# PEREK 2 DAF 20 AMUD a

הַהוּא בַּרְחָא דַּחֲזָא לִיפְתָּא אַפּוּמָא דְּדַנָּא, סָרֵיךְ סְלִיק, אֲכָלָהּ לְלִיפְתָּא וּתְבָרֵיהּ לְדַנָּא. חַיְּיבֵיהּ רָבָא אַלִּיפְתָּא וְאַדַּנָּא נֵזֶק שָׁלֵם; מַאי טַעֲמָא? כֵּיוָן דְּאוֹרְחֵיהּ לְמֵיכַל לִיפְתָּא, אוֹרְחֵיהּ נַמִי לְסָרוּכֵי וּלְמִסְלַק.

It is related: **A certain goat [*barĥa*]**l1 **saw a turnip on top of a clay barrel [*dana*].**l2 **It climbed** and **went up** and **ate the turnip, and** in doing so it **broke the barrel. Rava obligated** the owner of the goat to pay **the full** cost of the **damage,** both **for the turnip and for the barrel.**h1 The Gemara explains: **What is the reason** that he held the owner fully liable for the clay barrel as well as the turnip? After all, breaking barrels is not the typical behavior of a goat. The Gemara answers: **Since it is ordinary** for the goat **to eat** the **turnip, it is also ordinary** for it **to climb**n1 **and go up** in order to get it. Consequently, breaking the vessel is categorized as Eating.

אָמַר אִילְפָא: בְּהֵמָה בִּרְשׁוּת הָרַבִּים, וּפָשְׁטָה צַוָּארָהּ וְאָכְלָה מֵעַל גַּבֵּי חֲבֶרְתָּהּ – חַיֶּיבֶת; מַאי טַעֲמָא? גַּבֵּי חֲבֶרְתָּהּ כַּחֲצַר הַנִּיזָּק דָּמֵי.

§**Ilfa says: If a domesticated animal was in the public domain and it stretched out its neck and ate from** a sack of fruit or vegetables that was loaded on **the back of another** animal,h2 its owner **is liable** to pay the full cost of the damage. The Gemara asks: **What is the reason** for this? The Gemara explains: **The back of the other** animal **is considered like the courtyard of the victim of the damage,** and for this reason the owner of the animal is liable for damage caused by Eating there as well.

לֵימָא מְסַיַּיע לֵיהּ: הָיְתָה קוּפָּתוֹ מוּפְשֶׁלֶת לַאֲחוֹרָיו, וּפָשְׁטָה צַוָּארָהּ וְאָכְלָה מִמֶּנּוּ – חַיֶּיבֶת; כִּדְאָמַר רָבָא: בְּקוֹפֶצֶת, הָכָא נַמִי בְּקוֹפֶצֶת.

The Gemara quotes a *baraita* and suggests: **Let us say** thatit **supports his** opinion: If one was standing in the public domain and **his** **basket,** containing food, **was slung behind his back,** **and** an animal **stretched out its neck and ate from it,** the ownerof the animal **is liable** (*Tosefta Bava Kama* 1:7).The Gemara answers: There is no evidence in that case to support Ilfa’s opinion because one could explain that the case in that *baraita* is **as** **Rava said** in a different situation: It is referring to a **jumping** animal, and **here, also,** it can be suggested that the *baraita* is referring to a **jumping** animal.n2 And since the animal was engaged in atypical behavior it is categorized as a case of Goring as opposed to a case of Eating. Consequently, it can be explained that the basket on a person’s back is not viewed as his private domain; rather, the owner of the animal is liable for his animal’s actions in the public domain, although he pays only half the cost of the damage.

וְהֵיכָא אִיתְּמַר דְּרָבָא? אַהָא דְּאָמַר רַבִּי אוֹשַׁעֲיָא: בְּהֵמָה בִּרְשׁוּת הָרַבִּים, הָלְכָה וְאָכְלָה – פְּטוּרָה, עָמְדָה וְאָכְלָה – חַיֶּיבֶת; מַאי שְׁנָא הָלְכָה, דְּאוֹרְחֵיהּ הוּא? עָמְדָה נַמִי אוֹרְחֵיהּ הוּא! אָמַר רָבָא: בְּקוֹפֶצֶת.

