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**Mishnah**

If one rents a cow to plow with in the mountains and he plows with it in the valley, the *halachah* is as follows: If the coulter broke, he will be exempt from liability (*for it certainly would have broken in the mountain*). If he rented it to plow in the valley and he plowed with it in the mountains, if the coulter broke, he will be liable.

If one rents a cow to thresh beans and he threshes wheat instead, he will be exempt from liability (*if the cow slips and injures itself, for it was more likely that the cow would slip and fall when threshing beans - which are more slippery*). If he rented it to thresh wheat and he threshed beans, he will be liable, for beans are more slippery. (80a1)

**Who is Responsible?**

The *Gemara* asks: Who will be responsible if the renter does not deviate from the owner’s instructions? [Two workers, furnished by the owner, were needed for the plowing; one who used the goad to guide the animal, and the other, who walks behind the animal and forced the coulter into the earth. The *Gemara* is asking: if the agreement was not broken, so that the renter is exempt from liability, which of these two workers would be liable?]

Rav Pappa said: It is the one who was holding the goad who is liable (*for he led the animal to the rocky path*). Rav Shisha the son of Rav Idi said: The one who was holding the coulter is responsible (*for he forced it into the ground*).

The *Gemara* concludes that the *halachah* is that the one who was holding the coulter is liable. However, if they went to a

place where it was well known to be rocky, they would both be responsible (*for they were equally negligent by going to such a place*). (80a1)

**Defects**

Rabbi Yochanan said: If one is selling a cow to his friend and he tells him, “This animal gores a lot; it bites; it kicks; it lies down on objects (*thus breaking them*),” but the truth was that it had only one of the aforementioned blemishes and the seller had joined its true blemish along with the other phony blemishes, the *halachah* is that the sale is voided (*for since the buyer realized that it did not have those other blemishes, he thought that it would not have this blemish either; when it emerged that it did have this blemish, he can claim that the purchase was done in error, for he does not want an animal with even one blemish*). If, however, the seller specified one blemish and said that there were others as well (*but he did not mention them by name*), the *halachah* is that (*if it emerged that the animal did have the specified blemish*) the sale is valid (*for the buyer obviously accepted to purchase the animal with that particular blemish*).

The *Gemara* cites a supporting *Baraisa*: If one sold a maidservant to his fellow and told him, “She is a fool, an epileptic and disturbed,” and she possessed only one of these defects, which he inserted amongst the other phony defects, the *halachah* is that the sale is voided (*for it was made in error*). But if the seller specified one blemish and said that there were others as well, the *halachah* is that the sale is valid.

Rav Acha the son of Rava asked Rav Ashi: What if she had all those blemishes (*and the buyer now is particular about one*);

he claims that he thought that the seller had inserted some phony blemishes as well)?

Rav Mordecai said to Rav Ashi: It was said in Rava's name: If she had all these defects, it is not a sale made in error. (80a1 – 80a2)

### **Mishnah**

If one hired a donkey to bring wheat on it, and he brought barley (*which is lighter*) on it instead, (*if the animal gets injured*) he is liable (*if he added three kavin more*). If he rented the donkey to transport grain, and he brought straw on it, he is liable, since the bulk (*although it is lighter*) is difficult like the load. If he rented the animal to bring a *lesech* (15 *se'ah*; equivalent to half a *kor*) of wheat, and he brought a *lesech* of barley, he is exempt. If he added to its load, he is liable. And by how much must he increase its load in order to be liable? Sumchos says in the name of Rabbi Meir: One *se'ah* for a camel, and three *kavs* for a donkey. (80a2)

### **Excessive Burden**

It has been stated: Abaye said: We learned in the *Mishnah* that the renter is liable since the bulk is difficult like the load. Rava said: We learned in the *Mishnah* that the renter is liable since the load was harder to carry.

The *Gemara* explains Abaye: Bulk is equal to weight, and therefore, if he added three *kavin*, he is liable (*even though the weight is less than the wheat*).

