

4 Kislev 5776  
Dec. 4, 2016



Bava Metzia Daf 69

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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

### **Arranging an Iska**

Rav said: If an investor stipulates with his partner, “Receive the profit above a third as your wage,” it is permitted.” [If one gives a calf to a herdsman on a half profit half loss basis, which, as stated above, is forbidden, but adds that should there be profit by more than a third of the capital, the excess belongs to the herdsman, that is regarded as his wage, although such profit is uncertain.] But Shmuel said: And if there was no profit above a third, shall he go home empty-handed (if he works for free, this would be regarded as ribbis)? Rather, said Shmuel, he must stipulate to pay him a dinar for his wages (if the profit is not more than a third).

Now, is it Rav’s opinion that one is not required to pay him a dinar? But Rav said: The calf’s head belongs to the fattener (this is what the herdsman receives as his wage). Surely this is referring to a case where the owner said to him, “Receive the profit above a third as your wage”!?

The Gemora answers: No. It means that he said to him, “Either the profit above a third, or the calf’s head for the fattener (whichever one is less).”

Alternatively, Rav ruled that the stipulation, “Receive the profit above a third as your wage” is permitted only when he the herdsman has an animal of his own, for people say, “It is the same whether one mixes fodder for one ox or for many oxen.”

The Gemora records an incident: Rabbi Elozar of Hagronya bought a cow and gave it to his sharecropper (to fatten it; the arrangement was that they would split the profits and the losses). He fattened it, and Rabbi Elozar gave

him the head in payment and also half the profits. The sharecropper’s wife said to him, “Had you been in equal partnership with him, he would have given you the tail too.” So he went and bought an animal in partnership with him, but Rabbi Elozar divided the tail with him (and did not give him the entire tail like he had expected). Rabbi Elozar then said: “Come, let us divide the head too.” The sharecropper exclaimed, “Shall I not receive at least as much as before?” Rabbi Elozar replied, “Until now, the money was completely mine (and when we agreed to split the losses, half of the money became a loan to you); had I not given you a little more than half, it would have appeared like interest (for you worked on my half in exchange of the loan). Now, however, we are partners; what will you claim? ‘I have worked more than you (caring for the animal)’? But people say ‘The average sharecropper compels himself to the landowner to find him pasture (they do him small favors for free).’”

The Gemora cites a braisa: If one evaluates an animal and entrusts it to his fellow (a herdsman, to raise and split the profits), how long (the minimum) is he bound to care for the animal (before he returns it to the owner and split the profits)? Sumchos said: In the case of donkeys - eighteen months (for by then, there should be considerable profit); small animals - twenty-four months. Should he wish to divide the profits within this time period, the owner can prevent it because (according to the way the Gemora emends the braisa) the care of the first year cannot be compared with that of the second (more effort is required then).

The Gemora cites another braisa: If one evaluates an animal and entrusts it to his fellow (a herdsman, to raise and split the profits), how long (the minimum) is he bound to care for the animal (before he returns it to the owner and split the

*profits*)? In the case of small animals - thirty days; large cattle - fifty days. Rabbi Yosi said: In the case of small cattle - three months, because they need a lot of care. This is because their teeth are very small. After this amount of time, the herdsman takes his own half of the offspring and a half of the owner's half.

The *Gemora* records an incident: Rav Menashya ben Gada (*after caring for someone's animal for the prescribed amount of time*) took his own half and half of the owner's half (*as was taught in the previous braisa*). Abaye said to him: Who divided it for you (*if it was not assessed by the owner beforehand, you cannot take half by yourself*) Furthermore, the custom here is to raise them until they are fully grown (*longer than the time period mentioned above*), and we learned in a *Mishna*: Where it is the custom to raise them (*for longer*), they must be raised (*and therefore you are not entitled to half*).