The Gemara asks: **And where,** i.e., in what context, **was Rava’s interpretation** originally **stated?** The Gemara answers: It was stated **in regard to that which Rabbi Oshaya says: If a domesticated animal** was **walking along and eating in the public domain, it is exempt,** but if it was **standing and eating, it is liable.** The Gemara wonders about this: **What is different** if it **was walking?** Is it because eating this way is the **ordinary** behavior of an animal? But **standing** and eating is **also** **ordinary** behavior. **Rava says:** When Rabbi Oshaya said: Standing, he actually meant **jumping** and eating, which is not ordinary behavior for the animal.

בָּעֵי רַבִּי זֵירָא: מִתְגַּלְגֵּל, מַהוּ? הֵיכִי דָּמֵי? כְּגוֹן דְּקַיְימָא עָמִיר בִּרְשׁוּת הַיָּחִיד וְקָא מִתְגַּלְגֵּל וְאָתֵי מֵרְשׁוּת הַיָּחִיד לִרְשׁוּת הָרַבִּים, מַאי?

§**Rabbi Zeira raises a dilemma:** If an animal was **rolling** while it was eating, **what** **is** the *halakha*? The Gemara asks: **What are the circumstances** of the case Rabbi Zeira inquires about? The Gemara answers: **Such as** if there was **a sheaf** of grain **in a private domain and it was rolled along** by the animal **and went** **from the private domain into the public domain,**h3and the animal ate it there, **what** is the *halakha*? Should this case be treated as a case of Eating in the private domain, making the owner of the animal liable, or should it be treated as a case of Eating in the public domain, thereby exempting him from all liability?

תָּא שְׁמַע, דְּתָנֵי רַבִּי חִיָּיא: מַשּׂוֹי מִקְצָתוֹ בִּפְנִים וּמִקְצָתוֹ בַּחוּץ, אָכְלָה בִּפְנִים – חַיֶּיבֶת, אָכְלָה בַּחוּץ – פְּטוּרָה; מַאי לָאו מִתְגַּלְגֵּל וְאָתֵי? לָא, אֵימָא: אָכְלָה, עַל מַה שֶּׁבִּפְנִים – חַיֶּיבֶת, עַל מַה שֶּׁבַּחוּץ – פְּטוּרָה.

**Come** and **hear** a solution from a baraita: **Rabbi Ĥiyya** **taught:** If **a load** was placed **partly within** the property of its owner **and partly outside** in the public domain, and an animal **ate** from the part that was **within** the private domain, **it is liable** as this is a case of damage caused by Eating on the property of the victim of the damage, but if the animal **ate** from the part that was **outside, it is exempt** according to the *halakha* of Eating in the public domain. **What,** **is it not** that the case is one where it was **rolling along** and the *halakha* follows the location where it was actually eaten? The Gemara answers: **No, say: It ate,** and **for that which was** originally **within** the private domain, **it is liable** even if it rolled out of the private domain, **and for that which was outside** from the outset, **it is exempt.**

אִיבָּעֵית אֵימָא: כִּי קָאָמַר רַבִּי חִיָּיא – בִּפְתִילָה דְּאַסְפַּסְתָּא.

**If you wish,** **say** instead a different resolution: **When Rabbi Ĥiyya said** what he said it was with regard to **a** long **stalk of fodder [*aspasta*],**l3 which was partly inside and partly outside from the outset, and as the animal ate it the entire stalk was pulled over to where the animal was standing.

״אָכְלָה כְּסוּת״ וכו׳.

§We learned in the mishna: If the animal **ate garments** or vessels the owner must pay for half the cost of the damage. In what case is this statement said? It is said when the animal ate them while located on the property of the victim of the damage, but if it occurred in the public domain the owner of the animal is exempt from liability.

אַהַיָּיא? אֲמַר רַב: אַכּוּלְּהוּ, מַאי טַעֲמָא? כָּל הַמְשַׁנֶּה וּבָא אַחֵר וְשִׁינָּה בּוֹ – פָּטוּר.

The Gemara asks: **To which** case is this referring? In which case is one exempt from liability if the damage took place in the public domain? **Rav said:** It is referring to **all of** the cases. One is exempt from liability in the public domain even if his animal ate garments or vessels despite the fact that this is an unusual thing for the animal to do, and therefore eating garments or vessels should be classified as a case of Goring, which would normally cause liability in the public domain. **What is the reason** for this? Rav answers his own question: **Anyone who deviates** from the norm in his actions, **if another came along** afterward **and deviated against him**n3and damaged him, the one who causes the damage is **exempt** from liability. In this case, the victim of the damage who left his garments or vessels in the public domain deviated from the norm, and therefore the owner of the animal that deviated from the norm and ate them is exempt from liability.