The *Gemara* explains Rava: The weight of the barley (*by adding a se'ah – six kavin*) is equal to the weight of the wheat, and he will be liable because of the additional bulk. [*According to Rava, he will only be liable if the new load weighs at least as much as the old one and it is bulkier.*]

The *Gemara* asks on Rava from our *Mishnah*: If he rented the animal to bring a *lesech* (15 *se'ah*; equivalent to half a *kor*) of wheat, and he brought a *lesech* of barley, he is

exempt. If he added to its load, he is liable. Surely that means, by three *kavin* (*which although it does not weigh as much as a lesech of barley, he is still liable; this supports Abaye and is a challenge to Rava*)!?

No, the *Gemara* answers, it means by a *se'ah* (*six kavin, which it now weighs as much as a lesech of wheat*).

The *Gemara* asks: But the *Mishnah* explicitly states otherwise: And by how much must he increase its load in order to be liable? Sumchos says in the name of Rabbi Meir: One *se'ah* for a camel, and three *kavs* for a donkey!?

The *Gemara* answers: The concluding ruling of the *Mishnah* means where the renter did not change from the arrangement and it means as follows: If he rented the animal to bring wheat, and he brought wheat; barley and he brought barley - by how much must he increase its load in order to be liable? Sumchos says in the name of Rabbi Meir: One *se'ah* for a camel, and three *kavs* for a donkey.

The *Gemara* asks a question on Abaye from a *Baraisa*. The *Baraisa* states: If one rents a donkey to transport a *lesech* of wheat and he brought sixteen *se'ahs* of barley instead (*one se'ah; six kavin more than the arrangement*), he is liable (*if the animal gets injured*). We can infer from here that if he would have added only three *kavin*, he would be exempt from liability!?

Abaye answers: The *Baraisa* is referring to a case of a leveled load (*where he only added three kavin*). (80a2 – 80b1)

The *Gemara* cites a *Baraisa*: [*The following amounts constitute an excess burden.*] A *kav* for a porter; an *adriv* for a small boat; a *kor* for a boat (*an average size*); three *kors* for a large ship.

The master said: A *kav* for a porter. - The *Gemara* asks: Why would an employer be liable when he burdens a porter with an excessive load? He is intelligent! If the load was too heavy, why carry it (*and get injured*)?

Abaye answers: He was injured immediately (*before having a chance to remove the excessive load*).

Rava answers: We are not referring to injury. The *Baraisa* means to say that the porter has a right to demand extra pay.

Rav Ashi answers: The porter thought that the load seemed heavy because of a momentary weakness on his part (*and for that reason, he did not remove the extra load; the employer is still liable for giving him an excessive burden*). (80b1)

A *kor* for a boat; three *kors* for a large ship. - Rav Pappa notes that by the fact that the *Baraisa* ruled that a *kor* constitutes an excessive burden for a boat, and that three *kors* are regarded as an excessive burden for a large ship, it can be derived that an average boat carries a load of thirty *kors* (*for the Mishnah taught us that 1/30<sup>th</sup> more than a usual load will be regarded as an excessive load*).

What is the practical difference between them? - The practical difference in *halachah* (*based on this*) is for one who buys or sells a boat (*and is not specific about the size – it must be able to carry a load of thirty kors*). (80b1)

### **Mishnah**

All craftsmen are regarded as paid custodians (*and therefore they would be liable if it gets lost or stolen*). But once they said, “Take what is yours and bring the money” (*and they will not be holding the finished project as security for the payment*), they are regarded as unpaid custodian (*and therefore they would not be liable if it gets lost or stolen*).

If one says, “Watch this for me, and I will watch for you,” he is regarded as a paid custodian.

If one says, “Watch this for me,” and the other replied, “Set it down before me,” he is regarded as an unpaid custodian.

If one loaned someone money against a pledge, he (*the holder of the security*) is regarded as a paid custodian. Rabbi Yehudah says: If he loaned him money, he is an unpaid custodian; if he loaned him produce, he is a paid custodian.

