

20.3.05

31a (משנה ד) → 31b (כחוטרא דסמיותא)

- I משנה ד: collisions between potters carrying their wares
- a If A and B were walking in the same direction; A slipped and fell and B fell into him, A is liable for B's damages
- i Dispute as to circumstances under which A is liable:
- 1 Note: our משנה isn't ascribed to ר"מ (נתקל פושע)
 - 2 ר' יוחנן: only if A was able stand up before B collided with him
 - 3 רנב"י: even if A wasn't able to stand, if he was able to warn B and didn't he is liable (but not otherwise)
 - (a) Response: since he wasn't able to get up, he wasn't able to warn B, as "getting up" preoccupied him
 - 4 Challenge: ה' משנה – if A, carrying a board, was in front of B, carrying a barrel and the barrel broke (collision), A is exempt; if A stood still, he is liable
 - (a) Supposed meaning: stood to adjust his board –expected in רה"ר, nonetheless liable (should've warned)
 - (b) Rejection: it means "stood still" to rest (unusual in רה"ר) → liable (→ if he stood to adjust, exempt)
 - (i) Challenge: then the משנה should make that distinction
 - (ii) Answer: teaches that even if he stood to adjust his board, if he warned B, he is exempt
 - 5 Challenge: ruling that if potters or glaziers were walking in a row and the 1st fell, the 2nd fell into 1st, 3rd into 2nd...
 - (a) Ruling: each is liable for the one who crashed into him (1st liable for נזק to 2nd etc.);
 - (b) However: if they all fell due to the 1st, he is liable for all damages
 - (i) Example: if he blocked the entire road, like a נבילה or a blind man's stick
 - (c) But: if they warned each other, they're all exempt
 - (i) Analysis: doesn't their liability hold even if they couldn't get up?
 - (ii) Rejection: liability only if they could get up but neglected to do so (else – exempt)
 1. challenge: if so, the ruling should clarify that distinction
 2. answer: comes to teach that even if they could stand, if they warned each other – exempt
 - (d) comment (רבא): 1st is liable (to 2nd) if hurt by body or כלים; 2nd is liable (to 3rd) only if hurt by body, not כלים
 - (i) Challenge: either פושע פושע – and both are liable – or נתקל לאו פושע – and neither is liable
 1. Answer: the 1st is certainly פושע; the 2nd is liable for גופו, but "not my בור" → exempt if hurt by כלים
 - (ii) Challenge: ruling that they are all liable for נזקי גופן, all exempt from נזקי ממונן
 1. Meaning: except for 1st, who is liable for גופו נזקי
 2. Challenge: ruling states כולם (all) are exempt
 - a. Answer: "all" that are damaged (from 2nd on down)
 - b. Challenge: instead of "all" it should say "הניזקין"
 - (e) Rather (רבא): 1st is liable for נזקי גופו וממונו of the 2nd (person and his wares);
 - (i) But: the 2nd is only liable for damage he does to the body of the 3rd, not his כלים
 - (ii) Reason: 2nd is akin to a בור, which is always exempt vis-à-vis נזקי כלים
 - (iii) Challenge: this only fits with שמואל's approach (all נזקין are subsets of בור)
 1. However: according to רב, this exemption won't work unless he was מפקיר (himself?)
 - (f) Rather: we go back to original explanation: רבא's statement refers to various מזיקין (גוף/כלים), not ניזקין
 - (i) Challenge: above – "כולם" (all are exempt for נזיק ממונן) – is explained as כלים בכלים –