וּשְׁמוּאֵל אֲמַר: לֹא שָׁנוּ אֶלָּא פֵּירוֹת וִירָקוֹת, אֲבָל כְּסוּת וְכֵלִים – חַיֶּיבֶת.

**And Shmuel said: They taught** in the mishna **only** that one is exempt from liability for damage caused in the public domain in a case where his animal ate **fruit or vegetables,** in keeping with the *halakha* of Eating in the public domain, **but** if the animal ate **garments**h4 **or vessels** in the public domain, the owner is **liable** to pay for half the cost of the damage. Since this is atypical animal behavior it is treated as a case of Goring which carries liability in the public domain.

וְכֵן אֲמַר רֵישׁ לָקִישׁ: אַכּוּלְּהוּ. וְאָזְדָא רֵישׁ לָקִישׁ לְטַעֲמֵיהּ, דְּאָמַר רֵישׁ לָקִישׁ: שְׁתֵּי פָרוֹת בִּרְשׁוּת הָרַבִּים, אַחַת רְבוּצָה וְאַחַת מְהַלֶּכֶת, בָּעֲטָה מְהַלֶּכֶת בָּרְבוּצָה – פְּטוּרָה, רְבוּצָה בַּמְּהַלֶּכֶת – חַיֶּיבֶת.

**And similarly, Reish Lakish said,** in accordance with the opinion of Rav: The exemption discussed in the mishna was said in reference **to all of** the cases. **And Reish Lakish follows** his own line of **reasoning, as Reish Lakish said:** If there were **two cows in the public domain, one lying down and one walking,** if the **walking** cow **kicked the** one **lying down** its owner is **exempt** from liability, but if the cow **lying** down kicked **the** **walking** cow its owner is **liable.** This indicates that Reish Lakish accepts the principle: Anyone who deviates from the norm, if another came along and deviated against him and damaged him, the one who causes the damage is exempt. Since it is atypical behavior for a cow to lie down in the public domain, even if the walking cow also deviated from the norm and kicked the cow lying down, the owner is exempt from liability.

וְרַבִּי יוֹחָנָן אָמַר: לֹא שָׁנוּ אֶלָּא פֵּירוֹת וִירָקוֹת, אֲבָל כְּסוּת וְכֵלִים – חַיֶּיבֶת.

**And Rabbi Yoĥanan said,** in accordance with the opinion of Shmuel: **They taught** in the mishna that one is exempt from liability in the public domain **only** if his animal ate **fruit or vegetables, but** if the animal ate **garments or vessels,** the owner is **liable** to pay for half the cost of the damage.

לֵימָא, רַבִּי יוֹחָנָן לֵית לֵיהּ דְּרֵישׁ לָקִישׁ אֲפִילּוּ בִּשְׁתֵּי פָרוֹת? לָא, לְעוֹלָם אִית לֵיהּ, כְּסוּת עָבְדִי אֱינָשֵׁי דְּמַנְחִי גְּלִימֵי וּמִתְפְּחִי, אֲבָל בְּהֵמָה לָאו אוֹרְחָהּ.

The Gemara asks: **Shall we say** that **Rabbi Yoĥanan does not accept Reish Lakish’s opinion even in** the case of **the two cows?** The Gemara rejects this suggestion: **No, actually** it is possible thatRabbi Yoĥanan **does accept** the opinion of Reish Lakish, but he distinguishes between the cases. In the case of **garments, people are likely to put their cloaks down** in the public domain **in order to rest [*mitpeĥei*],**l4 and so this is not deemed deviant behavior. **But it is not ordinary** for an **animal** to lie down in the public domain, and since this animal behaved in a deviant manner, no liability is borne by the owner of the other for engaging in deviant behavior of its own and kicking it.

״וְאִם נֶהֱנֵית מְשַׁלֶּמֶת״ וכו׳. וְכַמָּה? רַבָּה אָמַר: דְּמֵי עָמִיר, רָבָא אָמַר: דְּמֵי שְׂעוֹרִים בְּזוֹל.

