

A ט"ד

Intro

Today we will learn בע"ה of דף לא בבא מציעא
Some of the topics we will learn about include.

אי זו היא אבידה
What defines an item as lost from its owner, so that the finder is obligated to take it and return it?

פרה רועין בדרך
אין זו אבידה
If a person finds a cow grazing alongside the road, it is not considered lost, because, as Rashi explains שמדעת הניחווה שם
It is obvious that the owner left it there intentionally.
However

פרה רצה בין הכרמים
הרי זו אבידה
If the cow was running in a vineyard between the grapevines where it can become bruised, it is considered lost, because it is obvious that the owner did not leave it there.

The Machlokes רבא and אביי regarding

רצה בדרך
If the cow was running on the road;
Or

ורועה בין הכרמים
If the cow was grazing in a vineyard;
Is it considered lost or not?

B The Mishnah's Halachah of

החזירה וברחה החזירה וברחה
אפילו ארבעה וחמשה פעמים
חייב להחזירה
If the finder returned the cow and it escaped again, he then returned it and it escaped again, even if this pattern repeated itself four to five times, the finder is still obligated to return it.

לא בעינן דעת בעלים
One may return the אבידה to a secure place in the owner's property even without the owner's knowledge.

The Mishnah's Halachah of

היה בטל מסלע
לא יאמר לו תן לי סלע
If the finder suffered the loss of his work worth one סלע while he was occupied with the אבידה, he cannot claim the complete סלע from the owner, because the אבידה was easier work. Rather

אלא נותן לו שכרו כפועל בטל
של אותה מלאכה דבטל מינה
He is paid only as being idle from his more difficult type of work and doing an easier type of work.

A

אי זו היא אבידה

פרה רועין בדרך
אין זו אבידה

פרה רצה בין הכרמים
הרי זו אבידה

Machlokes רבא and אביי regarding

רצה בדרך
ורועה בין הכרמים


B

החזירה וברחה
החזירה וברחה
אפילו ארבעה
וחמשה פעמים
חייב להחזירה

לא בעינן דעת בעלים

היה בטל מסלע
לא יאמר לו תן לי סלע

C However, if the finder would rather do hard work and earn the סלע than to do the easier work of אבידה; השבת
 אם יש שם בית דין מתנה בפני ב"ד
 If there is a Bais Din of three people at hand, he stipulates to them that he is only taking the אבידה on condition that the owner reimburses him completely for his loss of work.
 אם אין שם ב"ד בפני מי יתנה ש"ל קודם
 And if there is no Bais Din at hand, he is not obligated to take the אבידה.

C 
If the finder would rather do hard work and earn the סלע than to do the easier work of השבת אבידה

1 So let's review ...

Zugt Di Mishnah

אי זו היא אבידה

When is an object considered lost from its owner, so that the finder is obligated to take it and return it?

The Mishnah explains

מצא חמור או פרה רועין בדרך

אין זו אבידה

If a person finds a donkey or cow grazing alongside the road, they are not considered lost, because, as Rashi explains

שמדעת הניחוח שם

It is assumed that the owner intentionally left them there.

However, the Gemara qualifies as follows;

אי בלילותא

אפילו חדא שעתא נמי

הוי אבידה

If he saw the animal רועה בדרך during the night even once, it IS considered an אבידה, because people usually do not leave their animals out during the night.

אי ביממא

אפילו טובא נמי

לא הוי אבידה

If he saw the animal רועה בדרך during the day even many times, it is NOT considered an אבידה, because people do leave their animals out during the day.

דחזי לה בקדמתא ובחשכתא

If he saw the animal רועה בדרך early morning before daybreak or early evening after dark, it depends:

תלתא יומי

לא הוי אבידה

If it was only on three days, it is not considered an אבידה, because

אמרין איתרמוי אתרמי לה ונפקא

We assume that the owner might sometimes leave his animal out then;

טפי ודאי אבידה היא

If it was more than three days, the animal is considered an אבידה, because the owner certainly does not always leave his animal out then.

The Mishnah continues;

חמור וכליו הפוכין

פרה רצה בין הכרמים

הרי זו אבידה

A donkey with its equipment overturned or a cow running in a vineyard between the grapevines where it can become bruised, are considered lost and the finder must return them, because it is obvious that the owner did not leave them there.

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1

משנה

אי זו היא אבידה

When is an object considered lost from its owner, and the finder is obligated to take it and return it?

מצא חמור או פרה רועין בדרך
אין זו אבידה

If a person finds a donkey or cow grazing alongside the road, they are not considered lost,

שמדעת הניחוח שם

It is assumed that the owner left them there intentionally.

אי ביממא

אפילו טובא נמי
לא הוי אבידה

If he saw the animal רועה בדרך during the day even many times, it is not an אבידה, because people do leave their animals out during the day.

אי בלילותא

אפילו חדא שעתא נמי
הוי אבידה

If he saw the animal רועה בדרך during the night even once, it is considered an אבידה, because people usually do not leave their animals out during the night.

