

TIME 4 MISHNA

overview

בבא קמא

1. The different types of damages (1-6; 8)

✓ שור

- קרו - שן - רגל
- מועד - Becoming a צרורות
- When one's animal kills somebody

✓ בור

- Location - Covering

✓ אדם המזיק

✓ אש

- ✓ Guarding to make sure no damage is caused
- ✓ Payments for damages

2. Laws of stealing (7, 9, 10)

✓ תשלומי כפל

✓ תשלומי ארבעה וחמשה

✓ Raising animals

✓ How to fulfil the מצוה of returning the stolen item

- כל הגזלנים משלמים כשעת הגזלה
- Going after the owner
- Stealing from one's father
- Stealing from a convert

✓ Concern about other people's theft

- Not buying suspected stolen goods
- Benefitting from unfair tax collectors

TIME 4 MISHNA

key terms

בבא קמא

Rules:

דין לבא מן הדין להיות כנידון - The law learnt from a קל וחומר ('all the more so' argument) cannot be more stringent than the level of stringency for which there is a source

קים ליה בדרבה מיניה - One who is liable to 2 punishments for the same act only receives the more severe punishment

המוציא מחבירו עליו הראיה - One who wishes to take money from somebody else can only do so if he proves that he is entitled to it

ממון המוטל בספק חולקים - If a doubt arises regarding who owns money it should be split

מודה בקנס פטור - One who confesses about something which would obligate him with a fine is exempt from paying it

כל הגוזלים משלמים כשעת הגזלה - Every thief pays back according to the time of the theft, such that if the item is later altered then its value at the time of the theft must be returned

ברי ושמא ברי עדיף - A certain claim is stronger than a doubtful claim, as long as the default position is like the certain claim

Concepts and terms:

- **שור** - Damage done by one's animal
- **רגל** - One's animal damaging whilst doing a regular act
- **שן** - One's animal damaging in a way which gives benefit
- **קרן** - One's animal damaging with an act whose intent is only in order to damage
- **בור** - Damage caused by a pit or any obstacle in a public area
- **אש** - Damage caused by fire or anything carried by another force like the wind

- **תם** - An animal which isn't prone to damage in a particular way
- **מועד** - Something which is prone to damage in a particular way

- **נזק שלם** - Payment for the full value of the damages
- **חצי נזק** - Payment for half of the value of the damage

TIME 4 MISHNA

key terms

בבא קמא

הקדש - Something which is designated to the **בית המקדש**

כופר - A fine which the owner of an animal which kills a person must pay to his inheritors

שור הנסקל - An ox whose verdict has been given to be stoned

- **מוזיק** - A person who is responsible for causing damage
- **ניזק** - A person whose possession was damaged
- **שמירה מעולה** - A high-level guarding from even uncommon occurrences
- **שמירה פחותה** - A low-level guarding from foreseeable and expected occurrences
- **דמי ולדות** - The value of a foetus which somebody killed unintentionally
- **שבח ולדות** - The amount by which a woman's value goes up when she is pregnant
- **גניבה** - Stealing in secret
- **גזלה** - Stealing with force
- **תשלומי כפל** - Payment of double the item's value
- **תשלומי ארבעה וחמשה** - 5 times its value (for an ox) or 4 times its value (for a sheep)
- **כלאים** - Interbreeding two types of animals or working them together
- **שביתת בהמתו** - Not allowing one's animal to do work on **שבת**
- **עדים זוממים** - Witnesses who are found to be false due to other witnesses testifying that they were with the first pair elsewhere at the time of the event
- **סוריא** - An expansion of **ארץ ישראל** which **דוד המלך** conquered before conquering the whole of **ארץ ישראל** itself
- **חובל** - Person who injures another person
- **נזק** - Payment for the injury/damage itself
- **צער** - Payment for the pain which one causes somebody else
- **ריפוי** - Medical costs
- **שבת** - Compensation for unemployment
- **בשת** - Payment for embarrassment

TIME MISHNA

key terms

בבא קמא

היזק שאינו ניכר - Damage which is unrecognisable on the item itself

קרן וחומש - The value plus $\frac{1}{4}$ (which is $\frac{1}{5}$ of the total amount)

נדר - A vow which forbids the benefit of something

יאוש - Giving up hope of retrieving one's item

שינוי רשות - A transfer of ownership

אחריות נכסים - A hold on somebody's property that allows them to collect their debt from it, even once it has been sold or inherited

TIME 4 MISHNA

summaries

בבא קמא

- **The different types of damages:**

1) 'שור' – damage done by **one's animal**

1. 'דגל' – damaging whilst doing a **regular act**, e.g. walking

→ The animal is a 'מועד' – something which is **prone to damage** in a particular way, so the owner must pay 'נוק שלם' – payment for the full value of the damages.

2. 'שן' – damaging in a way which **gives benefit**, e.g. eating

→ The animal is a **מועד** to eat things which are fit for it to eat.

