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Cases of Fines

There was a person who pointed out a pile of grain that belonged to the *Reish Gelusa* (and which was subsequently seized). He came before Rav Nachman, and Rav Nachman obligated him to pay. Rav Yosef sat in back of Rav Huna bar Chiya, who was sitting before Rav Nachman. Rav Huna asked Rav Nachman: Is this the law, or is it a fine? He replied: This is a *Mishnah*, as the *Mishnah* says, “If it is because of the thief,” and it is explained as a person who pointed out something to be seized by the king.

After Rav Nachman left, Rav Yosef asked Rav Huna: Why does it make a difference to you if it is the law, or if it is merely on account of a fine?

Rav Huna replied: If it is a law, we can learn from this ruling to other similar cases. However, if it is a fine, perhaps it was only because he was accustomed to inform, but it would not apply in other cases.

Rav Yosef asked him: How do you know that we cannot learn from one case of a fine to another?

Rav Huna replied by citing a *Baraisa*: Originally it was stated that one is liable to pay if he contaminates his fellow’s produce with *tumah* and if he renders someone’s wine *nesech*. They then decided to add one who mixes *terumah* into ordinary produce (causing it to become forbidden to people who are not Kohanim). Rav Huna notes: He is only liable (by mixing the *terumah*) because

they later ruled specifically regarding this case. Otherwise, he would be exempt. The reason must be because we cannot learn from one case of a fine to another. [These cases are not regarded like a regular damage because the damage is not recognizable.]

Rav Yosef disagrees with the proof: Perhaps the cases are not comparable. It is possible that the first two laws, where the damager is required to pay, might only be because he caused a substantial loss. However, in the case of one who mixes *terumah* into ordinary produce, which makes it permissible only to *Kohanim*, perhaps he would not be obligated to pay (as the loss is not great). They then ruled that he will even be liable for a minor loss.

Rav Huna asks: Can that be the reason? But the father of Rav Avin taught the same *Baraisa* in the following manner: Originally it was stated that one is liable to pay if he contaminates his fellow’s produce with *tumah* and one who mixes *terumah* into ordinary produce (causing it to become forbidden to people who are not Kohanim). They then decided to add the case of one who renders someone’s wine *nesech*. He is only liable (by rendering someone’s wine *nesech*) because they later ruled specifically regarding this case. Otherwise, he would be exempt. The reason must be because we cannot learn from one case of a fine to another. [And since the case of mixing the *terumah* was in the original decree, the reason for the change had nothing to do with the amount of the loss.]

Rav Yosef answers: No; the reason why the cases were dealt with separately was because originally they held like Rabbi Avin, and later they decided like Rabbi Yirmiyah.

The *Gemora* explains: Originally they held like Rabbi Avin, for Rabbi Avin said: If someone shoots an arrow from the beginning of four *amos* to the end of four *amos* on *Shabbos* (*desecrating Shabbos, as carrying four amos on Shabbos in a public domain is forbidden*), and the arrow tore someone's clothes along the way, he is exempt from paying for the clothes (*due to "kim ley b'drabah minei" - one who commits a capital offense and simultaneously commits a lesser offense, he receives the death penalty, but he is exempt from the lesser one, and therefore, he would not be required to pay*). This is because the picking up the item to carry it (*the flight of the arrow*) is necessary in order for the object to be placed down and is therefore a part of the action which makes him liable to pay with his life (*and since the monetary obligation happens at the same time, he is exempt from paying*). [*The same would hold true with the case where he renders his fellow's wine nesech: He stole the wine when he lifted it, and although, he is not liable to pay with his life until he actually pours the wine as a libation for an idol, the lifting of the wine is a prerequisite to pouring it and the lifting is therefore regarded as being part of the worshipping; he would therefore be exempt from paying for the wine.*] At the end, they held like Rabbi Yirmiyah, for Rabbi Yirmiyah said: The thief acquires possession from the moment he lifts the wine from the ground, whereas he does not become liable to capital punishment until the moment of the libation (*and therefore, he will still be liable to pay*). [*We therefore have no proof that we cannot learn from one case of a fine to another.*] (116b6 – 117a3)

Informers

The *Gemora* cites various incidents regarding informers: Rav Huna bar Yehudah went to a place called Bei Abi'yonei and he visited Rava there. Rava asked him: Has

any case *halachic* issue recently come before you? He replied: There was a case of a Jew whom idolaters forced (*by threat of death*) to show them another man's possessions and I ruled that he is obligated to pay. Rava, however, said to him: Reverse the judgment and return the money to its owner, as was taught in the following *Baraisa*: A Jew who was forced by idolaters to show them another man's possessions is exempt, though if he personally took it and gave it to the idolaters with his own hand, he would be liable (*for he was saving himself with someone else's property*).