§The mishna stated: **If** the animal **derives benefit** from eating another’s fruit in the public domain, although the owner is exempt from paying for the damage it caused, nevertheless the owner of the animal **pays** for the food fromwhich it benefits. The Gemara asks: To **how much** does this payment add up? **Rabba says:** It is worth **the value** that one would pay **for** an equal quantity of **stalks** of hay or straw. This is because the owner can claim that had his animal not eaten the fruit, he would have fed it inexpensive straw, so his benefit is limited to the amount of straw that he saved. **Rava says:** If the animal ate barley his owner must pay **the cost of the barley,** i.e., he must pay the cost of the type of food the animal ate but he pays based on the **cheapest** price available in the market.

תַּנְיָא כְּוָותֵיהּ דְּרַבָּה, תַּנְיָא כְּוָותֵיהּ דְּרָבָא. תַּנְיָא כְּוָותֵיהּ דְּרַבָּה, רַבִּי שִׁמְעוֹן בֶּן יוֹחַי אָמַר: אֵין מְשַׁלֶּמֶת אֶלָּא דְּמֵי עָמִיר בִּלְבַד. תַּנְיָא כְּוָותֵיהּ דְּרָבָא: אִם נֶהֱנֵית – מְשַׁלֶּמֶת מַה שֶּׁנֶּהֱנֵית, כֵּיצַד? אָכְלָה קַב אוֹ קַבַּיִים, אֵין אוֹמְרִים תְּשַׁלֵּם דְּמֵיהֶן, אֶלָּא אוֹמְדִין כַּמָּה אָדָם רוֹצֶה לְהַאֲכִיל לִבְהֶמְתּוֹ דָּבָר הָרָאוּי לָהּ אַף עַל פִּי שֶׁאֵינוֹ רָגִיל.

The Gemara notes: It **is taught** in a *baraita* **in accordance with**the opinion of**Rabba** and it **is taught** in adifferent *baraita* **in accordance with**the opinion of**Rava.** It **is taught** in a *baraita* **in accordance with**the opinion of**Rabba: Rabbi Shimon ben Yoĥai said: It must pay only the cost of stalks** of straw. It **is taught** in a *baraita* **in accordance with**the opinion of**Rava: If** the animal **derives benefit,** the owner of the animal **pays** for the food from **which it benefits.**h5 **How so?** If the animal **ate** one ***kav* or two *kav*** of grain, **we do not say** that **he should pay the cost of** the *kav* or two that was consumed; **rather, we estimate how much** **a person would pay in order to feed his animal something fit for it** to eat, **even if it does not usually** eat that particular food. Therefore, if the animal ate barley even though it does not usually do so, its owner must compensate for the barley that was eaten at the cheapest market price.

לְפִיכָךְ אָכְלָה חִטִּין אוֹ דָּבָר הָרַע לָהּ – פְּטוּרָה.

**Therefore,** if the animal **ate wheat or another item which is detrimental to** it, and which the owner would not have fed to it, if this occurred in the public domain it is **exempt** from all liability.

אֲמַר לֵיהּ רַב חִסְדָּא לְרָמִי בַּר חָמָא: לָא הָוֵית גַּבָּן בְּאוֹרְתָא בִּתְחוּמָא, דְּאִיבַּעֲיָא לָן מִילֵּי מַעַלְּיְיתָא. אֲמַר: מַאי מִילֵּי מַעַלְּיְיתָא? אֲמַר לֵיהּ: הַדָּר בַּחֲצַר חֲבֵירוֹ שֶׁלֹּא מִדַּעְתּוֹ, צָרִיךְ לְהַעֲלוֹת לוֹ שָׂכָר אוֹ אֵין צָרִיךְ?

§In connection to this *halakha* of the mishna that if the animal derives benefit, the owner of the animal pays for the food from which it benefits, the Gemara relates: **Rav Ĥisda** **said to Rami bar Ĥama: You were not with us at night in** close **proximity**n4 **as exceptional matters were raised as a dilemma before us.** Rami bar Ĥama **said** to him: **What is the exceptional matter** with which you were engaged? **He said to him:** **One who resides in another’s courtyard without his knowledge** or permission, **must he pay him rent**n5 for living there **or does he not need to?**

הֵיכִי דָּמֵי? אִילֵימָא בְּחָצֵר דְּלָא קַיְימָא לְאַגְרָא וְגַבְרָא דְּלָא עֲבִיד לְמֵיגַר – זֶה לֹא נֶהֱנֶה וְזֶה לֹא חָסֵר! אֶלָּא בְּחָצֵר דְּקַיְימָא לְאַגְרָא וְגַבְרָא דַּעֲבִיד לְמֵיגַר – זֶה נֶהֱנֶה וְזֶה חָסֵר!