דחזי לה בקדמתא ובחשכתא

If he saw the animal רועה בדרך early morning before daybreak or early evening after dark, it depends:

טפי

ודאי אבידה היא

If it was more than three days, the animal is considered an אבידה, because the owner certainly does not always leave his animal out then.

תלתא יומי

לא הוי אבידה

If it was only three days, it is not considered an אבידה, because אמרין איתרמוי אתרמי לה ונפקא We assume that the owner might sometimes leave his animal out then;

משנה

חמור וכליו הפוכין
פרה רצה בין הכרמים
הרי זו אבידה

A donkey with its equipment overturned or a cow running between the grapevines, are considered lost and the finder must return them.

2 The Gemara asks that the Mishnah apparently contradicts itself:

In the רישא it states;
מצא חמור ופרה רועין בדרך
אין זו אבידה

This implies
רועין בדרך הוא
דלא הוה אבידה

Only if the cow was both, grazing, AND on the road, it is not considered an אבידה;
הא רצה בדרך
הויה אבידה

However, if the cow was running even on the road, it is considered a אבידה, because,
מתקלקלת בריצתה

While the cow is running it might trip and fall; AND
ורועה בין הכרמים
הויה אבידה

If the cow was in a vineyard, even grazing, it is considered a אבידה, because,
זמנין דמסתקבא
The cow might become bruised from the grapevines.

While in the סיפא it states;
פרה רצה בין הכרמים
הרי זו אבידה

This implies
רצה בין הכרמים
הוא דהויה אבידה

Only if the cow was both, running AND in the vineyard, it is considered an אבידה, because it is both מתקלקלת בריצתה AND מסתקבא. However,

הא רצה בדרך
אין זו אבידה

If the cow was on the road, even if it was running, it is not a אבידה, because,
דלא מסתקבא; AND
ורועה בין הכרמים

אין זו אבידה

If the cow was grazing, even in a vineyard, it is NOT considered a אבידה because
לא מתקלקלת בריצתה

2 **הלא**
מצא חמור ופרה רועין בדרך - אין זו אבידה

רועין בדרך הוא דלא הוה אבידה
Only if the cow was both, grazing, AND on the road, it is not considered an אבידה;

ורועה בין הכרמים הוא אבידה
If the cow was grazing in a vineyard, it is an אבידה, because - זמנין דמסתקבא -
The cow might become bruised from the grapevines.

הא רצה בדרך הוא אבידה
If the cow was running on the road, it is considered an אבידה, because - מתקלקלת בריצתה -
While the cow is running it might trip and fall;

סיפא
פרה רצה בין הכרמים - הרי זו אבידה

רצה בין הכרמים הוא דהויה אבידה
Only if the cow was both, running and in the vineyard, it is considered an אבידה, because it is both מתקבא and מתקלקלת בריצתה.

ורועה בין הכרמים אין זו אבידה
If the cow was grazing, even in a vineyard, it is not considered a אבידה because - לא מתקלקלת בריצתה -

הא רצה בדרך אין זו אבידה
If the cow was on the road, even if it was running, it is not a אבידה, because - דלא מסתקבא -

3 The Gemara offers two explanations:

1.
 רבי אביי says, in the רישא if the cow was רועה, grazing, it is not considered an אבידה regardless of its location, because אינה מתקלקלת
 And there is no concern for מסתקבא;
 And
 תנא רועה בדרך
 והוא הדין לרועה בין הכרמים
 Although the Mishnah mentioned only a road, the same applies in a vineyard.

While in the סיפא, if the cow was רצה, running, it is considered a אבידה regardless of its location, because מתקלקלת בריצתה
 And
 תנא רצה בין הכרמים
 והוא הדין לרצה בדרך
 Although the Mishnah mentioned only a vineyard, the same applies on a road.

2.
 רבא disagrees and says only רצה בין הכרמים is considered an אבידה because it is both מתקלקלת בריצתה AND מסתקבא;
 However, רצה alone and בין הכרמים are generally not considered an אבידה, because it is not both מתקלקלת בריצתה AND מסתקבא.

However, regarding רצה בדרך, running on the road, it depends;
 דאפה לגבי דברא
 הוי אבידה
 If the cow was running away from the city, it IS considered an אבידה, because it's apparently escaping its owner.
 However,
 דאפה לגבי מתא
 לא הוי אבידה
 If the cow was running toward the city, it is not a אבידה, because there is no concern for בריצתה alone.

And regarding רועה בין הכרמים it depends;
 באבידת קרקע
 הוי אבידה
 If the concern is also for the vineyard that belongs to a Jew, it is considered an אבידה, because the vineyard becomes ruined from the cow. However,
 באבידת גופה
 לא הוי אבידה
 If the concern was only for the cow but not for the vineyard, such as if the vineyard belongs to a non-Jew, it is not considered an אבידה, because there is no concern for מסתקבא alone.
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3

1

לגבי

In the רישא if the cow was רועה - Grazing it is not considered an אבידה regardless of its location, because

אינה מתקלקלת

There is no concern for מסתקבא;

תנא רועה בדרך
 והוא הדין לרועה בין הכרמים
 Although the Mishnah mentioned only a road, the same applies in a vineyard.

