



OVERVIEW BAVA KAMA DAF 5

Section 1: Why Did R. Oshiya Leave Out Certain Cases?

Question: R. Oshiya should have listed false witnesses - they pay regular damages!

Answer: He follows R. Akiva, who says if false witnesses admit they lied, they don't have to pay. That makes it a fine (penalty), not regular payment. R. Oshiya doesn't list fines.

Question: If R. Oshiya follows R. Akiva, he should list separately when an ox damages a person vs. when it damages an animal!

R. Akiva's special rule: Even a "Tam" ox (not yet warned) that damages a person pays FULL damage.

Answer: R. Akiva "weakened" this teaching later - he said the payment only comes from the ox itself (not from the owner's other property). R. Oshiya only lists damages paid from the best land.

Question: R. Oshiya should have listed rapist, seducer, and false virgin claims - these pay regular damages in addition to fines!

Answer: Those damages (injury, pain, embarrassment) are already included in R. Oshiya's list of 5 damage types to people!

Question: R. Oshiya should have listed:

- Making food ritually impure
- Mixing holy food with regular food
- Pouring wine to idols

Answer: There are two possibilities:

- **If** this type of invisible damage counts as real damage → it's included in R. Oshiya's "injury" category
- **If** this type of damage doesn't count as real damage → the rabbis made it a fine, and R. Oshiya doesn't list fines

Section 2: What Cases Does R. Chiya Exclude?

R. Chiya lists 24 categories. What does he leave out?

Answer: He excludes:

- **Moser** - informing the government to take someone's property
- **Mefagel** - disqualifying a Temple sacrifice through wrong intentions

Why?

- Moser isn't listed because R. Chiya doesn't list damages done through words alone (the Moser just talks, doesn't physically damage)
- Mefagel isn't listed because R. Chiya only discusses regular property, not Temple sacrifices

Challenge: But R. Chiya listed false witnesses and they damage through words alone!

Answer: The Torah calls false witness testimony an "action" (not just words), so it's different.

Question: Why do R. Oshiya and R. Chiya call all their examples "main categories" (Avos) when some are really sub-categories (Toldos)?

Answer: They're ALL called "main categories" because they all require payment from the BEST quality land.

Section 3: Why Does the Torah List All Four Damage Types?

The Mishnah shows why each damage type is different and couldn't be learned from the others.

Question: If they're so different, why does the Torah need to write all four? Can't we figure them out?

Answer (Rava): Actually, you COULD learn most of them from each other using logic - except Keren (goring), because Keren isn't "Mu'ad from the beginning."

But then why does the Torah write all four?

Answer: The Torah teaches special laws about each one:

1. **Keren** - Teaches the difference between Tam (not warned) and Mu'ad (warned)
2. **Shen and Regel** - Teaches they're exempt in public areas
3. **Pit** - Teaches you're exempt for vessels that fall in
 - o **R. Yehudah's question:** I say you ARE liable for vessels! What special law does pit teach?
 - o **Answer:** You're exempt if a PERSON falls in a pit
4. **Fire** - Teaches you're exempt for hidden things that burn
 - o **R. Yehudah's question:** I say you ARE liable for hidden things! What special law does fire teach?
 - o **Answer:** You're liable even for burned fields or rocks