Rabbah said: If the Jew showed it on his own accord, it is as if he personally took it and gave it to them with his own hand (*and he would then be liable*).

A certain man was forced (*by threat of death*) by idolaters to show them the wine of Mari the son of Rav Pinchas the son of Rav Chisda. The idolaters then said to him, "Pick up the wine and bring it along with us to the king's palace," so he carried it and brought it along with them. When the case was brought before Rav Ashi, he exempted him. The Rabbis said to Rav Ashi: Did we not learn in a *Baraisa* that if he personally took it and gave it to the idolaters with his own hand, he would be liable? Rav Ashi replied to them: This ruling applies only where he did not take them to the money from the outset (*but, rather, he gave it to them right away*), whereas in a case where at first he took them to the money (*and only afterwards did he give them the money*), it is regarded (*from the moment that he showed it to them*) as if it had already been burnt (*and therefore he will not be liable for handing the money over; this is what happened in Rav Ashi's case*).

Rabbi Avahu asked on Rav Ashi's explanation from the following *Baraisa*: If an extortionist said to a man, "Extend to me this bundle of straw or this cluster of grapes," and he handed it to him, he would be liable to pay (*although the extortionist was already standing by the produce*)!?

The *Gemora* answers: We are dealing here with a case where they (*the extortionist and the produce*) were standing on two different sides of the river. That this was the case can be proven from the use of the word ‘extend’ instead of ‘give.’ This indeed is a proof. (117a3 – 117a5)

Two people were quarrelling about a certain trap. One said, “It is mine,” and the other said, “It is mine.” One of them eventually went and surrendered it to an officer of the king [for confiscation]. Abaye thereupon said that he should be entitled to plead: When I surrendered the article it was my own property that I surrendered. Said Rava to him: Why [should he be] believed [if he says so]? Rava therefore said: We would excommunicate him until he brings back [the trap] and appears before the court. (117a5)

Rav Kahana and Rabbi Yochanan

A certain man who was desirous of showing his fellow’s straw to the king’s officers appeared before Rav, who said to him: Don’t show it! Don’t show it! He replied: I will show it! I will show it! Rav Kahana was sitting before Rav, and he went and broke the informer’s neck. Rav thereupon quoted the following verse: *Your sons have fainted, they lie fallen at the heads of all the streets as a wild ox trapped in a net.* Just as when a ‘wild ox’ falls into a ‘net,’ no one has mercy upon it, so too with the property of a Jew, as soon as it falls into the hands of idolaters, no mercy is exercised towards him (*and they will kill him the next time; so you were right for killing this informer*). Rav therefore said to him: Kahana, until now the Persians who were not so concerned with bloodshed were here (*and you would not be in danger*), but now the Greeks who are particular regarding bloodshed are here, and they will certainly say, “Murder, murder!” Arise and go up to the *Eretz Yisroel*, but accept upon yourself that you will not point out any difficulty to Rabbi Yochanan’s teachings for the next seven years. When he arrived there, he found Rish Lakish sitting and reviewing the lecture of the day for

the younger Rabbis. He thereupon said to them: Where is Rish Lakish? They said to him: Why do you need to know? He replied: This point in the lecture is difficult and that point is difficult, and this could be given as an answer to a question he asked and that could be given as an answer to a different question. When they mentioned this to Rish Lakish, Rish Lakish went and said to Rabbi Yochanan: A lion has ascended from Babylon; let the Master therefore look very carefully into tomorrow’s lecture (*to make sure that Rav Kahana could not successfully challenge it*). The next day, Rav Kahana was seated on the first row of students before Rabbi Yochanan, but as the Rabbi Yochanan delivered one discourse and Rav Kahana did not raise any difficulty, another discourse, and he raised no difficulty, Rav Kahana was put back seven rows until he remained seated upon the very last row. Rabbi Yochanan thereupon said to Rabbi Shimon ben Lakish: The lion that you spoke about turns out to be nothing more than a fox. Rav Kahana whispered to himself: May it be the will of Heaven that these seven rows (*which caused me dishonor*) should be in the place of the seven years mentioned by Rav. He thereupon immediately stood on his feet and said to Rabbi Yochanan: Will the master please start the lecture again from the beginning? When Rabbi Yochanan said over his discourse, Rav Kahana pointed out a difficulty with it. They thereupon placed him in the first row. When Rabbi Yochanan said over another discourse, Rav Kahana pointed out a difficulty with it. Rabbi Yochanan was sitting upon seven cushions. Upon his instructions, one cushion was pulled out from under him. Every time Rav Kahana challenged Rabbi Yochanan, another cushion was pulled out until all the cushions were pulled out from under him and he remained sitting upon the ground. As Rabbi Yochanan was then a very old man and his eyelashes were overhanging, he said to them: Lift up my eyes for me so I can see him. They lifted up his eyelids with a silver applicator. He saw that Rav Kahana’s lips were split and he thought that Rav Kahana was laughing at him. He felt disheartened and this resulted in Rav Kahana’s

