

21.6.4; 79a (ת"ר השוכר את הספינה) → 80b (למקח ולמכר)

I Continuation of discussion of liability of owner vis-à-vis renter when object expires in mid-journey

- a *If*: someone rents a boat to bring cargo (e.g. of wine) and it sinks in mid-journey
 i *נתן*: if he paid for the rental, he cannot claim it back; if he didn't yet pay, he isn't obligated to do so
 ii *Challenge*: if he rented this specific boat for any cargo – why shouldn't he get the rental money back?
 iii *And*: if he rented "any boat" to carry specific cargo – why shouldn't he pay (the shipowner can provide another)
 1 *Answer* (ר"פ): his ruling only applies in case of "this ship, this cargo"; if "any ship, any cargo", they split moneys
- b *If*: someone rents a boat and he unloads the cargo at a mid-point, he must pay for that portion of the journey and the owner only has תרעומת on the renter
 i *Question*: if the owner can find another renter, why would he have תרעומת; if not, renter should pay full
 ii *Answer*: he's able to find another renter, תרעומת due to extra ropes moving on ship (wear and tear)
 1 *Alternatively*: פרקה means "he unloaded [more cargo] on to the ship"; תרעומת due to need for more ropes etc.
- c *If*: someone rents a donkey, renter puts his clothing, food and water on the animal; beyond that, the owner can prevent
 i *And*: owner may put provisions for one day for animal; beyond that, renter can prevent
 ii *Question*: if it is possible to buy food on the way, why can't owner prevent renter from putting all his food?
 iii *And if*: it isn't possible to purchase food on the way, renter shouldn't be able to prevent owner from putting more
 1 *Answer* (ר"פ): case - could be bought with some טרחה; renter wouldn't normally trouble himself, owner would
- d *If*: someone rents a donkey for a man to ride on it – a woman shouldn't ride it; if rented for woman, man may ride it
 i *And*: if rented for woman to ride, any woman – adult, small, pregnant or nursing may ride
 1 *Note*: if a nursing woman may ride, certainly a pregnant woman may ride!
 2 *Solution*: means "a pregnant woman who is nursing"
 3 *Implication*: a fish's weight is judged by the size of its stomach (from מעוברת) - for purposes of commerce

II ד' משנה: liability when renting cattle

- a *If*: someone rents a cow to plow on the mountain and he plows in the valley and the plow-plug breaks – he is exempt
 i *But if*: he rented to plow in the plain and he plowed on the mountain and the plow-plug broke – he is liable
- b *If*: he rented it to thresh beans and he threshed grain (and the cow slipped and fell) – he is exempt
 i *But if*: he rented to thresh grain and he threshed beans and it slipped and fell, he is liable, as beans are slippery
- c *Question*: in case workers are leading it and it was used for the intended purpose and the plow-plug broke – who's חייב?
 i ד"פ: the one leading the animal (didn't lead him correctly)
 ii הלכה: דב שישא בריה דר' אידי
 1 *But*: if this is a place where there a lot of stony clods of dirt, they share liability
- d *Related ruling of יוחנן* ד' if someone sells a cow, telling the buyer that it has all sorts of problems and includes one genuine problem among the [fabricated] ones – מקח טעות
 i *Reason*: the buyer sees that the others aren't valid and assumes the same about the genuine one
 ii *However*: if he mentions the genuine problem by name and says "plus some others" – no מקח טעות
- e *Parallel*: if someone sells a שפחה, listing all of her faults and including one genuine one among them – מקח טעות
 i *Tangential question*: what if she really had all of these faults, but the buyer only cares about one?
 1 *Answer* (רבא): no מקח טעות

III ה' משנה: deviating from agreed-upon cargo when renting donkey (or camel)

- a *If*: he rents donkey to bring wheat and instead brings (the same weight in) barley; grain but substitutes straw – liable
 i *Reason*: bulk is as difficult as weight
 1 אבני read נפח קשה במשאווי – case is where the load was lighter but bulkier
 2 דבא read נפח קשה למשאווי – weight was equal, bulk was added
 (a) *Proof to אבני* re: לתך – if he added (3 קבין) he is liable –
 (b) *Rejection*: means "if he added (e.g. a סאה)" such that the weight was the same and the bulk added
 (i) *Challenge*: סומכוס comments on that (as per משנה) that amount is 3 קבין
 1. *Answer*: that is in case he didn't change the cargo (still wheat)
 (ii) *Challenge*: if he contracts for 15 סאה (לתך) and brings 16 – liable → 3 קבים, exempt (כרובא)
 1. *Answer*: referring to exact measures (leveled off), such that less than a סאה is insignificant
- b *If*: he rents a donkey to carry a specific volume of wheat and places the same volume of barley (lighter) – exempt
 i *If, however*: he adds to the weight, he is liable
 1 *Measure*: 1 סאה to the load on a camel; 3 קבין (1/2 סאה) to a donkey

IV Tangent: listing ברייתא limits of overages for various transports:

- a Porter – 1 קב (either he thought he could carry it or dropped it immediately);
 b Boats: 1 אורב for a scull; 1 כור for a boat (→ normal boat is 30 כור, as all 'overages' are 1/30) a large, fast boat – 3 כור