The *Gemora* records another incident: Two Cutheans entered into an *iska* partnership. One of them went and divided the money without his partner's knowledge. Rav Pappa said to the partner: What difference does it make to you (*that he divided without you*)? Rav Nachman had ruled that money is regarded as if it is already divided (*and it does not need to be evaluated*). The following year they bought wine together. This time, the other one went and divided it without his partner's knowledge. Rav Pappa said to him: Who divided it for you (*if it was not assessed by the other beforehand, you cannot take half by yourself*)? He said to Rav Pappa: You are always biased against me (*now and last year*). Rav Pappa said: In cases like these, the judge must certainly notify him the reason for the verdict: As for money, did he take good coins and leave deficient ones for you? But in the case of wine, everybody knows that some wine is more favorable than others (*and therefore it has to be divided together*).

It was stated above: Rav Nachman said: Money is regarded as if it is already divided (*and it does not need to be evaluated*).

The *Gemora* qualifies this ruling: This is applicable only where the money consists solely of either good coins or heavy coins; if, however, it consists of some good coins and some heavy coins, it (the rule) does not (apply). [Some coins of particular mint were preferred to any others for current use; they were considered 'good'; on the other hand, money-changers, who assessed them by weight, preferred those that were heavy. Now, if all are 'good' or heavy, one partner himself may make the division; but if some are 'good' and the others are heavy, they are not accounted as already divided, since some prefer the first and others the second.]

Rav Chama used to rent (*not lend*) out a zuz for a *peshita* (*an eighth of a zuz*) per day. Resulting from this, his money depleted (*for transgressing the prohibition of ribbis*). He thought that it (*renting money*) should be no different from a spade? But the comparison is not correct, for the same spade is returned (*it is not a loan and he is not required to pay if it breaks because of use; it is therefore not regarded as ribbis*), and also, its depreciation is recognizable (*and the owner is allowed to be compensated for it*); whereas the same coins are not returned (*for they are meant to spend; he therefore is fully responsible for them, and that is why any wage is regarded as ribbis*), and also their depreciation is not recognizable (*and therefore the owner has no right to charge anything for them; if he does, it would constitute ribbis*).

Rava said: A person may say to his fellow, "Here are four zuzim; now go and lend money to So-and-So." This is because the Torah forbade interest only which comes from the borrower to the lender.

Rava also said: One may say to his fellow, "Here are four zuzim, now go and persuade So-and-So to lend me money." Why is this so? The middleman receives payment just for his talking. Just as Abba Mar, the son of Rav Pappa, used to take balls of wax from wax merchants, and then persuade his father to lend them money. The Rabbis said to Rav Pappa: Your son is taking interest. Rav Pappa replied: Such interest



may be taken, for the Torah forbade interest only that comes from the borrower directly to the lender. Here, he is merely receiving payment for his talking, which is permitted. (69a – 69b)

### **Mishna**

An assessment may be made of a cow or a donkey, or whatever else that works and eats. He may then give it to a herdsman for half (splitting the profits including the offspring and the losses; since it works, he does not need to be paid a wage in order to avoid *ribbis*). Wherever it is customary to divide the offspring immediately, they may divide them. Wherever it is customary to raise the offspring, he is required to raise them. Rabban Shimon ben Gamliel says: A calf may be assessed with its mother and a colt with its mother (*and since the mother works, he does not need to be paid a wage*).

One may increase the rent for his field (*although he intends to lend money to the renter*), and he need not be concerned that this is interest. (69b)

### **Hiring the Rent in Consideration of a Loan**

The *Gemora* cites a *braisa*: One may increase the rent for his land (*although he intends to lend money to the renter*), and he need not be concerned that this is interest. What is the case? If one rents a field from his fellow for ten *kor* annually, and proposes, “Loan me two hundred *zuz* to improve the land, and I will pay you twelve *kor* annually,” it is permitted (*for it is not a loan; rather, the renter is merely an agent of the landowner to improve the field*). But an increased rental may not be offered for a store or a ship (*if the money will be used for merchandise for the store or the ship; it would only be permitted if it would be used for the store or the ship itself*).

