

20.8.5

87a (משנה ב) → 88a (שפצעה בפניה ואפחתה מכספה)

7. והיה כי יאמר אליך לא אצא מעמך כי אהבך ואת ביתך כי טוב לו עמך: דברים פרק טו פסוק טז

- I נזקי שור over נזקי אדם of חומרא identifying 5 categories of payment as משנה ב'
- a Additionally: דמי וולדות אדם pays שור who is exempt
- II משנה ג' (first part): unexpected categories of victims
- a If someone strikes parents without a wound – liable (no קלב"מ)
- b If someone wound another on יוה"כ – liable (no קלב"מ)
- c If someone wounds an עבד עברי – liable for all, except שבת (if it's his own slave)
- III Related discussion – payment to minor girl
- a Question posed to דב does it go to her or to father?
- i Lemma1: all שבה נעורים go to father,
- ii Lemma2: שבה נעורים is only given to father since he could marry her to whom he wants, but he can't hurt her
- b Answer: goes to her – father only has rights of שבה נעורים, not חבלה
- i Challenge: our משנה rules that שבת of an ע"ע goes to the master (ע"ע → master::minor daughter → father)
- ii Answer (אבני רב): רב agrees in re: שבת that all of her wages until בגרות go to father
- 1 Challenge (ruling #1): someone wounds his adult son – he must pay immediately; his minor son – set up a trust
- (a) But: if he wounds his minor daughter – he is exempt; if another wounds her – pay father
- 2 Answer: refers to שבת
- (a) Challenge: (to ruling #1 – from ruling #2):
- (i) If he wounds another's children – pay (immediately/trust); his own children – exempt
- (ii) Answer: if he is supporting them, exempt; if not, liable
- (b) challenge: we've established that the 1<sup>st</sup> ruling was a case of independent adult children
- (i) However: in that ruling, damage to minor daughter goes to father, even though he is obligated to feed her (ק"ו from עבד עברי, to whom master is liable as per v. 1) unless she keep her own wages
1. → this must be a case where she is earning her own keep
- (ii) Answer: father gets overage (beyond her food bill)
- (c) Challenge: we've established that the 2<sup>nd</sup> ruling was a case of dependent adult children
- (i) However: payment goes to children (should be to father)
- (ii) Answer: father is only insistent on receiving moneys to which he is out of pocket – not moneys that come from an unanticipated outside source
1. Challenge: in re: מציאה, which comes from outside source, we assume קפידא of father (→ goes to him)
2. Answer: he is מקפיד where the child wasn't hurt; where child was hurt, he's flexible and allows child to keep payments
- a. Challenge: in 1<sup>st</sup> ruling, if another wounds his daughter, money goes to father
- b. Answer: in that case, father is miserly, (as we see – he isn't supporting his own children)
- iii Tangential "clean up" of earlier ruling: meaning of סגולה (trust) for young son:
- 1 ספר תורה ד' חסדא buy a תורה
- 2 דבה בר רב הונא buy a palm tree which provides dates
- c Note: ר"ל agrees with רב's ruling – תורה only gave daughter's rights to father in re: שבה נעורים, not נזיקין
- i Dissent: ר' יוחנן – even פציעה (goes to father)
- 1 Assumption: פציעה is pain, without real loss in value
- (a) Rejection: even ר"א (who challenged רב) only extended father's reach to חבלה, not פציעה
- (b) Answer: פציעה means, e.g., a wound to her face, where her essential value is diminished