The Gemara asks: **What are the circumstances** of this question? **If we say** thatthe case is that of **a courtyard which was not** intended **to be rented out,** andif the squatter would not have lived there the owner would have kept it vacant, **and the person** who lived there is someone who would **not have rented out** other quartersh6 because he has other lodgings available to him for free, then this is a case where **this one,** the squatter, **does not benefit, and that one,** the owner, **does not lose out,**n6 and in that case certainly no payment is necessary. Rather, say that the discussion concerns a case of **a courtyard which was** intended **to be rented out and the person** living there would **have rented** other quarters.h7 If so, then this is a case where **this one** **benefits and that one loses out,** and in that case he certainly must make payment. It remains unclear what case presented a dilemma.

לָא צְרִיכָא, בְּחָצֵר דְּלָא קַיְימָא לְאַגְרָא וְגַבְרָא דַּעֲבִיד לְמֵיגַר, מַאי? מָצֵי אָמַר לֵיהּ ״מַאי חֲסַרְתִּיךְ״, אוֹ דִּלְמָא מָצֵי אָמַר.

The Gemara answers: **No,** it is **necessary** for the case of **a courtyard which was not** intended **to be rented out, but the person** living there **would** **have rented** other quarters. **What** is the *halakha* in that case? The Gemara explains the two sides of the question: **Could** the squatter **say to** the owner of the courtyard: **What loss have I caused you,** asyou would not have rented it out anyway? **Or perhaps** the owner of the courtyard **could** **say** to the squatter:

## NOTES

n1It is ordinary for it to climb – אוֹרְחֵיהּ נַמִי לְסָרוּכֵי: Even though earlier it was written that a donkey does not typically eat a basket after it eats the bread that was inside it, in this case the Gemara presumes that a goat will typically break the barrel. This is because it is trying to get to the turnip. However, if it broke the barrel after it had already eaten the turnip, it would seem that it intentionally caused the damage and its owner would then pay for only half the cost of the damage (*Tur* and *Beit Yosef*, *Ĥoshen Mishpat* 391). However, the Rambam seems to say that in all cases he must pay the full cost of the damage as the Gemara does not distinguish between a situation where a goat has eaten and a situation where it hasn’t yet eaten (Rambam *Hilkhot Nizkei Mamon* 3:7).

n2A jumping animal – בְּקוֹפֶצֶת: Rashi explains that Rava’s interpretation is cited to counter the possibility of the *baraita* supporting Ilfa’s stance since if the animal was jumping in a strange manner, the damage caused is no longer classified as Eating but rather as Goring, and therefore the owner must pay half the cost of the damage even if the damage was caused in the public domain. However, many other authorities are of the opinion that this case is no different from that of the goat climbing upon the barrel, which was also included in the category of Eating. According to the Meiri, Rava’s explanation is applied here to establish the case of Ilfa as an unusual one in which the animal jumps onto the back of a person or another animal and eats from a pack that is being carried there. In that case is the animal considered to be wholly within the domain of the victim of the damage? Rabbeinu Ĥananel seems to hold that any time an animal eats something in the public domain not while it is not walking along is treated as if it occurred on the property of the victim of the damage.

n3Anyone who deviates from the norm, if another came along and deviated against him – כָּל הַמְשַׁנֶּה וּבָא אַחֵר וְשִׁינָּה בּוֹ: Some commentaries understand that the logic is that since the one who placed his vessels and other articles in the public domain has deviated from the societal norm, he must be aware that there is a likelihood that they will be damaged by people or animals, and therefore by leaving them there he surrenders any claim to compensation for damage caused to his property. Others understand that by leaving his items in a vulnerable place the owner is viewed as partially responsible for the damage, and therefore the owner of the animal is not liable.

