one. (31a)

Stumbling and Damaging

Rabbi Yochanan said: Do not say that the *Mishna* is following the opinion of Rabbi Meir, who holds that one who stumbles is regarded as negligent (*and that is why the first person will be liable*). The *Mishna* can be following the viewpoint of the Rabbis, who hold that one who stumbles is regarded as an accident, and the reason why the first person will be liable is because he had sufficient time to stand up, and he did not do so.

Rav Nachman bar Yitzchak said: Even if he did not have time to stand up, he will be liable because he should have warned the second person, and he did not do so.

Rabbi Yochanan disagrees, for if he did not have time to stand up, he could not have been expected to warn the other fellow, for he was preoccupied (*with his fall and pain*).

The *Gemora* asks on Rabbi Yochanan from a *Mishna*: If an owner of a beam was walking first and an owner of a barrel was walking after him, and the barrel broke from the beam, the owner of the beam is exempt from liability (*for the barrel owner sped up into the beam*). However, if the owner of the barrel stopped, he will be liable.

Now what is the case? Is it not where he (the owner of the beam) stopped to adjust his load, which is a normal thing to do? Nevertheless, the *Mishna* rules that he is liable! It must be because he still should have warned the owner of the barrel (*although he was preoccupied with adjusting his load*)!?

The *Gemora* answers: No, it is speaking about a case where he stopped to rest (*and since that is abnormal to do in a public domain, he will be liable*).

The *Gemora* asks: But if he would have stopped to adjust his load, he would be exempt from liability. If so, let us consider the latter part of that *Mishna*, which states: If the owner of the beam told the owner of the barrel to stop, he will not be liable. Why didn't the *Mishna* make a distinction in the very same case, and say as follows: When is the owner of the beam liable if he stopped? That is only if he stopped to rest; however, if he stopped to adjust his load, he will be exempt from liability!?

L'zecher Nishmas HaRav Raphael Dov ben HaRav Yosef Yechezkel Marcus O"H

The *Gemora* answers: The *Mishna* wanted to teach us that even if he stopped to rest, if he told the owner of the beam to stop, he will be exempt from liability.

The *Gemora* cites a *braisa* (*as a proof*): If potters or glass makers were walking one after the other and the first one stumbled and fell and the second stumbled on the first one and the third one stumbled on the second, the first one is liable for the damage done to the second one, and the second one is liable for the damage done to the third one. Where, however, they all fell because of the first, the first is liable for the damages done to all of them. If they warned each another, they are exempt from liability. Now, are we not dealing with a case where they did not have an opportunity to stand up (*and yet they are liable; this must be because they should have warned each other*)!?

The *Gemora* rejects the proof: We are dealing with a case where they did have time to stand up (*and they are liable because they did not do so*).

The *Gemora* asks: But what would be the *halachah* in the case where they did not have an opportunity to stand up? They would not be liable. If so, let us consider the latter part of that *braisa*: If they warned each other, they are exempt from liability. Why didn't the *braisa* make a distinction in the very same case, and say as follows: When are they liable? That is only if they have already had an opportunity to stand up; however, if they did not have time to stand up, they will be exempt from liability!?

The *Gemora* answers: The *braisa* wishes to teach us that although they had time to stand up, if they warned each other, they will nevertheless be exempt from liability.

Rava elaborates on the *braisa*: The first potter is liable for the damages to the second, whether it was caused by his body (*in which case, it will be regarded as a "man" who damaged and he will be liable for all types of damages, including utensils*) or by his property (*in which case, it will be his "pit" damaging and he will be exempt from paying for utensils*). The second potter will be liable for the damages to the third, but only for damages caused by his body (*as a "man" who is damaging*), but he will not be liable for damages caused by his property (*not even as his "pit"*).

The *Gemora* asks: Why does Rava make such a distinction? If he holds that one who stumbles is regarded as negligent (*and that is why the first potter is liable for the damages caused by his property*), then, the second potter should also be liable to pay for such damages (*for he too stumbled*)!? And if he maintains that one who stumbles is not regarded as negligent, then, even the first potter should not be liable (*for any damages that he caused, even from his own body*)!?

The *Gemora* answers: The first potter is regarded as negligent (*for he stumbled of his own accord; and therefore, he is liable for the damages that he causes, and he is also liable for the damages caused by his property, for they caused damage as a result of his negligence*). However, the second potter (*was not negligent by stumbling, for he only stumbled because of the first one*) will be liable for the damages caused by his body, for he had the opportunity to stand up, and he did not do so, but he will not be liable for the damages caused by his property, for he can say, "I was not the one who dug this pit." [*And he maintains that one who abandons his hazardous objects is not liable for its damages.*]

L'zecher Nishmas HaRav Raphael Dov ben HaRav Yosef Yechezkel Marcus O"H

The *Gemora* asks on Rava from a *braisa*: All of them are liable for the damages caused by their body, but they are exempt from liability for damages caused by their property. Seemingly, the *braisa* is ruling that "all of them," even the first one is exempt from liability (*which contradicts Rava*)!?

