



OVERVIEW BAVA KAMA DAF 6

Section 1: What Does the "Tzad ha'Shavah" (Common Factor) Include?

The Mishnah says the common factor of all damagers is: it's their nature to damage, you must guard them, and if they damage, you pay from best land.

Question: What NEW case does this common factor teach us?

Answer #1 (Abaye): Objects That Fall from Your Roof

You left a stone, knife, or package on your roof. A normal wind blew it off and it damaged something.

What's the case?

- Not while falling (that would just be like fire)
- After it landed and then caused damage

But there's a problem: If you abandoned them, everyone agrees it's like a pit! If you didn't abandon them, opinions differ.

Answer: The case is when you abandoned them. This is unlike a pit because another force (the wind) was involved. We learn from fire that participation of another force doesn't exempt you.

Question: We can't learn from fire - fire moves!

Answer: We learn from a pit that even stationary things are liable. This combination is the "Tzad ha'Shavah."

Answer #2 (Rava): An Obstacle That Gets Kicked Around

You left something in the road that people and animals kick around, and it eventually causes damage.

Similar analysis: This is unlike a pit because the damage isn't directly from the owner's action (others kicked it). We need to combine pit and ox to learn this case.

Answer #3 (Rav Ada bar Ahavah): Permitted Disposal in Winter

Mishnah: You may empty waste water or garbage into public streets in winter (when it's muddy anyway), but not in summer. Even though it's permitted, you're responsible for any damage.

What's different? With a pit, you're NOT supposed to dig it in public. Here, you're ALLOWED to put it there! We learn from an ox that you're liable even when you didn't transgress.

Answer #4 (Ravina): A Wall or Tree That Falls

Mishnah: If your wall or tree falls into the public area and damages, you're exempt. But if the court told you to fix it by a certain date and you didn't, then you're liable if it falls after that date.

What's different? Unlike a pit (which is dangerous from the start), this wasn't dangerous initially. We learn from an ox that you're liable even for things not dangerous from the beginning.

Section 2: Payment of Damages

Mishnah: Pay for damage from the best of your land.

Two interpretations:

R. Yishmael: "From the best of HIS field" - from land equal to the VICTIM's best land

R. Akiva: Pay from the DAMAGER's best land (which is better for the damager)

Question: According to R. Yishmael, do you always pay the victim's best quality even if you damaged his worst quality?!

Answer #1: The case is uncertain - we don't know which part of the field was damaged. When in doubt, pay for the best.

Objection: If we're in doubt, the rule is "the one making a claim must bring proof!" The victim should have to prove the best part was damaged.

Answer #2: The case is when the damager's best land is like the victim's worst land. They argue about whose perspective to use.

Section 3: Hekdesh (Temple Property) Collects from Best Land

R. Akiva: The verse teaches damages are collected from best land, and all the more so for Hekdesh (Temple property).

Question: What case is this?

It can't be when someone's ox gored a Temple ox - the Torah says liability is for "your fellow's ox," not Temple property!

Answer: Someone promised to give money to the Temple. The Temple collects from his best land.