In the סיפא, if the cow was רצה - Running it is considered an אבידה regardless of its location, because

מתקלקלת בריצתה

תנא רצה בין הכרמים
 והוא הדין לרצה בדרך
 Although the Mishnah mentioned only a vineyard, the same applies on a road.

2

לגבי

רצה alone and בין הכרמים alone are generally not considered an אבידה, because it is not both מתקלקלת בריצתה and מסתקבא.

רצה בין הכרמים is considered an אבידה because it is both מתקלקלת בריצתה and מסתקבא;

רצה בדרך

Running on the road, it depends...

דאפה לגבי מתא
 לא הוי אבידה
 If the cow was running toward the city, it is not a אבידה, because there is no concern for בריצתה alone.

דאפה לגבי דברא
 הוי אבידה
 If the cow was running away from the city, it is considered an אבידה, because it is apparently escaping its owner.

רועה בין הכרמים

Running in the vineyard - it depends...

באבידת גופה
 לא הוי אבידה
 If the concern was only for the cow alone, where the vineyard belongs to a non-Jew, it is not considered an אבידה, because there is no concern for מסתקבא alone.

באבידת קרקע
 הוי אבידה
 If the concern is also for the vineyard that belongs to a Jew, it is considered an אבידה, because the vineyard becomes ruined from the cow.

4

The Mishnah continues:

החזירה וברחה החזירה וברחה
אפילו ארבעה וחמשה פעמים
חייב להחזירה

If the finder returned the cow and it escaped again, he then returned it and it escaped again, even if this pattern repeats itself four to five times, the finder is still obligated to return it, because the Pasuk states

השב תשיבם

As the Gemara explains;

The word השב alone implies

אפילו מאה פעמים משמע

the finder must return it.

And the word תשיבם teaches;

לגינתו ולחורבתו

He may return the item even to the owner's garden if it was secure; and

הא קא משמע לן

דלא בעינן דעת בעלים

The Pasuk comes to teach that one may return the אבידה even without the owner's knowledge.

The Gemara mentions twelve other instances where the Pasuk repeats the same word twice to teach various Halachos.

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4

משנה

החזירה וברחה - החזירה וברחה
אפילו ארבעה וחמשה פעמים
חייב להחזירה

If the finder returned the cow and it escaped again, he then returned it and it escaped again, even if this pattern repeats itself four to five times, the finder is still obligated to return it, because the Pasuk says...

השב תשיבם

אפילו מאה פעמים משמע

He may return the item even to the owner's garden if it was secure

אפילו מאה פעמים משמע

Even if the animal escaped one hundred times,

הא קא משמע לן
דלא בעינן דעת בעלים

The Pasuk comes to teach that one may return the אבידה even without the owner's knowledge.

5 The Mishnah continues

היה בטל מסלע
לא יאמר לו תן לי סלע

If the finder suffered the loss of his work worth one סלע while he was occupied with the אבידה, he cannot claim the complete סלע from the owner, because the אבידה was easier work. Rather

אלא נותן לו שכרו כפועל בטל
של אותה מלאכה דבטל מינה

As Rashi explains

כמה אדם רוצה ולפחות משכרו ליבטל ממלאכה זו כבידה
ולעסוק במלאכה קלה כזו

He is paid only as much as one who usually does this hard work would be willing to remain idle from his more difficult type of work and do an easier type of work such as השבת אבידה.

However, the Mishnah continues;

If the finder would rather do hard work and earn the סלע than to do the easier work of אבידה, it depends;

אם יש שם בית דין
מתנה בפני ב"ד

If there is a Bais Din of three people at hand, he stipulates to them that he is only taking the אבידה on condition that the owner reimburses him completely for his loss of work.

אם אין שם ב"ד בפני מי יתנה
שלו קודם

And if there is no Bais Din at hand, he is not obligated to take the אבידה.

5

היה בטל מסלע
לא יאמר לו תן לי סלע

If the finder suffered the loss of his work worth one סלע while he was occupied with the אבידה, he cannot claim the complete סלע from the owner, because the אבידה was easier work. Rather אלא נותן לו שכרו כפועל בטל של אותה מלאכה דבטל מינה

As Rashi explains

כמה אדם רוצה ולפחות משכרו ליבטל ממלאכה זו כבידה ולעסוק במלאכה קלה כזו

He is paid only as much as one who usually does this hard work, would be willing to remain idle from his more difficult type of work and do an easier type of work such as השבת אבידה.

However, the Mishnah continues;

If the finder would rather do hard work and earn the סלע than to do the easier work of אבידה, it depends;

אם אין שם ב"ד
בפני מי יתנה
שלו קודם

And if there is no Bais Din at hand, he is not obligated to take the אבידה.

אם יש שם בית דין
מתנה בפני ב"ד

If there is a Bais Din, he stipulates to them that he is only taking the אבידה on condition that the owner reimburses him completely for his loss of work.