



т"оэ Intro

Today we will בע"ה learn דף ד of מסכת בבא קמא Some of the topics we will learn about include.

The Machlokes רב ושמואל regarding מבעה, holds רב מבעה זה אדם מבעה refers to a person who caused היזק. While שמואל holds מבעה זה השן מבעה refers to an animal's teeth that caused היזק.

And the explanation to the Mishnah's continuation according to both בם and שמואל;

The Braisa of תני רב אושעיא; שלשה עשר אבות נזיקין There are אבות נזיקין that are mentioned in the Torah.

The ד' שומרין, four groups of people who accepted an item for safekeeping;

שומר חנם, an unpaid custodian; והשואל, a borrower; נושא שכר, a paid custodian; והשוכר, a renter; A שומר חנם is liable only for

If the פקדון was stolen, lost, or damaged, due to his negligence; he did not properly safeguard the פקדון: A שומר שכר ושוכר are additionally liable for

If the פקדון was stolen or lost, even he did safeguard it properly;

A שואל is additionally liable for

A היזק that occurred by accident or circumstances beyond his control.

The 5 claims for חובל בחבירו נזק צער וריפוי שבת ובושת If one person injured another;

> And the Mishnah's 4 אבות נזיקין השור הבור המבעה וההבער הא תליסר Which in all amount to 13 אבות נזיקין;

The reasons why our Mishnah did not mention these אבות נזיקין according to both שמואל;











So let's review ...

The Mishnah at the beginning of the Perek mentioned as one of the four אבות נזיקין.

מאי מבעה

What is מבעה?

בר says

מבעה זה אדם

מבעה refers to a person who caused damage, as the Pasuk states.

אמר שומר אתא בקר וגם לילה

אם תבעיון בעיו

As Rashi explains

אם תשובו בתשובה ותקבשו מחילה

עיו:

If a person decides to do תשובה and beg for repentance, he should do so to merit the גאולה of the Tzaddikim.

says שמואל

מבעה זה השן

מבעה refers to an animal's teeth that caused damage, as the

איך נחפשו עשו נבעו מצפוניו

As Rashi explains

נבעו לשון גלוי

The word נבעו means exposure, and this refers to ש,

שפעמים מגולה

ופעמים מכוסה

The teeth are sometimes exposed and sometimes hidden.

The Gemara proceeds to explain the continuation of the Mishnah which points out that the Torah needed to write all four אבות. Had the Torah mentioned only one אב we could not have derived the others from it, because לא הרי השור כהרי המבעה

ולא הרי המבעה כהרי השור

מבעה and מבעה each possess a unique חומרא for which the owner is חייב בתשלומין, liable to reimbursement for the damages.

And the Gemara explains it according to both אחל and שמואל as follows:







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After rejecting רבי 'הודה ''s explanation, רב ' explains that according to שמואל, the Mishnah is understood as follows: תנא שור לרגלו

ומבעה לשינו

שור refers to שור whose feet trampled an item while walking, and מבעה refers to שור who ate something for its pleasure.

והכי קאמר

לא ראי הרגל

שהזיקה מצוי

כראי השן

שאין הזיקה מצוי

רגל possesses a unique הומרא in that the רגל היזק היזק is more common, as the שור constantly walks around and tramples anything in its path, while the שן is not as common. ולא ראי השן

שיש הנאה להזיקו

כראי הרגל

שאין הנאה להזיקו

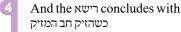
שן possesses a unique חומרא in that the שור benefits from the שור of שור, while the שור does not benefit from the היזק of 1.











לאתויי קרן

This statement means to include קדן, a שור that gored with its horns, the third feature of שור.

However, the Mishnah did not specifically mention קרן in the אבות נזיקין, because

במועדין מתחילתן קמיירי

בתמין ולבסוף מועדין לא קמיירי

The Mishnah mentioned only those אבות for which the owner must pay נזק שלם, the entire damage, even for the first occurrence, while regarding קרן, the owner only pays חצי נזק, half the damage, for the first and second occurrence, and only pays נזק שלם after three occurrences.

And the Mishnah did not mention אבות in the אבות נזיקין, because

בנזקי ממונו קמיירי בנזקי גופו לא קמיירי

The Mishnah mentioned only those אבות of which a person's property caused the היזק, while regarding אדם he personally caused the היזק.

However, a later Mishnah does mention אדם, because it refers to both

נזקי גופו וממונו

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This statement means to include pp, a ssl that gored with its horns, the third feature of ssl.

The Mishnah did not mention אבות כזיקין in the because...

בתמין ולבסוף מועדין לא קמיירי

While regarding pp, the owner only pays ps, is for the 1st and 2nd occurrence. במועדין מתחילתן קמיירי

Only those NAX where the owner must pay PG P5j even for the first occurrence.

And the Mishnah did not mention DTR in the אבות נזיקין because...