3. 'קרן' – damaging with an act whose **intent is only in order to damage**, e.g. goring

→ The **first 3 times** that an animal damages by **goring, pushing, biting, lying down** on something or **kicking**, it's considered a 'תם' – an animal which **isn't prone to damage** in a particular way, so the owner is only **obligated to pay** 'חצי נוק' – payment for half of the value of the damage.

- **חכמים**: A **wild animal is a מועד** even **the first time**.

- **ר' אליעזר**: If it has been domesticated then **it's a תם**, except for a snake since it cannot be domesticated.

- If the animal of the 'מוזיק' – person who is responsible for causing damage – **is worth the חצי נוק or less**, then the 'ניזק' – person whose possession was damaged – **receives the animal itself**; if **it is worth less**, then the animal is sold and **he receives חצי נוק in money form**.

- **An unusual act** of damage **is another form of a תם**, even if its intent is not only in order to damage, e.g. an animal which eats clothes.

2) 'בור' – damage caused by **a pit** or any obstacle in a public area

3) 'אש' – caused by **fire** or anything carried by another force like the wind

Paying for the damage:

- If one compensates for damage with land, **he must give his best quality land**.

- If **the מוזיק dies**, **the ניזק can only collect payment from land** which was inherited from him.

- If 2 people **do damage to each other's property**, the one who did more damage **must still pay the difference**.

- A **בית דין** of 3 expert judges and **witnesses** are required in order to obligate the מוזיק to pay.

Conditions under which one is liable for damage:

- If one **puts somebody who is unable to take responsibility**, e.g. a child, in charge of guarding his animal or pit, **he is liable** for any damage caused.

- If one **digs only the 10th טפח of a pit**, thus turning it into a pit with the capability to kill, **he is fully liable** if somebody falls in and dies.

- If **the item which does the damage is 'הקדש'** – something which is designated to the **בית המקדש**, **there is no obligation to pay**.

TIME 4 MISHNA

summaries

בבא קמא

- If **the גיזק isn't Jewish**, the **מוזיק** is exempt.
- One who **acquires an ownerless animal which had done damage** isn't liable to pay for the damage.
- If **the damage occurs in the מוזיק's domain**, even if it was shared with the גיזק, then **he is exempt** unless he himself did the damage.
- The laws of damages **apply to both men & women**.

TIME 4 MISHNA

summaries

בבא קמא

שור:

- Damage **caused by an animal's force** but not its body is called 'צוררות' and there is a הלכה למשה מסיני that the owner of the animal **only needs to pay for half of the damage**, even if it is a מועד.
- If an animal damages **in an unusual way for its own benefit**, it's considered a תם.
- One **doesn't need to pay for damages** of שן and רגל which occur **outside of the ניזק's domain**.
 - However, the owner **needs to pay for the amount that he gains** from the damage which it does in a public area, e.g. the amount that he would have had to spend to feed his animal if it wouldn't have already eaten the ניזק's food.
- If **an animal sets fire to a stack of grain**, the owner **needs to pay נזק חצי** since the fire is considered like the animal's force so this is צוררות.
- **ר' יהודה**: An animal becomes a מועד if it gores **3 days in a row** and the owner is warned in בית דין after each time to guard his animal, and it reverts to being a תם if **it has the chance to gore** 3 days in a row and doesn't do so.
- **ר' מאיר**: It can become a מועד even by goading **3 times on the same day**, and it reverts to being a תם only if **young children are able to play with it** without it goading.
- **ר' טרפון**: It's evident that קרן is more stringent than שן and רגל, since there's an obligation of **נזק חצי** for קרן which occurs in a public domain. If so, since **one needs to pay שלם** for damages of שן and רגל which take place **in the ניזק's domain**, all the more so for damages of קרן.
- **חכמים**: **One only needs to pay נזק חצי**, since 'דין לבא מן הדין להיות כנידון' – the law learnt from a קל וחומר ('all the more so' argument) cannot be more stringent than the level of stringency for which there is a source.

אדם המזיק:

- **A person is responsible** for **damage which he does with his body** even by mistake, e.g. whilst he is sleeping.
 - One who **injures somebody else by mistake** **only needs to pay for the damage** caused but not for the other 4 payments applicable when one injures somebody.

TIME 4 MISHNA

summaries

בבא קמא

- If one **trips on a barrel which was placed in a public area and breaks it**, he is exempt and the one who placed his barrel there **needs to pay for any injuries** caused.

בור:

- **חכמים**: If one **trips and drops his barrel in a public area and the water inside spills** and somebody slips on it and gets injured, the owner of the barrel **needs to pay** for damages, even if he declares it all to be ownerless, since he created the obstacle.
- **ר' יהודה**: If he **declares it ownerless**, he is exempt since he isn't responsible for the actual creation of the obstacle which happened due to him tripping.
- Examples of obstacles for which one needs to pay for damages:
 - Pouring **water** into a public area
 - Placing **thorns or glass** on the edge of a public domain
 - Having **thorns poking out of one's fence** into a public domain
 - When **one's fence falls down** into a public domain and he doesn't clear it away
 - Placing **straw** on the edge of a public domain for it to turn into fertiliser
- **מדרבנן**, anybody can take ownership of an obstacle in a public area.
- **רבן שמעון בן גמליאל**: Even **when one has permission to place an obstacle** in a public area, e.g. straw during the fertilising season, he **needs to pay** for any damages which are caused.
- One who **lifts up dung** in a public area in order to acquire it and then decides to put it back down, he is responsible for any damages caused.
- If **ראובן** is walking in front of **שמעון** in a public area and he trips and **causes שמעון to trip on him**, he **needs to pay** for any injuries caused if he had enough time to get up before **שמעון** tripped on him.
- If **ראובן** is holding a barrel in a public area and is **walking towards שמעון** who is holding a beam, and **the barrel and the beam collide**, **שמעון is exempt** since **ראובן** is responsible for making sure that he doesn't collide with things that can break his barrel.
 - If **ראובן** is **walking in front of שמעון**, **שמעון needs to pay** since the one who is walking at the back and can see the other person is responsible for avoiding collision.
 - If **ראובן stops suddenly without warning שמעון**, **שמעון is exempt**.

אדם המזיק:

- If **two people are walking** or **both are running** in a public area and they collide and get injured, **they are exempt** since they are both equally at fault.
 - This also applies if **only one of them is running close to the start of שבת**, since he is allowed to do so.
- One who is chopping wood and **a piece of wood flies and injures somebody** in the same or different domain, it is considered to be damage done by the person himself without another force and **he needs to pay**.

TIME 4 MISHNA

summaries

בבא קמא

קרו:

- If **ראובן's ox gores שמעון's ox and שמעון's ox gores ראובן's ox** and the amount which each one should owe the other for the damage is different, **the one who owes more pays the difference** between the two amounts, and this applies to both a **תם** and a **מועד**.
- **חכמים**: When a **תם injures a person**, its owner **needs to pay נזק שלם**.
ר' עקיבא: He **only needs to pay נזק חצי**, just like when a **תם** injures another animal.
- If a **תם** worth **100 זוז** gores an ox worth **200 זוז**, **the ניזק receives the תם ox as payment**.
- **ר' מאיר**: The **תורה** talks of a case when (1) **the מוזיק's ox is sold and split with the ניזק**, and (2) **the ניזק's ox is split with the מוזיק**. The first half applies to a **תם** worth **200 זוז** which gores an ox worth **200 זוז** and causes it to be worth nothing, such that the **תם** ox should be sold and the **מוזיק** keeps **100 זוז** and pays the **ניזק 100 זוז**.
The second half applies if the value of the dead animal goes down between the time of the damage and when the **מוזיק** and **ניזק** appear at **בית דין**, such that the **ניזק** suffers the loss and only receives payment based on the time of the damage, and this is considered like splitting the animal with the **מוזיק**.
- **ר' יהודה**: The whole **פסוק** is talking about a case when a **תם** ox worth **200 זוז** gores an ox worth **200 זוז** and reduces its value to **50 זוז**, so both animals should be sold and each one takes **125 זוז**, such that the **ניזק** receives **נזק חצי (75 זוז)** from the **מוזיק**.
- If **one's animal knocks out the tooth of the owner's slave**, **the slave doesn't go free** since this only applies when the owner himself does this.
- If one **injures his parents** or **sets fire to something on שבת**, **he is exempt from paying** for damages, since he is liable to a death penalty and '**קים ליה בדרבה מיניה**' – one who is liable to 2 punishments for the same act only receives the more severe punishment.
- If **witnesses see ראובן's ox chasing after שמעון's ox** but don't see the actual damage take place, **ראובן is exempt from paying שמעון** since '**המוציא מחבירו עליו הראיה**' – one who wishes to take money from somebody else can only do so if he proves that he is entitled to it.
- If **witnesses see ראובן's ox and לוי's ox chasing after שמעון's ox** and that one of them gores שמעון's ox, **both are exempt** since **לוי** can't prove which ox did it.
 - If they **both belong to ראובן**, and שמעון claims that the larger ox (if they are both a **תם**) or the **מועד** ox did the damage, and ראובן claims that the smaller ox did so, **ראובן is exempt** but if שמעון takes the smaller ox then **ראובן can't demand it back**.

TIME 4 MISHNA

summaries

בבא קמא

- **ר' מאיר**: If **תם** ox gores **שמעון's** ox and **שמעון** takes hold of it in order to **guarantee payment**, he becomes fully responsible to guard over the ox, such that if it then gores **לוי's** ox then **שמעון** is liable to pay for the damage.

