

פרק שני – כיצד הרגל Introduction to

As we have seen, the four משניות of the 1st chapter present terse, mnemonic statements intended to teach the general categories of נזקים, the locations and domains of liability. Now the משניות (and attendant ברייתות and גמרא) attend to the specifics – beginning with שן ורגל (the 1st two משניות), followed by the details of מועד/תם; the final משנה scopes out "אדם" as a category of נזק.

20.2.01; 17a (משנה א') → 18a (דקאזיל מינה מינה)

7. כי יבקע איש שדה או כרם ושלח את בעירו ובער בשדה אחר מיטב שדהו ומיטב כרמו ושלם: שמות פרק כב פסוק ד

- I הלמ"מ) חצי נזק צרורות and רגל standard משנה א'
- a standard רגל (נזק שלם) – directly breaking things as it walks
 - b Unusual רגל (נזק ½) – indirectly breaking things as a result of walking:
 - i Kicking (e.g. stones) or stones ("צרורות") shooting out from underfoot and damaging
 - ii If it broke a כלי directly – but then the broken כלי fell on another and breaks it
 - iii Fowl (tho מועד for breaking things as they walk) who break things with a string tied around their throat
 - iv Fowl that was making erratic movements and broke vessels
- II Clarifying rhetoric of משנה
- a Question: isn't רגל (1st clause) and בהמה (2nd clause) the same?
 - i Answer: רגל-clause refers to the אב בהמה-clause to the תולדה (breaking things while walking – e.g. with the bit)
 - 1 Challenge: this answer doesn't respond to the same problem posed by 'משנה ב' (שן + בהמה – eating is the אב)
 - 2 Answer: שן refers to שן חיה (א' סד"א) from v. 1 that only שן בהמה is included); בהמה is בהמה
 - (a) Challenge: if so, בהמה should've come first, then "שך" (חיה)
 - (b) Answer: since שן חיה is inferred via דרשה, the תנא prefers it and gives it precedence
 - (i) Question: if so, our משנה should also have "בהמה" before "רגל"
 - (ii) Answer: in 'ב', משנה ב', they're both אבות, so the inferred one is first; in 'א', משנה א', the אב comes first
 - (iii) Alternatively: since we last mentioned רגל (א:ד), the תנא picks up with that word and reference

III detailing various instances of רגל and the dispute רבנן/סומכוס about secondary damages

 - a רגל includes damages that happen while animal is walking, including with its body, hair and apparati (e.g. bit, harness)
 - i dissent: סומכוס – צרורות and a pig burrowing through dung-heap causing damage pay full
 - 1 Note: this response seems to be a non-sequitur
 - 2 Resolution: סומכוס responded with his dissent
 - b Fowl flying around that damage with their wings – נזק שלם; with the wind of their flying – חצי נזק (this ברייתא is repeated)
 - i Dissent: סומכוס maintains that such a case is liable for נזק שלם
 - c Fowl that were dancing on dough or fruit and fouled them – חצי נזק
 - i Dissent: סומכוס maintains that such a case is liable for נזק שלם
 - d Analysis (רבא): סומכוס's position is clear – כחו כגופו – but רבנן's position should be either נזק שלם or פטור (if לאו כגופו)
 - i Answer: they agree in principle that כחו כגופו, but צרורות is הלמ"מ that only ½ damages are paid
 - e Rule of thumb (רבא): any level of contact which would channel טומאה from אב → נזק שלם; if נזק → חצי נזק
 - i Purpose of rule: for a calf which damages with its carriage:
 - 1 considered מדרס הזב if he's in it and it rides over כלים – also the owner of the calf is liable for damages to the כלים
 - f ברייתא: if fowl are gnawing on a rope of a pail and the pail falls and breaks – נזק שלם
 - i question (רבא): if the fowl jumped on a vessel and it rolled away and then broke:
 - 1 assess from point of original interaction – נזק שלם OR assess at point of damage – צרורות (ח"נ) צרורות
 - 2 possible answer from ruling of רבה: if someone threw something off a roof and another hit it with a stick:
 - (a) ruling: the "stick-hitter" is exempt, since he "hit a broken vessel" (we follow the original impact)
 - (b) note: רבה was sure about this, but רבא was unsure – it may follow the point of damage
 - 3 מועד/תם: fowl dancing and causing breakage is ברייתות
 - (a) assumption: dispute is same as question asked by רבא
 - (b) rejection: dispute follows סומכוס/רבנן in re: צרורות
 - 4 reference to ברייתא about fowl gnawing on rope – proving that we follow original point of impact
 - (a) rejection: נזק שלם is for rope (counter: should be תם as a rope isn't normally eaten; defense: dough is on it)
 - (b) rejection: the text refers to the pail (not the rope) – rather: follows סומכוס (צרורות) pays שלם
 - (i) rejection: end of ברייתא allows for secondary shards shooting out to be ח"נ
 - (ii) rather: follows רבנן, proving that we assess based on original impact (alt: ר' ביבי – fowl pushed it)