> בנזקי גופו לא קמיירי

While regarding p3.6 he personally caused the p59 בנזקי ממונו קמיירי

Only those NAK of which
a person's property
caused the PSD

Later the Mishnah does mention אדם, because it refers to both בזקי גופו וממוכו



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The Gemara continues that according to ¬¬, the Mishnah is understood as follows;

תנא שור

וכל מילי דשור

שור refers to all three features, קרן שן ורגל, and מבעה refers to ... אדם אדם.

And

הכי קאמר

לא ראי השור שמשלם את הכופר

כראי האדם שאין משלם את הכופר

שור possesses a unique אוות in that if the שור kills a person, the owner must also reimburse the value of the deceased, in addition to the שור being put to death, while if a אדם killed a person, he does not pay כופר, but rather if it was done במויד, intentionally, he is put to death, and if it was, גלות unintentionally, he must go into גלות.

ולא ראי האדם שחייב בארבעה דברים

כראי השור שאין בו ארבעה דברים

אדם possesses a unique חומרא in that if he was חובל בחבירו, injured another person, in addition to גוק, paying for the damages, he must also reimburse four other losses:

The ניזק's pain;

ריפוי

The healing costs;

זורם

Lost wages, for when the ניזק was unable to work;

The ניזק's embarrassment;

However, if a שור injured a person, the owner pays only for but not for the other ב"ז.

And the later Mishnah repeats אדם, because למחשביה בהדי מועדין הוא דאתא

The Mishnah chose to list all the אבות that are considered מועדין.

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6 The Gemara cites a Braisa

תני רב אושעיא

שלשה עשר אבות נזיקין

There are אבות mentioned in the Torah:

The י", four groups of people who accepted an item for safekeeping;

שומר חנם, an unpaid custodian;

והשואל, a borrower:

נושא שכר. a paid custodian:

והשוכר, a renter:

A שומר חגם is liable only for

פשיעה

If the פקדון was stolen, lost, or damaged, due to his negligence in not properly safeguarding the פקדון;

A שומר שכר ושוכר are additionally liable for

גניבה ואבידה

If the פקדון was stolen or lost, even if he did safeguard it properly;

A שואל is additionally liable for

A הייק that occurred by accident or circumstances beyond his control.

The 5 claims for הובל בחבירו; if one person injured another; נזק צער וריפוי שבת ובושת

And the Mishnah's 4 אבות נזיקין השור הבור המבעה וההבער

הא חליחר

Which in all amount to 13 אבות נזיקין;

The Gemara explains that according to שמואל who holds מבעה זה שן מבעה זה שן

Our Mishnah did not also include the four שומרין and the five claims for חבלה. because

בנזקי ממון קמיירי

בנזקי גופו לא קמיירי

Our Mishnah mentioned only those אבות where his property caused the היזק, while the שומרים are considered to have personally caused the היזק, because they did not properly safeguard the item, and a חובל personally injured the other person.

While the Braisa did mention them because it refers to both

נזקי גופו וממונו.

According to The who holds

מבעה זה אדם

The Mishnah did not separately mention the four שומרין and the five claims for חבלה, because

תנא אדם

וכל מילי דאדם

All these אבות are included in מבעה, since they were all caused by a person.











B However, the Braisa did separately mention both, מבעה, and the five claims for חבלה, because

תני תרי גווני אדם

These are different categories of אדם;

The five claims refer to

אדם דאזיק אדם

A person who injured another person, in which משלם ארבעה דברים

He also pays for the four other claims.

While מבעה refers to

אדם דאזיק שור

A person who injured an animal, in which משלם נזק

The owner pays only for נזק but not for ד' דברים.

However, according to 27 The Braisa mentioned מבעה, and the Five claims of תבלה, because תני תרי גווני אדם These are different categories of אדם; The five claims refer to While מבעה refers to אדם דאזיק אדם אדם דאזיק שור A person who injured A person who injured another person, in which an animal, in which משלם די דברים משלם נזה He also pays for the four other claims. but not for דברים

And the Braisa did separately mention both מבעה, and the reven though they are both

אדם דאזיק שור

However they are still considered different categories in that

מבעה refers to

הזיקא דבידים

A person who actually injured the animal, while the ד' שומרין refers to

הזיקא דממילא

A person who only caused the injury, by not guarding the animal;

However, the Braisa did not separately mention both שור דאזיק שור

A שור who injured another שור, and

ושור דאזיק אדם

A שור who injured a person, because

אידי ואידי נזק הוא דמשלם

They are both the same in that the owner pays only for נזק but not for ד'דברים. And the Braisa did separately mention ד' שומרין, and the מבעה, and the אדם דאזיק שור אדם דאזיק שור However they are still considered different...

מבעה refers to

הזיקא דבידים

A person who actually injured the animal,

ד' שומרין refers to

הזיקא דממילא

A person who only caused the injury, by not guarding the animal;

However, the Braisa did not separately mention both

ושור דאזיק אדם Who injured

a person

שור דאזיק שור

A שור who injured another שור

אידי ואידי <u>נזק הוא דמשלם</u>

They are both the same - the owner pays only for בזק but not for דברים.