ר' שמעון: As soon as **שמעון's** ox is gored, the **תורה** gives him ownership of **תם** ox corresponding to the amount of **נזק** **חצוי**, so taking hold of the ox doesn't give him additional responsibility and therefore **he and תם** share in the payment.
- An animal can become a specific **מועד**, e.g. goring only members of **its own species**, only **people** or only **small animals and people**, and the owner is liable to pay **נזק שלם** only for kinds of goring that it is prone to do.
 - **ר' יהודה**: It can become a **מועד** specific to **גoring on שבת** when it isn't busy doing work in the field, and it reverts to being a **תם** if it doesn't take the opportunity to gore for 3 **שבתות** in a row.
- 1) If one's ox gores an ox which has been **designated to the בית המקדש**, or vice versa, the owner or the **בית המקדש** treasurer is exempt from paying.
- 2) If one's ox gores **a non-Jew's ox**, he is exempt just like in non-Jewish law there is no obligation to pay in such a situation.
 - If his ox gores a Jew's ox, he is liable to pay **נזק שלם** even if it's a **תם** as a fine to ensure that they would guard their animals properly.
- 3) If one's ox gores an ox **belonging to somebody with a low level of understanding and responsibility**, e.g. a deaf mute, a fool or a child, he is liable.
 - If their ox gores a normal person's ox, they are exempt, but if this occurs several times then **בית דין** appoint somebody to guard their animals and he is warned in **בית דין** to guard it properly each time it gores until it becomes a **מועד** and he is liable to pay for damages.
 - **ר' מאיר**: If they become normal or grow up and thus are responsible themselves, the animal reverts to a **תם** since it's due to somebody else's lack of guarding that it gored.
 - ר' יוסי**: It remains a **מועד**, since it is prone to do damage.
- **An ox which kills a person intentionally must be killed**, and if it's a **מועד** then the owner needs to pay the person's value as a fine of **'כופר'** to his inheritors.
 - If it kills a slave, he needs to pay **30 סלע** to his master, regardless of his value.
 - If the ox was trained or provoked to kill a person, it isn't killed.
 - Even if the ox belongs to a woman, orphans who can't take responsibility or orphans who have somebody guarding their animals, it must be killed.
 - **חכמים**: Even an ox which is designated to the **בית המקדש** or is ownerless must be killed.
 - ר' יהודה**: It isn't killed.
 - The owner cannot designate the **'שור הנסקל'** – ox whose verdict has been given to be stoned – to the **בית המקדש**, since his ownership is no longer relevant.
 - It's forbidden to benefit from a **שור הנסקל's** meat.

TIME 4 MISHNA

summaries

בבא קמא

- If **the owner of an animal gives it over to somebody to guard**, the guard becomes **responsible** to pay for any damage done by the animal.
- **ר' מאיר**: The owner is exempt from paying for damages of קרן only if he guards it on the level of 'שמירה מעולה' - **high-level guarding** from even uncommon occurrences.
ר' יהודה: If it's a מועד, a 'שמירה פחותה' - **low-level guarding** from foreseeable and expected occurrences - is sufficient, since the ניזק should have protected his animal more from this animal which is known to be dangerous.
ר' אליעזר: **He is required to kill his animal** if it's a מועד, and otherwise he is liable.

TIME 4 MISHNA

summaries

בבא קמא

- If a cow is gored and its foetus is found dead next to it, and **it's unclear whether the goring caused the cow to miscarry or if the foetus had been born already**, the owner **pays half of the נזק חצי** since 'ממון המוטל בספק חולקים' – if a doubt arises regarding who owns money it should be split.
 - Similarly, if **it's unknown whether a foetus was part of the animal which did the goring or if he had been born already**, and the mother cow is lost, **the ניזק can collect ¼ of the foetus**, which is half of **חצי נזק**.
- If **ראובן places his items, fruit or ox in שמעון's courtyard** without permission and שמעון's animal damages them, **שמעון is exempt from paying**.
 - If שמעון's animal gets injured by ראובן's item, **ראובן needs to pay**.
 - If ראובן's ox falls into שמעון's pit and kills somebody who is standing in the pit, **ראובן needs to pay כופר**, but the ox isn't killed since it didn't kill intentionally.
 - **חכמים**: If he received שמעון's permission, it's assumed that שמעון **accepts upon himself responsibility** for damages done towards or by ראובן's item.
 - רבי**: שמעון is exempt from paying ראובן unless he accepted responsibility explicitly.
- **חכמים**: If somebody intends on hitting his friend but **mistakenly hits a pregnant woman and causes her to miscarry**, he must pay her inheritors (her husband) 'דמי' – **the value of the foetus** which was killed – as well as 'שבח ולדות' – **the amount by which a woman's value goes up** when she is pregnant.
 - רבי שמעון בן גמליאל**: He **doesn't pay שבח ולדות** if she **hasn't given birth before**, since her value is less when she is pregnant since she might die in childbirth.

בור:

- One who digs a pit such that its opening is situated in a **public domain** or on **the edge of a private domain** is liable to pay if a person or animal fall in, regardless of where the floor of the pit is situated.
- **There is an exemption for paying** for **the death of a person** or if **items are damaged**.
- If **an animal falls in and dies**, the **digger is liable** as long as it's **at least 10 טפחים** deep so death is to be expected.
- If **2 people dig the 10th טפה of a pit together**, **they are both equally responsible** for damages caused by the pit.
 - If ראובן uncovers the pit in order to use it and then **hands over the covering of the pit to his partner שמעון** who wishes to use the pit, and שמעון uses the pit and doesn't cover it, **only שמעון is liable**.
 - If ראובן covers it and שמעון later discovers that it was uncovered, **only שמעון is liable** as long as ראובן hasn't yet found out that it was uncovered.
- If one **covers a pit with a covering strong enough to hold oxen but not camels** in an area where both oxen and camels are common, and a camel weakens the covering and then an ox falls in, **he is liable to pay for damages**.