n4In close proximity – בִּתְחוּמָא: Literally, within the border, meaning in a nearby location. Rashi understands this as a reference to the study hall of the academy. Apparently, there was an ancient tradition to interpret this expression in this way, as the *Arukh* also cites this interpretation and explains that the study hall is the border, or, the area, in which the Torah scholars would regularly be found.

n5Must he pay him rent – צָרִיךְ לְהַעֲלוֹת לוֹ שָׂכָר: The Gemara does not discuss here the more basic question of whether it is permitted to reside in the courtyard of another without permission *ab initio*, as it is concerned with the issue of rental payment. *Tosafot* maintain that this is not permitted since even though the other person does not intend to derive benefit from his courtyard, he can prevent others from entering it, and this is also the opinion of the Rema (*Ĥoshen Mishpat* 363:6). However, some authorities derive from *Tosafot* that this only applies when the owner has actively protested the presence of the squatter. If this is not the case then the squatter may reside in the courtyard if the courtyard was not destined to be rented out to others. (*Beit Efrayim*, *Ĥoshen Mishpat* 49, *Netivot HaMishpat* 146:9). Some authorities see this as analogous to one who borrows an item without permission, who is considered to be a thief.

n6This one does not benefit and this one does not lose – זֶה לֹא נֶהֱנֶה וְזֶה לֹא חָסֵר: The early authorities discuss a different case, that is not addressed by the Gemara, where the squatter would not have rented a place to live and so he does not derive benefit from having lived there, but the owner of the courtyard did intend to rent it out and therefore suffers a loss. In the opinion of *Tosafot*, the squatter would not have to pay in this case either, although he caused damage to the owner, because the damage was caused indirectly. However, the Rif holds that he must pay as he caused a loss to the owner of the courtyard.

## *HALAKHA*

h1Rava obligated the owner to pay the full cost of the damage for the turnip and for the barrel – חַיְּיבֵיהּ רָבָא אַלִּיפְתָּא וְאַדַּנָּא: If an animal saw food on top of a barrel and climbed up in order to reach it and eat it and it broke the barrel in the process, the owner of the animal must pay the full cost of the damage for the food and for the barrel (Rambam *Sefer Nezikin*, *Hilkhot Nizkei Mamon* 3:8; *Shulĥan Arukh*, *Ĥoshen Mishpat* 391:5).

h2Ate from a sack on the back of another animal – אָכְלָה מֵעַל גַּבֵּי חֲבֶרְתָּהּ: If an animal was in the public domain and it stretched out its neck and ate from food that was being carried on the back of another animal, the owner pays only for the benefit he received. But if it jumped on top of the other animal and then ate the food, the owner pays for the damage it caused, because it is as if the animal entered the property of the victim of the damage. The Rema quotes the Rosh who says that if the animal is able to eat without jumping the case is classified as Eating in the public domain and the owner is exempt from liability. The same applies if the animal ate food from a basket slung over a person’s shoulder (Rambam *Sefer Nezikin*, *Hilkhot Nizkei Mamon* 3:10; *Shulĥan Arukh*, *Ĥoshen Mishpat* 391:11).

h3There was a sheaf of grain in a private domain and it was rolled along by the animal and went from the private domain into the public domain – דְּקַיְימָא עָמִיר בִּרְשׁוּת הַיָּחִיד וְקָא מִתְגַּלְגֵּל וְאָתֵי מֵרְשׁוּת הַיָּחִיד לִרְשׁוּת הָרַבִּים: If a domesticated animal was standing within the domain of the victim of the damage and it tore off fruits that were in the public domain and ate them in the private domain of the victim, there is uncertainty about the *halakha*. The owner of the animal pays for what he benefited from, but since the dilemma was unresolved in the Gemara, if the victim of the damage seized from the owner up to the full cost of the damage the money is not confiscated from him, according to the opinion of the Rambam and the *ge’onim*. The Rema writes that there are some (Rabbeinu Yitzchak, Ramban, Rosh) who disagree and are of the opinion that seizing payment is not effective. The Rema also writes that the same uncertainty exists in a reverse case when an animal was standing in the public domain and ate something from a private domain. If the item which the animal ate was long and it was eating one end of the item and pulled on it, slowly pulling it into the domain in which it is standing, this is treated as a case of an animal that ate something in the domain in which it is standing (Rambam *Sefer Nezikin*, *Hilkhot Nizkei Mamon* 3:4; *Shulĥan Arukh*, *Ĥoshen Mishpat* 391:12).

