

20.2.04

19b (משנה ב') → 20a (אבל בהמה לאו אורחה)

I א:ד שן: משנה ב'

a Definition of ראויה לה: an animal will eat fruit and vegetables

i ברייתא: predatory חיה will kill prey and eat; carnivores will eat meat,

1 note: even if animals eat that which they wouldn't normally eat, but, due to lack of resources, eat them – נזק שלם

(a) implication: a cat eating dates or a donkey eating fish – נזק שלם

(b) case: רב יהודה assessed נ"ש for donkey that ate bread – but ח"נ for chewing the basket

(i) Note: unlike case of goat climbing up to break jar to eat turnips – נ"ש for both)

(ii) Challenge: since he will eat bread, chewing the basket is part of that נזק

1. Answer: he chewed the basket afterwards (משונה)

(iii) Challenge: eating bread is ח"נ (משונה) (as is eating meat and cooked food)

1. answer1: that is in re: חיה

a. challenge: חיה normally eats meat

i. answer1: if it is roasted (משונה)

2. answer2: could even be בהמה - if it ate it off the table (משונה)

2 אילפא: if an animal is in רה"ר, reaches over and eats from the back of another animal – חייב –

(a) reason: relative to the offender, the animal's back is considered חצר הניזק

(i) suggestion: supported by ברייתא: if an animal stretched its neck and ate from another's pack - חייבת

1. explanation (רבא): it jumped (and ate)

(ii) original statement of רבא: if walking and ate (ברה"ר) – exempt; if standing – חייב (רבא: jumped - משונה)

(b) question (ר' זירא): what if it was rolling from רה"ר into רה"ר

(i) suggested solution (ר' חייא): if a load was partially in רה"ר and partially in רה"ר; inside – חייב; out – פטור

1. meaning: if it ate from what was already inside – חייב

2. alternatively: if it was a bag of long stalks – wherever it was standing when it ate it determines חייב

b If: it ate clothing or vessels – pays ½ damage

c note: only applies in רשות הניזק, but in רה"ר – exempt (as in רגל)

i application: רב – to all of the above, including כלים; since anyone who sets up unusual circumstance (e.g. leaving clothes in רה"ר) and another comes and acts unusually in damaging it – is exempt

ii support: ר"ל – 2 cows in רה"ר, 1 lying down, the other walking

1 If: the walking one kicked the one lying down: exempt - חייב בו חייב - כל המשנה ושינו בו חייב

2 But if: the one lying down kicked the one walking: חייב (משונה)

3 dissent (שמואל ור' יוחנן): only applies to foods; if he eats clothing (e.g.) – liable (1/2 נזק as משונה)

4 Suggestion: perhaps ר' יוחנן rejects ר' ל' ruling about the 2 cows in רה"ר?

5 Block: distinguish – it is likely that someone would leave כסות וכלים in רה"ר; רה"ר's case is certainly משונה

iii however: even in רה"ר, it must pay for its benefit (less than damages)

iv explanation:

1 if: the food was in the middle of the plaza – pays הנאה

(a) but if: it was off to the side, it pays what it damaged (½ or full, as per תם/מועד)

2 if: it was in front of the store – pays what it benefited

(a) but if: it was in the store, it pays what it damaged (½ or full, as per תם/מועד)