

פרק רביעי – שור שנגח ד' וה' Introduction to

This chapter is devoted to the topic with which we ended the previous one – נזקי קרן – including תם ומועד and an ox that gores a person. Included are discussions of the definition of מועד (and local-מועד), various issues of ownership and שמירה.

20.4.01

36a (משנה א) → 37a (תקע ליה אחרינא ויהביה נהליה)

- I משנה א' multiple gorings by a שור תם (he remained תם by failing to establish a pattern of violence)
- a ר"מ: pay last one; if anything is left, pay one before him etc. – i.e. later in sequence gains
 - b ר"ש: if a שור worth 200 gores a שור worth 200 and the נבילה is worthless (e.g), מזיק and ניזק each get 100
 - i If: the gorer gores another שור worth 200, the last one collects 100 and the original ניזק splits 50/50 with מזיק
 - ii If: the gorer gores again (worth 200), the last one collects 100, the penultimate collects 50 and מזיק/ניזק split 25/25
 - c Challenge: our משנה fits neither ר"ע nor ר"י
 - i ר"י maintains that each ניזק is a בע"ח, the priority of collection should go to earliest ניזק
 - ii ר"ע: if anything is left over (ר"מ), should go to all of them, not just the most recent ניזק
 - d answer (רבא): follows ר"י – case is where each ניזק seized the ox – so when it gores a 2nd time, it was on his watch etc.
 - i Challenge: if so, he shouldn't return the excess to the next claimant, rather to the owner
 - 1 Answer (רבינא): read "if there is any surplus in his collection of damages, return to the previous claimant"
 - ii Challenge: ר"ש's opinion must follow ר"ע (ר"ע/ניזק are partners) – how is ר"מ following ר"י and ר"ש – ר"ע?
 - 1 Indeed: as שמואל taught רב יהודה – ר"י is רישא and ר"ע is סיפא
- II Valuation of set fines: כסף צורי or כסף מדינה (צורי is 8 times as valuable as מדינה)
- a Ruling: if someone is תוקע (range of interpretations: slaps, blasts into his ear, derides by clapping at him)
 - i Consequence: standard fine for בשת is סלע (מנה – ר"י)
 - ii Case: question was asked if the מנה is צורי or מדינה
 - 1 Argument (in favor of צורי): from our משנה (last clause in ר"ש's scenario); if סלע מדינה was intended, he could have constructed yet another ניזק, collecting 12.5 each
 - 2 Block: תנא isn't verbose
 - 3 Solution: רב taught that all כסף explicitly stipulated in the תורה is צורי; if it is only found in rabbinic text – מדינה
 - iii Consequently: claimant waived his collection (of a paltry sum) and assigned it to be given to עניים
 - 1 However: he then changed his mind, but רב יוסף refused, maintaining that the עניים already had possession
 - (a) Even though: they hadn't received it, the ב"ד operates on their behalf (as we see in re: פרוזבול)
 - iv Story: man was תוקע and fined ½ זוז; he only had a זוז with a poor mint and noone would give him change
 - 1 Consequently: he slapped the fellow again and gave him the whole coin!