Abba Shaul said: One may rent out the pledged article of a poor person (*the poor man borrowed from him and gave him a security*), fixing a price for it continually (*as a deduction of the poor man’s debt*), since he is as one who is returning a lost article to its owner (*for had it remained by the poor person, he could have rented it out*). (80b2)

### **Status of a Craftsman and a Renter**

The *Gemara* asks: Our *Mishnah* (our *Mishnah* rules anonymously that craftsmen are regarded as paid custodians) seems to be at odds with Rabbi Meir’s opinion!? For we learned in a *Baraisa*: How does a renter pay (*for the Torah does not specify his status as a custodian*)? Rabbi Meir says that the renter has the same *halachos* as an unpaid custodian (*for he is not getting paid*). Rabbi Yehudah says that a renter has the same *halachos* as a paid custodian (*for he is deriving benefit from it by the fact that he is permitted to use it*). [*The same halachah should apply to a craftsman, for he is not being compensated for watching it, but he is deriving benefit from it, by the fact that he gets a fee for working on it.*]

The *Gemara* answers: Rabbi Meir would agree by a craftsman (*that he is regarded as a paid custodian*), for there is a benefit to the craftsman that the owner forsakes everyone else and engages this particular person – he therefore becomes a paid custodian.

The *Gemara* asks: If so, shouldn’t this logic apply to a renter as well, as in return for that benefit, in that he forsakes everyone else and rents [it] to him, he becomes a paid trustee in this respect!?

The *Gemara* concedes this point and answers that Rabbi Meir would agree by a craftsman (*that he is regarded as a*



*paid custodian*), for the owner pays him a little more than the job is actually worth - he therefore becomes a paid custodian.

The *Gemara* asks: Shouldn't this logic apply to a renter as well, for he discounts the price of the rental especially to him?

The *Gemara* concedes this point and answers that Rabbi Meir would agree by a craftsman (*that he is regarded as a paid custodian*), for the craftsman benefits by the fact that he may use the finished object until the owner gets money to pay for it - he therefore becomes a paid custodian.

Alternatively, you can answer as Rabbah bar Avuha reversed the opinions of Rabbi Meir and Rabbi Yehudah (*and the Mishnah's anonymous ruling is in accordance with Rabbi Meir*). (80b2 – 80b3)

#### DAILY MASHAL

##### ***Thirty-one Hours of Shabbos***

There is an obligation to add on to the *Shabbos* at its onset and upon its conclusion.

The Rosh writes that we do not know the exact amount that one is required to add.

The Arizal writes that the total amount of *Shabbos*, including the additions at its onset and upon its conclusion, should be thirty-one hours.

It is unclear where this amount comes from. Some say that a hint to this can be found in the fact that the Rambam counts the *mitzvah* of *Shabbos* as the thirty-first *mitzvah* in the Torah.

The Bnei Yissochar suggests the following possible reason for this. *Shabbos* is referred to in the Torah as a day of holiness.

We find that a fifth is added to holy articles. An ordinary *Shabbos* day would consist of twenty-four hours. If we would add a fifth, we would have thirty hours.

Our *Gemara* teaches the following: Rav Pappa notes that by the fact that the *Baraisa* ruled that a *kor* constitutes an excessive burden for a boat, and that three *kors* are regarded as an excessive burden for a large ship, it can be derived that an average boat carries a load of thirty *kors* (*for the Mishnah taught us that 1/30<sup>th</sup> more than a usual load will be regarded as an excessive load*).

Accordingly, we can say that we desired to add on to the *Shabbos* an addition that would not be regarded as an excessive burden. If the regular *Shabbos* day is thirty hours, one additional hour is added, for more than 1/30<sup>th</sup> would be regarded as excessive. It is because of this that the total amount of hours of *Shabbos* observance, according to the Arizal, is thirty-one!

#### QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: If one rents a donkey and it dies in middle of the journey, what is the *halachah*?

A: The owner must provide the renter with another one.

Q: If one sells land for sixty years, what is the *halachah* regarding Yovel?

A: It is not returned by Yovel.

Q: Who can ride on a donkey that was rented out for men to ride upon?

A: Only men; not women.