The *Gemora* answers: The *braisa* is referring to everyone except the first one (*he, who was negligent in stumbling, will be liable for damages caused by his property*).

The *Gemora* asks: But the *braisa* says "all of them"?

The *Gemora* answers: It is referring to all those that were damaged (*they are exempt from liability; the first one is liable*).

The *Gemora* asks: If so, the *braisa* should not say "all of them"; it should say "those that were damaged"!?

Rather, Rava says (*even the first one is exempt from liability if his property damages, for he holds that one who stumbles is not regarded as being negligent*): The first one (*when his body is doing the damage*) is liable for all damages done to the second one, whether he damages the second one's body or his property (*for he had time to stand up; we therefore view him as a "man" who is damaging and he would be liable for utensils as well*). The second one will only be liable for damages done to the third person's body, but he will not be liable for damages done to his property. The reason for this is because the second person is classified as a "pit" (*for he should have stood up; and although the first person was regarded as a "man" damaging, that is because his negligence of not getting up was compounded by the fact that he stumbled on bare ground and not on an obstacle, whereas the second person merely stumbled on an obstacle, he is not treated as severely as the first*), and we dot find by a case of pit that the owner will be liable to pay for damaging utensils.

The *Gemora* asks: This explanation is understandable according to Rav who holds that any obstacle, regardless of whether it is owned or not, can be regarded as a "pit." However, according to Shmuel, who holds that one will not be liable for a "pit" unless he abandons it, how can the second person be regarded as a "pit" (*he obviously cannot declare his body ownerless*)?

The *Gemora* reverts to its original answer (*that the first potter will be liable for damages caused by his body and by his property, whereas the second person will only be liable for damages caused by his body*), and that which was asked that the *braisa* seems to indicate that the first person will not be liable if his property damages, Rav Adda bar Manyumi explained to Ravina that the *braisa's* ruling is only with respect to his property causing damage to other utensils (*for one is not liable for damages caused by his pit to other utensils; however, he will be liable if a person gets injured from the pit*). (31a – 31b)

DAILY MASHAL

Studying Daf HaYomi Before Praying

The Amoraim quoted on *daf* 30 offer several pieces of advice for those who would like to reach the level of *chassidus* [piety], which is among the thirteen levels leading to man's perfection (see introduction to *Mesilas Yesharim*). One of the ways to reach this level is "take care in matters related to *berachos*." According to Rabbeinu Chananel, this means one should be

careful to recite *berachas* properly, since it is forbidden to benefit from this world without a *berachah*. The Rashba takes a different approach, because everyone must be careful in reciting *berachos* properly, not just *chassidim* and those who have reached an elevated spiritual level (Chida in *Devarim Achadim, Drush* 17:2). He explains that the Gemara is referring to the mishnah in *Maseches Berachos*: "The early *chassidim* would tarry for an hour before praying in order to direct their hearts to Hashem."

The *Shulchan Aruch* (*O.C.* 93:1) indeed rules that one should wait an hour before praying. The *Magen Avraham*, however, writes that this *halacha* applies only to *Chassidim,* who serve their Creator with great devotion. The basic halachic requirements is stated elsewhere in the *Shulchan Aruch* (*O.C.* 90:20)—to wait long enough to walk eight *tefachim* [about two-and-a-half feet] before praying.

Studying Daf HaYomi before praying: The *Pri Megadim* (*Eshel Avraham* 93:1) writes that his congregation would pray slowly until reaching *Shemoneh Esrei,* allowing an entire hour to pass. The *Kaf HaChaim* (ibid, S.K. 1) records a similar practice, but adds that this halacha can be fulfilled at *Minchah* and *Ma'ariv* as well, by studying in a fixed *shiur* beforehand in the *beis haknesses* where the *tefilla* will take place.

Why do we tarry an hour before praying? According to the *Tosefos Yom Tov* (*Berachos*, ibid.), the purpose of tarrying is not so that we concentrate properly on the words of the prayer, but in order to become aware that he is standing before the King of Kings, the Holy One Blessed Be He. As the Rambam (*Hilchos Tefillah* 4:16) writes, "He should remove all thoughts from his heart and imagine that he standing before Hashem's Divine Presence."

HaRav Chaim Soloveitchik *zt'l* of Brisk maintains that there is a fundamental difference between someone who had no *kavanah* [paying attention to the words] while praying and someone else who was wholly unaware that he was praying to Hashem. Someone who had *kavanah* during the first *berachah* of *Shemoneh Esrei* and then lost his concentration does not need to repeat the *tefillah* (*O.C.* 101:1). [See Remo (ibid.) on why we do not repeat *Shemoneh Esrei* today.] On the other hand, if at any point he was not even aware that he was standing before Hashem, it is as if he did not pray at all. His words of *tefillah* were totally insignificant and he failed to fulfill his obligation.

However, the Chazon Ish *zt'l* disagrees (see his notes to Rabbeinu Chaim Halevi). Anyone who begins to pray has some knowledge that he is praying to Hashem, and *bedi'eved* this vague cognizance is enough to fulfill his obligation.