Rav Nachman said in the name of Rabbah bar Avuha: Sometimes an increased rental may be offered for a store (*in consideration of a loan*) for drawing pictures on the wall; or

for a ship, to build a new mast. The *Gemora* explains: The pictures on the wall of a store make it attractive for customers and thus the rent can be higher; and since a new mast greatly improves the ship, the rent can be higher. (69b)

### **INSIGHTS TO THE DAF**

#### **CAN ONE PAY SOMEONE TO BE A COSIGNER ON A LOAN?**

There is a disagreement between the Taz (170:3) and Nekudas Hakesef whether one can hire someone to be a cosigner on a loan where the cosigner has full responsibility as much as the borrower himself (*areiv shluf dotz*).

The Chochmas Adam in his sefer Binas Adam (sha'ar mishpat tzedek 2) points out that this discussion took place before the Ritva on Bava Metzia was accessible. However, now that it is accessible, the answer is resolved. Rava had stated that Reuven may pay Shimon to go convince Levi to lend money to Reuven because Reuven is paying Shimon only for *s'char amirah* (*payment for talking*).

The Ritva asks: Why does the *Gemora* need to permit it based on this rationale, it should be permitted anyway based on the other rationale that the *Gemora* suggests that the Torah forbids interest only that is paid directly from the borrower to the lender? The Ritva answers that we are referring to a case where Levi refuses to lend money to Reuven, but is willing to lend it to Shimon, who then goes and lends it to Reuven. Even though it emerges that, technically, Shimon is the one who lends to Reuven and therefore when Reuven pays him, it is *ribbis* that is paid from the borrower to the lender; it is nonetheless permitted since it is only *s'char amirah*.

The Binas Adam learns from the Ritva that it is only in a situation where Reuven doesn't request of Shimon to be an *areiv shluf dotz*; rather Shimon decides on his own to borrow from Levi and lend it to Reuven. But, if Reuven would be paying Shimon to be such a high level guarantor, it is as if he was hiring Shimon to borrow from Levi and then lend to him,



which would constitute a prohibition of paying *ribbis*, since it is no longer just *s'char amirah*.

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

Q: Until how long can the lender not be evicted from the field, even in a place where the custom was that the borrower could evict him by paying early?

A: One year.

Q: What was a cause for Ameimar's death?

A: For Rav Ashi discussed his death with respect of a deal he had made as a lender.

Q: What is an ordinary *iska*?

A: An investor gives goods to a merchant to sell. The arrangement is that all profits and losses will be split evenly between them. Since the merchant is responsible for half of the merchandise, it is regarded as a loan to him. When he pays back the investor for the initial capital and he adds half the profits, it does not constitute *ribbis*, for it was offset by the risk he accepted on half of the losses.

**DAILY MASHAL**  
**Paper Plates**

For many years I've been running a luxurious, unique golden age home. Once some Department of Health supervisors came for an inspection. They were tough, decisive and energetically spent a whole day with us. They examined, investigated, observed, asked and even checked if we clean under the potted plants. In short, eventually they knew all the nooks and crannies of the big building better than I. When they came to the luxurious dining-room, we could see they were even more satisfied. Noticing the many checkmarks on their long forms, I almost breathed a final sigh of relief, sure that we passed the inspection.

"The chief inspector had already told his team to sum up the facts and finalize their report when they were accosted by a resident, a nonagenarian who survived both World Wars and, apparently, other adventures. She complained about the meals, stressing that the food was excellent but was served to her on paper plates. Everyone else, she claimed, was served with fancy porcelain and shiny silverware but she had to eat with disposable utensils. The chief inspector, known never to smile, glared at me severely as I admitted she was right. They looked at me and the woman, not understanding the situation. Having no choice, I explained she was Jewish. I couldn't give her the same food as the others so I brought her meals from a Jewish restaurant and served them with disposable utensils. 'You understand', I said, 'I can't maintain a kosher kitchen just for one woman.' "My dear lady', the chief inspector replied, 'what do you want? You're Jewish and can't eat the food served here or use the same dishes. What can you do?' "Right! I'm Jewish', she answered, 'but I don't care if I eat the same food like everybody. It's his fault! Because he's Jewish, he doesn't want to give me non-kosher food. I have no problem with it. I ask you, as officials, to take care of the matter.' What can I say? They left immediately but the chief inspector sternly warned me that he'd be back after two weeks. If the woman was still unhappy – 'I don't care why or how' – he'd revoke our license.

To be cont....