TIME MISHNA

summaries

בבא קמא

- If **an animal falls into a pit due to a shock** from a loud noise, **the digger is liable**.
- If **a normal animal falls into a pit**, **the digger is exempt** since it's unexpected for an animal not to see where it's walking.
- Although the תורה talks about an ox or a donkey falling into a pit, this is merely an example and **the liability applies regardless of which species of animal falls in**.
 - The same applies to:
 - Not allowing animals **to go near הר סיני**
 - A **thief paying back 'תשלומי כפל'** – payment of double the item's value
 - **Returning somebody's lost animal**
 - **Helping to unload an animal**
 - **Not muzzling one's animal whilst it's working** in the field
 - **'כלאים'** – **interbreeding** two types of animals or **working them together**
 - **'שביתת בהמתו'** – not allowing one's animal to do **work on שבת**

TIME 4 MISHNA

summaries

בבא קמא

רגל and שן:

- A **שמירה פחותה** (lower-level of guarding) is sufficient for שן and רגל, e.g. a fence which stands in a common wind.
 - If one **places his animal in the heat**, a **stronger fence is required** since the animal is expected to attempt to break down the fence.
- If **a hole is made in the fence** in the middle of the night or by thieves and the animal does damage, **the owner is exempt** and so are the thieves, since they only caused the damage indirectly.
 - If **the thieves took hold of the animal** and it's considered that they stole the animal, **they become responsible for damages**.
- If one **puts somebody who is unable to take responsibility, e.g. a child, in charge** of guarding his animal, **he is liable** for any damage caused.
- If one **gives his animal to a shepherd to guard**, **the shepherd is able to give it to his student to guard and the student would be liable for damages**, since it's a regular and expected for a shepherd to do this.
- One is liable to pay for damages of שן and רגל only if he is **responsible for the animal's actual entry into the ניזוק's field**.
- **חכמים**: When one's animal damages produce in the ניזוק's field, the owner needs to pay **the amount that the area of a בית סאה of his field goes down in value**.
 - ר' שמעון**: If **the produce is ripe**, then he needs to pay for **the actual value of the produce** and the damage is no longer associated with the larger field.
- If **ראובן places his stack of grain in שמעון's field with שמעון's permission**, **שמעון is assumed to accept liability** to pay if his animal damages the stack of grain, since the practice of people was to have a guard in their field to make sure that damage isn't done to the stacks of grain.

אש:

- If one **gives something which can start a fire to somebody who can't take responsibility**, e.g. a child, and they start a fire which causes damage, **he is exempt** since the damage is associated to the last person who gave it the ability to damage.
 - However, **it is the correct thing for him to pay** for the damage nevertheless.
 - Similarly, if one person starts the fire and another person adds wood, **whoever did their part last needs to pay** for the damage caused.
 - If **an unusually strong wind gives the fire the ability to damage**, **they are exempt**.
- If one's fire passes over a **10 טפחים** high **fence**, **16 אמות** wide **public path**, or a **river**, **he is exempt** since it's considered unexpected.
- **ר' אלעזר בן עזריה**: One who starts a fire in his own property is responsible for damage even if the fire is situated in the middle of a large area of a **בית כור** belonging to him.
 - ר' אליעזר**: He is responsible if it's within **16 אמות** of the edge of his property.
 - ר' עקיבא**: He is responsible if it's within **50 אמות**.
 - ר' שמעון**: It **depends on the quality** of the fire.

TIME 4 MISHNA

summaries

בבא קמא

- **חכמים**: If one's fire damages a stack of grain which contains **hidden** ('טמון') **items**, the one who caused it **pays only the value of a stack of grain** that size.
ר' יהודה: He needs to pay for all of the damage, since there is no exemption of טמון.
 → The exemption doesn't apply to things inside of a house, since it is normal for things to be inside the house.
- If **a slave is tied next to the stack of grain and is killed by the fire**, the one who caused it is **exempt from paying for the stack of grain** because קים ליה בדרבה מיניה.
- If one **loads his camel with flax**, causing it to enter into a shop as the camel passes by and to set on fire together with the shop from the shopkeeper's candle, **the owner of the camel is liable** for having loaded his animal with too much flax.
 → **חכמים**: If the shopkeeper put his candle outside, he is liable for any damage caused since he is at fault.
ר' יהודה: If it's for the sake of חנוכה candles, he is exempt.