death. The next day Rabbi Yochanan said to the Rabbis: Did you notice how the Babylonian was mocking me? But they said to him: That was his natural appearance. He thereupon went to the cave where Rav Kahana was buried and saw a snake with its tail in its mouth coiled round it (*denying entry to the cave*). He said: Snake, snake, open your mouth and let the master go in to the student. But the snake did not open its mouth. He then said: Let the colleague go in to his colleague. But it still did not open its mouth. He then said: Let the student enter to his master, and then the snake did open its mouth. He then prayed for mercy and raised him (*back to life*). He said to him: Had I known that the natural appearance of the master was like that, I would never have become disheartened. Now let the master return with us. Rav Kahana replied: If you are able to pray for mercy that I should never die again (*if I challenge your teachings*), I will go with you, but if not, I will not go with you. Since my time has passed, I will not get a second chance. Rabbi Yochanan thereupon completely awakened and restored him completely. He then consulted him on all his doubtful points and Rav Kahana resolved them for him. And in reference to Rav Kahana's greatness in Torah, Rabbi Yochanan said to his students from *Eretz Yisroel*: What I had believed to be yours was in fact theirs (*despite their exile*). (117a5 – 117b1)

Informer Incidents

There was a certain man who showed a silk adornment of Rabbi Abba to the king's officers. Rabbi Avahu, Rabbi Chanina bar Papi and Rabbi Yitzchak Nafcha were sitting in judgment, and Rabbi Illa'a was sitting near them. They were thought that the defendant should be liable, as we have learned in the following *Mishnah*: If a judge in giving judgment in a monetary case has declared innocent the person who was really liable or made liable a person who was really innocent, declared *tamei* a thing which was really *tahor*, or declared *tahor* a thing which was really *tamei*, his decision would stand, but he would have to

make reparation out of his own property. [*Although the judge did not directly damage the fellow, he is liable; so too regarding an informer; although it was only a causative damage, he still should be liable.*] Rabbi Illa'a said to them: Rav stated that he is only liable if he actually took the money and gave it away with his own hand. They therefore said to Rabbi Abba: Go and take your case to Rabbi Shimon ben Elyakim and Rabbi Elazar ben Pedas who adjudicate liability for damage done by *garmi* (*causative damage*). When he went to them, they declared the informer liable on the strength of our *Mishnah*: If it was because of the first thief, the first thief must give the original owner another field. This has been interpreted to refer to a case where he showed his fellow's field to extortionists (*and he is then liable*).

A certain man had a silver cup which had been deposited with him. Thieves attacked him and he took the silver cup and handed it over to them. He was summoned before Rabbah who ruled that he is exempt. Abaye asked Rabbah: Was this man not saving himself by means of another man's property (*where we rule that he is liable*)?

Rav Ashi answered: We have to consider the circumstances. If he was a wealthy man, the thieves probably came with the intention of stealing his own possessions (*and therefore, he would be liable for saving himself through his fellow's property*), but if not, they probably came for the silver cup (*and therefore, he would be exempt from paying for it*).

A certain man had a purse of money for the redemption of captives deposited with him. Being attacked by thieves he took it and handed it over to them. He was thereupon summoned before Rava who nevertheless declared him exempt. Said Abaye to him: Wasn't that man rescuing himself by means of another man's money? — He replied: There could hardly be a case of redeeming captives more pressing than this.

A certain man hurried to get his donkey on to a ferry boat (which was reserved for people) before the people boarded the boat. The boat was in danger of sinking, so a certain person came along and pushed the donkey into the river, where it drowned. When the case was brought before Rabbah, he ruled that he was exempt. Abaye asked him: Was this man not saving himself by means of another man's property (where we rule that he is liable)? He answered him: The owner of the donkey was from the very beginning regarded as a pursuer (and therefore it is completely permissible to throw the donkey into the river).

Rabbah, who exempted him, follows his own line of reasoning, for Rabbah had said: If a man was pursuing another with the intention of killing him, and during the pursuit, the pursuer broke utensils, the *halachah* is that he would be exempt, whether they belonged to the pursued or to any other person. This is so because he was at that time liable to pay with his life (for anyone has permission to kill him; he therefore is exempt from any simultaneous monetary liabilities).