h4It ate garments – אָכְלָה כְּסוּת: If a domesticated animal ate something completely inappropriate for it to consume, such as garments or vessels, this is a deviation from normal animal behavior and the victim of the damage can collect payment for half the cost of the damage, regardless of whether it happened in the private or in the public domain (Rambam *Sefer Nezikin*, *Hilkhot Nizkei Mamon* 3:3; *Shulĥan Arukh*, *Ĥoshen Mishpat* 391:2).

h5The owner of the animal pays for the food from which it benefits – מְשַׁלֶּמֶת מַה שֶּׁנֶּהֱנֵית: If an animal ate fruits or other items in the public domain, the owner must pay for the benefit the animal derived. This means that the owner must pay for the quantity of food the animal ate as if it had eaten straw, in accordance with the opinion of Rabba, Rava’s teacher. However, the Ra’avad and the *Tur* follow the opinion of Rava who is the later of the two, and they say that the owner must compensate for the cost of the barley at the cheapest market price. If the animal ate something that was detrimental to it the owner need not pay anything as he did not derive any benefit from it (Rambam *Sefer Nezikin*, *Hilkhot Nizkei Mamon* 3:2, 3; *Shulĥan Arukh*, *Ĥoshen Mishpat* 391:8).

h6A courtyard which was not intended to be rented out and the person who lived there would not have rented out other quarters – בְּחָצֵר דְּלָא קַיְימָא לְאַגְרָא וְגַבְרָא דְּלָא עֲבִיד לְמֵיגַר: If one was living in a courtyard belonging to another without the owner’s knowledge and permission, if the owner found out and told him to leave and he did not leave, he must pay rent. If the owner did not tell him to leave, if the courtyard was not intended to be rented out, even if the person living there would ordinarily rent a place to live, he does not need to pay rent for the courtyard as this case is in the category of: This one benefits, and that one does not lose out (Rambam *Sefer Nezikin*, *Hilkhot Gezeila VaAveda* 3:9; *Shulĥan Arukh*, *Ĥoshen Mishpat* 363:6).

h7A courtyard intended to be rented out and the one living there would have rented other quarters – בְּחָצֵר דְּקַיְימָא לְאַגְרָא וְגַבְרָא דַּעֲבִיד: If one lives in a courtyard belonging to another without the owner’s knowledge and permission, if the courtyard was intended to be rented out, even if the one living there would not ordinarily rent a place, he must pay rent for this courtyard as he caused the owner to lose money. The Rema writes, citing Mordekhai, that the average house nowadays is meant to be rented out, even if a given house had never been rented out before (Rambam *Sefer Nezikin*, *Hilkhot Gezeila VaAveda* 3:9; *Shulĥan Arukh*, *Ĥoshen Mishpat* 363:6).

## LANGUAGE

l1Goat [***barĥa***] – בַּרְחָא: The source of this word is not clear. Some say that it derives from the middle Persian *varrag* (and the modern Persian *barra*) meaning goat or ram.

l2Barrel [***dana***] – דַּנָּא: From the Assyrian *dannu*, this word was borrowed from Aramaic and other Semitic languages. It means a clay vessel or barrel.

l3A stalk of fodder [***aspasta***] – פְּתִילָה דְּאַסְפַּסְתָּא: This word comes from the Middle Persian *aspast*, which is derived from the Old Persian words *aspa*, meaning horse, and *asti*, meaning fodder. It seems that this term was applied to several types of legumes, such as vetch, that were principally used as animal fodder. At times they grow long branches, inspiring the expression: A stalk of fodder, meaning a branch of the plant reminiscent of a long thread or cord.

l4Rest [***mitpeĥei***] – מִתְפְּחִי: Apparently, the root of this word is *nun*,*peh*, *ĥet* with a meaning similar to breathing or exhaling. Here it means resting or standing in order to breathe.

b4Summary of principles of impurity relating to mats:

|  |  |  |  |
| --- | --- | --- | --- |
| **type of impurity** | **does impurity contract impurity?** | **derivation of mat impurity** | **length of mat impurity** |
| dead person | yes | verbal analogy | seven days |
| creeping animal | yes | *a fortiori* inference | one day |
| semen | no |  |  |
| *zav* | yes | verse in Torah | one day |