TIME 4 MISHNA

summaries

בבא קמא

- **‘גניבה’ – stealing in secret:**

- If one **steals something in secret** and witnesses testify that he stole it, he is liable to pay the owner **‘תשלומי כפל’** – a payment of **double the item’s value**.
 - One who **steals a stolen item** from a thief **is exempt** from paying **תשלומי כפל**.
 - If **the thief admits** to stealing the item rather than witnesses testifying about it, **he only needs to pay back the item itself** or its value, since **‘מודה בקנס פטור’** – one who confesses about something which would obligate him with a fine is exempt from paying it.
 - **חכמים**: If **ראובן** declares that his animal should be a **קרבן** and **שמעון** steals it from him, **he is exempt** from paying **תשלומי כפל**.
 - ר’ שמעון**: If **ראובן** had made a **vow to bring a קרבן** and had designated this animal for the sake of fulfilling his vow, **שמעון is liable** since **ראובן** will be obligated to replace it with a different animal in order to fulfil his vow so it’s considered stealing from **ראובן**.
 - He is considered to be a thief only if he does an act of acquisition, e.g. lifting it up or pulling it outside of the owner’s property.
 - If he **gives the item away** to somebody before doing an act of acquisition and that person does such an act, **the thief becomes liable**.
- If one **steals an ox or a sheep and then slaughters or sells it**, he is liable to pay the owner **‘תשלומי ארבעה וחמשה’** – **5 times its value** (for an ox) or **4 times its value** (for a sheep, since he already suffered some embarrassment when carrying the sheep in order to steal it).
 - Although one cannot be liable to pay for slaughtering or selling it without being liable to pay for stealing it, the testimony about stealing and the testimony about slaughtering or selling **can be given by different pairs of witnesses**.
 - **חכמים**: If he does **a valid slaughtering which doesn’t permit the meat** to be eaten, e.g. the animal has an internal wound or he slaughters it inside the **בית המקדש**, **he is liable** to pay **תשלומי ארבעה וחמשה**.
 - ר’ שמעון**: **He is exempt**.
 - If it’s **an invalid slaughtering**, **he is exempt**.
 - If a thief slaughters the ox or sheep **on שבת** or **for the sake of idolatry**, **he is exempt** from paying **תשלומי ארבעה וחמשה**, since **קיים ליה בדרבה מיניה**.
 - If one **steals an ox or sheep from his father, his father dies** and then he slaughters or sells it, **he is exempt** from paying **תשלומי ארבעה וחמשה** since he is a partial owner due to inheritance.
 - If a thief **declares the stolen ox or sheep to be הקדש** and then slaughters or sells it, **he is exempt** since it no longer belongs to the original owner.
 - If a thief **sells only part of the animal**, or he is a partial owner of it, **he is exempt**.

TIME 4 MISHNA

summaries

בבא קמא

- If one pair of witnesses testify that somebody stole an ox and another pair testify that he slaughtered or sold it, and **they are all found to be 'עדים זוממים'** – witnesses who are found to be false due to other witnesses testifying that they were with the first pair elsewhere at the time of the event, **the first pair must pay the 'thief' double the item's value** and **the second pair must pay him 3 times its value.**
 - If **one of the first pair of witnesses is found to be an עד זומם**, **their testimony is invalidated** but **he is exempt** as long as the other witness isn't found to be an עד זומם, and the second testimony is also invalidated since testimony about the actual stealing is lacking.
 - 1) It's forbidden to raise **grazing animals in ארץ ישראל**, since they destroy the seeds.
 - This is permitted in 'סוריא' – an expansion of **ארץ ישראל** which **דוד המלך** conquered before conquering the whole of **ארץ ישראל** itself – and in the desert.
 - 2) It's forbidden to raise **chickens in ירושלים** or **for a כהן anywhere in ארץ ישראל**, since they spread sources of **טומאה**.
 - 3) It's forbidden to raise **a pig anywhere**.
 - 4) It's forbidden to raise **a dangerous dog anywhere** unless it's tied to a chain, in case a pregnant woman miscarries due to fear.
- One **may not set up dove traps within 30 ריט** of an **inhabited area**, since they will catch doves which belong to other people.

TIME 4 MISHNA

summaries

בבא קמא

- **Payments owed by a 'חובל' - person who injures another person:**
 - 1) 'נזק' - **damage**, i.e. the amount that his worth as a slave goes down
 - 2) 'צער' - **pain**, measured by how much somebody would be willing to pay not to receive this pain
 - 3) 'דיפוי' - **medical costs**, including for wounds which develop later on due to the injury
 - 4) 'שבת' - compensation for **unemployment**
 - 5) 'בשת' - **embarrassment**, measured based upon the status of the one who does it and the victim
 - One is only liable to pay for **בשת** if he does the act **intentionally**.
 - There are fixed, larger payments for **acts which are entirely in order to shame the victim**:
 - **Punching: חכמים: ½ זוז**
ר' יהודה: 100 זוז
 - **Slapping: 200 זוז**
 - **Slapping with the back of one's hand; pulling the victim's ear downwards; pulling out his hair; spitting onto him; taking his outer clothing off; uncovering a woman's hair: 400 זוז**
 - **חכמים: These amounts are the maximum**, for a victim of the highest status.
ר' עקיבא: They apply to everybody, since we view even the poorest Jew as somebody of the highest status who lost his wealth, since they are descended from the **אבות**.
 - Somebody once uncovered a woman's hair in public and **ר' עקיבא** obligated him to pay her 400 זוז, so he spilled oil in front of her in a public area and she took off her hair covering herself in order to put the oil on her hair, and yet **ר' עקיבא** still obligated him to pay her 400 זוז.
- When **one's animal damages**, he **only needs to pay for נזק** and is **exempt** if it causes a woman to miscarry.
- One who **injures his parents and bruises them** or **injures somebody on שבת** is **exempt from paying**, because of **קיים ליה בדרבה מיניה**.
 - If he **injures somebody on יום כיפור**, he **needs to pay** since the punishment for violating **יום כיפור** is **כרת** and not delivered by **בית דין**.
- One who injures a **Jewish slave** **needs to pay all of the payments**, except for **שבת** if he is his own slave.
- **חכמים**: One who injures a **non-Jewish slave** **needs to pay his master all of the payments**.
ר' יהודה: It's learnt from **פסוקים** that **he is exempt from paying for בשת**.
 - If he is his own slave, he is exempt.

