



OVERVIEW BAVA KAMA DAF 14

Section 1: Liability in Joint Property

Clarifying the Beraisa:

Question (from Seifa): If the wall broke down at night or robbers made an opening and the animal damaged, the Shomer is exempt.

Inference: Had the wall broken down during the day, he'd be liable.

Question: If he didn't accept to guard it from damaging, he should be exempt!

Answer: The Seifa teaches: IF the Shomer accepted to guard the animal from damaging, he's liable. But if the wall broke at night or robbers made an opening, he's exempt.

Beraisa #1 vs. R. Elazar:

Question (Beraisa #1): One IS liable for Shen and Regel in joint property or an inn!

This refutes R. Elazar (who exempts for Shen and Regel there)!

Answer: Tannaim argue about this.

Beraisa #2 - R. Shimon ben Elazar: Four general rules in damages:

1. **In the victim's property only:** One is liable for everything
2. **In the damager's property only:** One is exempt for everything
3. **In joint property (like a joint yard or valley):** Exempt for Shen and Regel; liable for Keren and its Toldos (a Tam pays half, a Mu'ad pays full)
4. **In property not of either (like a yard not belonging to both, or a valley):** Liable for Shen and Regel; for Keren, a Tam pays half, a Mu'ad pays full

Resolving the Contradiction:

Contradiction: Beraisa #2 exempts for Shen and Regel in joint property. Beraisa #1 obligates!

Answer:

- In Beraisa #2: Both have rights to use the yard for fruit AND animals
- In Beraisa #1: They may use it only for fruit. Regarding Shen, it's like the victim's property.

Support: Presumably, the joint yard is like the case it's taught with. In Beraisa #1, it's like an inn (people don't bring animals). In Beraisa #2, it's like a valley (people do bring animals).

R. Zeira's Question:

Question (R. Zeira): If both may put fruit in the yard, this isn't considered "it consumed in another's field"!

Answer (Abaye): Since he can't bring animals there, it's considered another's field.

Question (R. Acha mi'Difti): Just like the Tannaim don't argue, perhaps the Amora'im (Rav Chisda and R. Elazar) don't argue either!

Answer #1 (Ravina): Correct!

Answer #2: Alternatively, they do argue. R. Elazar holds like R. Zeira (if the damager can bring fruit there, it's not "another's field"). Rav Chisda holds like Abaye.

Section 2: Four General Rules About Payment for Damage

Is the Beraisa Consistent?

Beraisa - R. Shimon ben Elazar: In the victim's property only, one is liable IN ALL.

Inference: It says "in all," not "for all" - implying FULL damage. This is like R. Tarfon, who says Keren pays full damage in the victim's premises.

Question (Seifa): In property not of either (but only of the victim), for Keren, a Tam pays HALF-damage.

This is like Chachamim, who say Keren pays half-damage in the victim's premises!

Can the beginning be like R. Tarfon and the end like Chachamim?!

Answer #1 (Shmuel): Yes!

Answer #2 (Ravina): The entire Beraisa is like R. Tarfon.

The Seifa says it's "property not of either" regarding FRUIT, but both are allowed to bring ANIMALS there.

Regarding Shen: It's the victim's property. Regarding Keren: It's like a public area.

Question: If so, R. Shimon ben Elazar gave only THREE rules, not four!

Answer (Rav Nachman bar Yitzchak): He gives three rules in four PLACES.

Question: This is obvious! The Eimurim belong to God!

Answer: One might think we collect full damage from the meat, even though the Eimurim were partners in the damage. He teaches that we don't.

Section 3: We Evaluate the Damage

"An Evaluation of Money"

Mishnah: An evaluation of money, Shavah Kesef, in front of Beis Din, according to witnesses - free men, members of the covenant. Women are included in damages. The victim and damager are involved in payments.

Question: What does "an evaluation of money" refer to?

Answer (Rav Yehudah): The evaluation of damage is made in MONEY.

Beraisa supports this: If a cow damaged a cloak or was damaged by it, we don't say the victim receives the damager. Rather, we evaluate the damage in money.

Section 4: Conditions to Pay Damages

"Shavah Kesef"

Beraisa: "Shavah Kesef" teaches that Beis Din collects only if the damager has LAND.

If the victim seized movables, Beis Din collects from them.

Question: How does "Shavah Kesef" teach this?

Answer #1 (Rabah bar Ula): Something worth all the money you pay for it (no law of Ona'ah/overcharging applies) - this refers to land.

Objection: Ona'ah doesn't apply to slaves and documents either!

Answer #2: Something that can be acquired through money.

Objection: Slaves and documents can be acquired through money too!

Answer #3 (Rav Ashi): "Shavah Kesef" means worth money, but not money itself. Everything except land is considered money since it can be taken elsewhere and sold.

Contradiction:

Question (Rav Yehudah bar Chinena): Our Mishnah says "Shavah Kesef" (Beis Din collects only from land).

Contradiction (Beraisa): "He will return" teaches that anything worth money may be given, even bran!

Answer (Rav Huna brei d'Rav Yehoshua): We collect from orphans only if they inherited LAND. From the damager himself, we collect from anything.

Question (Seifa): If the victim seized movables, Beis Din collects from them. If he seized from orphans, why does he collect?

Answer: Like Rava said elsewhere: He seized movables during the damager's lifetime.

Other Conditions:

"In front of Beis Din": Only a Beis Din of EXPERTS may judge damages.

"According to witnesses": This excludes one who admits to a fine - if witnesses come later, he's exempt.