If, however, the one who was being pursued broke utensils of the pursuer, he would be exempt, for the pursuer's possessions could surely not be more precious than his life (and if the one being pursued has permission to kill the pursuer, he certainly has permission to protect himself by breaking the pursuer's possessions). However, if he broke utensils belonging to any other person, he would be liable, as it is forbidden to save oneself through someone else's possessions (without compensating him for it).

If a man was chasing after a pursuer with the intention of rescuing the intended victim and he accidentally broke utensils, he is exempt, whether they belonged to the pursued or to any other person. This is not based on a matter of strict law, but it is based upon the following consideration: If you were not to rule like this, no person

would ever be willing to rescue a fellow man from the hands of a pursuer. (117b1 – 117b3)

MISHNAH. If a river flooded [a stolen field, the robber] is entitled to say to the other party, "Behold, what is yours is before you." (117b3)

GEMARA: Our Rabbis taught in a Baraisa: If a man robbed another of a field and a river flooded it, he would be required to present him with another field; these are the words of Rabbi Elazar, but the Sages maintain that he would be entitled to say to him, "Behold, what is yours is before you."

What is the ground of their difference? — Rabbi Elazar expounds [Scripture] on the principle of amplifications and limitations. [The expression,] *And he lies to his fellow*, is an amplification; *regarding a deposit*, constitutes a limitation; *or regarding anything about which he has sworn falsely*, forms again an amplification; and where an amplification is followed by a limitation which precedes another amplification, everything is included. What is thus included? All articles. And what is excluded? Documents. But the Rabbis expound [Scripture] on the principle of generalization and specification, [thus: The expression,] *and he lies*, is a generalization; *regarding a deposit*, is a specification; *or regarding anything about which he has sworn falsely*, is again a generalization; and where a generalization is followed by a specification that precedes another generalization you surely cannot include anything except what is similar to the specification. So here, just as the specification is an article which is movable and of which the intrinsic value lies in its substance, you include any other matter which is movable and of which the intrinsic value lies in its very substance. Land is thus excluded as it is not movable; so also are slaves excluded as they are compared [in law] to lands, and documents are similarly excluded, for though they are movables, their substance does not constitute their intrinsic value. - But was it not taught in a Baraisa: If one

stole a cow and a river swept it away, he would be required to present him with another cow, according to the opinion of Rabbi Elazar, whereas the Sages maintain that he would be entitled to say to him, “Behold, what is yours is before you.”? Now in what principle did they differ there [in the case of the cow]? — Said Rav Pappa: We are dealing there with a case where, e.g., he robbed a man of a field on which a cow was lying, and a river [subsequently] flooded it, Rabbi Elazar following his line of reasoning, while the Rabbis followed their own view. (117b4 – 118a1)

DAILY MASHAL

Lesson from the Chafetz Chaim

It once happened that some Chasidim, in the days of the Chafetz Chaim, offended a well-known giant in Torah. The Chafetz Chaim was extremely disturbed about it, but he refused to issue a public protest about it. His rationale for this was based upon our *Gemora*: Rabbah ruled: If a man was chasing after a pursuer with the intention of rescuing the intended victim and he accidentally broke utensils, he is exempt, whether they belonged to the pursued or to any other person. This is not based on a matter of strict law, but it is based upon the following consideration: If you were not to rule like this, no person would ever be willing to rescue a fellow man from the hands of a pursuer. It emerges from here that in order to find people who are willing to rescue someone from the hands of a pursuer, it might come out that innocent people will consequently suffer. The Chasidim, explained the Chafetz Chaim, are fighting to save *Klal Yisroel* from its pursuers. It will happen that on account of this noble pursuit, innocent people will suffer as a result. [This does not mean to say that he is condoning such behavior at all; he is merely saying that if he would publicly take a stand against their movement, people will refrain from fighting noble causes.]

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF to refresh your memory

Q: In which case can one fleeing from prison not tell the ferryman, “I was joking with you” (when he said, “Take a dinar and ferry me across the river”)?

A: If the ferryman was also a fisherman and he suffered a loss in this time.

Q: What would be the *halachah* if someone went to save his fellow's donkey and he stipulated that he will be reimbursed for his donkey, and his donkey came up from the river on its own? Does he still get paid and why?

A: Yes. Heaven had mercy upon him.

Q: Why can a worker withdraw his service in middle of the day?

A: We are slaves to Hashem, not slaves to other slaves.