TIME 4 MISHNA

summaries

בבא קמא

- One who injures a **deaf and dumb person**, a **fool** or a **child is liable to pay**, whereas if they injure somebody they are exempt.
- If a **slave** or a **woman** injures somebody, **they are liable to pay upon being freed or divorced**.
- Even once one has paid the victim, **he doesn't receive atonement unless he asks his forgiveness**, and the victim should be willing to forgive him, as learnt from אברהם אבינו's attitude with אבימלך.
- If **ראובן tells שמעון to injure him** on condition that he'll be exempt from paying and שמעון does so, **he is liable** to pay since it's assumed that ראובן wasn't being serious.
 - If **ראובן gives an item to שמעון to guard for him and then tells him to break it**, שמעון **is exempt** only if they make a condition that he'll be exempt.

TIME 4 MISHNA

summaries

בבא קמא

• 'גזלה' – stealing with force:

- If **the item which a thief steals has undergone an irreversible change**, e.g. wool which has been made into clothing, **he must return its value at the time of the theft** to the owner and not the item itself, since 'כל הגזלנים משלמים כשעת הגזלה' – every thief pays back according to the time of the theft.
 - **חכמים**: If one steals **an animal or slave and they get older**, **he must pay back their value** at the time of the theft since this is a significant, irreversible change.
 - ר' מאיר**: **He can give back the slave himself**, since the thief never acquired him.
- If one steals **a coin which then gets cracked** and is therefore not readily accepted as payment, **produce which then becomes mouldy**, or **wine which turns into vinegar**, **he needs to pay back its value** at the time of the theft.
- A thief may return the following items in their current state, since the change is 'היזק' – damage which is unrecognisable in a physical sense:
 - **A coin which becomes invalidated** in that area
 - **טמא תרומה** which becomes **טמא**
 - **חמץ** which remains in his possession over **פסח** so becomes forbidden in benefit
 - **an animal which becomes invalid to be offered as a קרבן** due to it being worshipped, having relations with a person or developing an unrecognisable wound
- If **somebody gives a craftsman material to form an item and he does so and then breaks it**, **the craftsman needs to pay the value which it was worth when he broke it**, since the change done to the material was for the owner's benefit so still belongs to him.
- If **ראובן gives wool to שמעון to dye it and he does so with a bad quality dye**, **ראובן needs to pay him for his work** either the amount that the wool went up in value or the amount that they agreed that he would pay for the work, **whichever is less**.
 - **ר' יהודה**: **The same applies** if he **dyes it with a different colour** to what **ראובן** requested, even if it's the same quality.
 - ר' מאיר**: **שמעון is considered to be a thief so needs to pay ראובן** the value of his wool or the wool itself if **ראובן** desires.

Swearing that one didn't steal:

- If **a thief swears to the owner that he didn't steal and later admits that he did**, he is liable to give the owner himself 'קרן וחומש' – **the value plus ¼** (which is 1/5 of the total amount) – even if he needs to travel far in order to do so, and to bring a **אשם**.
 - **He may give it to בית דין**, for them to appoint a messenger to deliver it to the owner.
 - If **there only remains the חומש to pay**, **he doesn't need to go after the owner**.
- If **the thief swears that he paid the חומש and then admits that he lied**, the **חומש** becomes the **קרן** and he must pay the owner **the חומש plus a חומש of the חומש**.
- The requirement of paying **קרן וחומש** and bringing a **אשם קרבן** **applies to anybody who swears falsely that he doesn't have somebody else's item**, e.g. if he borrowed it.

TIME 4 MISHNA

summaries

בבא קמא

- If **ראובן** gives his item to **שמעון** to guard and **שמעון** claims that it was stolen, and then **witnesses testify that he is the one who stole it, he is liable to pay כפל תשלומי כפל** and not **קרן וחומש** and a **קרבן אשם**, since he isn't liable due to his own admission.
- If one **steals from his father**, swears that he didn't do so, then admits that he lied, and meanwhile his father dies, he is able to borrow money corresponding to the value of what he stole and spend it, such that the lender will collect the loan from his brothers, and it will emerge that he doesn't lose out in the inheritance.
 - This can only be done if a person's father makes a **'נדר'** – vow which forbids the benefit from something – that **his son cannot benefit from his property even after he dies.**
- If one **steals from a convert who then dies without leaving behind any inheritors, he can receive his atonement by giving the קרן וחומש to the כהנים** who are serving in the **בית המקדש** that week.
 - If **the thief dies after designating money for the קרן וחומש and an animal for the קרבן אשם**, his inheritors receive the money and **the כהנים have no monetary right to this money**, and **the animal should be left to develop a wound and become invalid as a קרבן**, then it should be sold for the sake of **voluntary קרבנות**.
 - If he **gives the קרן וחומש to the כהנים and dies** before bringing the **קרבן אשם**, **the כהנים keep the money** since that part of the thief's atonement is completed.
 - At least **the קרן must be given before the קרבן אשם is offered.**

TIME 4 MISHNA

summaries

בבא קמא

- If the owner of an item has 'יאוש' – giving up hope of retrieving one's item – and the stolen item undergoes 'שינוי רשות' – a transfer of ownership, e.g. it is sold, then the person who is currently holding the item isn't liable to pay the owner.
 - If the thief dies, the שינוי רשות to the inheritors isn't sufficient so they are only exempt if they have used up the item.
 - If they inherited land too, then the owner can collect his debt from the land since there is 'אחריות נכסים' – a hold on somebody's property that allows them to collect their debt from it, even once it has been sold or inherited.
- One who saves an item from being destroyed once the owner has already had יאוש may keep it for himself.
- ר' יוחנן בן ברוקה: If one's bees fly out of his property into somebody else's, even a woman or child are believed to say that the bees came out of this person's property, since ownership of bees is only מדרבנן.
 - He may go into the other person's field in order to save his bees.
 - חכמים: If the bees all gather onto the other's person's branch, he may not cut the branch down.
 - ר' יוחנן בן ברוקה: He may cut it off and pay for the damage.
- If ראוּבן sees his item in the hands of somebody else before he has יאוש of retrieving it, he may only take his item if he pays for it and if it has become well-known that his item was stolen, so that people don't become afraid of buying things in the market.
- If ראוּבן is carrying a container of wine and שמעון is carrying a container of more expensive honey, and שמעון's container gets cracked and the honey is dropping out of it, so ראוּבן pours out his wine in order to save the honey into it, he cannot demand compensation for his wine unless he made such a stipulation explicitly, so שמעון only needs to pay him for his work.
 - The same applies to one who saves somebody else's more expensive donkey at the expense of losing his own donkey, when they are both about to be drowned.
- If one steals a field and it's snatched away by officials, the thief is exempt from compensating the owner if this would have occurred anyway, since he never gained any ownership of the land like a regular thief.
- One who steals, borrows or takes an item from somebody to guard it may not return it to him in the desert, unless they stipulated that he may take the item out to the desert.
- If ראוּבן claims that שמעון stole, borrowed or took his item to guard it, and שמעון agrees but claims that he doesn't know if he returned it or not, he needs to pay ראוּבן for it since 'ברי ושמא ברי עדיף' – a certain claim is stronger than a doubtful claim, as long as the default position is like the certain claim.
- If one steals a sheep and returns it without the owner finding out about the theft, he hasn't fulfilled the requirement to return the stolen item so if the animal dies that he is responsible to pay the owner, since the owner needs to know that he needs to guard his sheep more from now onwards since it will have a tendency to leave the flock.

TIME 4 MISHNA

summaries

בבא קמא

- The **strands of wool which come off** when being washed **may be kept** by the person washing it, but one who **combs the wool may not keep** the wool which comes off since the owner is assumed to particular due to the large amount.
- When one washes an item of clothing for the first time, **he can take the 3 threads** made of a different material which are sewn into the edge of the piece of clothing.
 - If **the threads are black and the clothing is white**, **he may take them even if there are more than 3**.
- If a sewer has thread remaining from that which was given to him which is **double the length of the sewing needle**, or material which is **3x3 fingerbreadths**, **he needs to give it back** to the one who hired him and gave it to him.
- The **wood which a carpenter takes off when smoothening it may be kept** by the carpenter, **but not the larger chips of wood which come off when he uses an axe**.
 - If he works **at the owner of the wood's house**, **it all belongs to the owner**.

Being concerned about other people's theft:

- One **cannot change money** with **the money that an unfair or illegal tax-collector has collected**, **nor receive charity** from that money, since it's regarded as stolen.
- If **tax-collectors take somebody's donkey or clothes and give him a different donkey or clothes** which they had taken from somebody else, **he may keep it** since the owner is assumed to have had **יאוש** and this is considered to be a **שינוי רשות**.
- One **may not buy** wool, milk or goats from a **shepherd**, nor wood or produce from the **guard of a field**, since the seller is likely to be stealing.
- One **may buy** woollen clothes from **women** in the area of **יהודה**, linen clothes from women in the area of **גליל** and calves in the area of **שרון**, since the general practice from for these women to sell these with the permission of their husbands.
 - If **they tell the buyer to hide it**, **it's forbidden to buy it**.