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**TALMUDIC METHODOLOGY**

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## **DEFINING THE PARAMETERS OF *TZEROROT* DAMAGE**

One of the most intriguing forms of property damages is a scenario of indirect damage, otherwise known as *tzerorot*. Based upon a *Halakha Le-Moshe Mi-Sinai*, payment for this type of damage – which would typically classify as *regel* – is discounted to half payment (see [shiur #06](#) “Understanding the Category of *Regel*” for a definition of *regel*).

What is unclear is the “boundary” dividing classic *regel* from *tzerorot* half-payment situations. Direct bodily damages classify as classic *regel*, while damages caused by projectiles are considered to be in the category of *tzerorot*, but what is the **logical** difference between the two? Does classic *regel* only obtain in situations of **direct contact with the animal’s body** (or its appendages), while damages caused by direct acts without actual physical contact is classified as *tzerorot*? Or, is all action-based damage classified as *regel*, while the hurtling of projectiles is not considered the act of the animal and is thus defined as *tzerorot*?

To help determine the boundary, Rava draws a surprising analogy between the laws of property damages and the *halakhot* of *zav*-imparted *tuma*. Whatever level of interaction conveys *zav-tuma* would warrant full *regel* payment in a scenario of property damages; s whatever would **not** convey *zav-tuma* would only mandate half-payments of *tzerorot*. To illustrate the analogy, Rava provides a test case that would convey *zav tuma* and warrant full damage compensation: wagons drawn by a *zav* are comparable to wagons drawn by animals. Just as a *zav* can transfer *tuma* by pulling a person sitting on a wagon, an animal that pulls a wagon and thereby breaks items pays full damage. However, Rava asserts this analogy without defining the terms of *zav-tuma* “conveyance” and the reason for

the *tuma* in the wagon scenario. Thus, the precise definition of *regel* vs. *tzererot* remains unclear.

In truth, this question stems from two very different logics to understand the unique *tuma* conveyance of a *zav*. Along with *zava* and *metzora*, a *zav* conveys *tuma* through non-contact interactions. The most famous form of *tuma* transfer (and presumably the one Rava was evoking) is referred to as *tumat heset*. If a *zav* creates indirect contact through a held item, he conveys *tuma* to the object that the item touches. For example, if the *zav* touches someone with a rod, the person contacted by the rod becomes *tamei* even though **actual** physical contact with the *zav* did not occur.

Is *tumat heset* just an extended form of contact? From this perspective, the *tuma* of a *zav* is so unique that **any** indirect contact is considered **actual** contact, as if the held item is an **extension** of the *zav*. Indeed, the *gemara* in *Nidda* (43a) derives *tumat heset* from a phrase that describes actual **contact**, inviting the possibility that *heset* is merely a virtual form of contact. If this were true, Rava's analogy to property damages yields a situation in which only **direct** contact yields full *regel* payment. The comparison to *zav* merely allows creative expansions of animal and human bodies, extending the range of cases in which virtual/halakhic contact has occurred. The case of *zav* demonstrates that contact through a secondary held item is considered contact and qualifies as *regel* damage. Ultimately though full *regel* payments are a product of contact with the animal; in the absence of contact only half-payment *tzererot* is required.

A different logic to explain *tumat heset* of *zav* would yield a very different situation for property damages. Perhaps *tumat heset* does not constitute "virtual contact," but rather "affiliation" and "interaction." *Tuma* may be conveyed not only through contact (or virtual contact), but by **association**. By touching someone with a rod, a *zav* has directly applied pressure to the person, thereby creating interaction, which defines the "recipient" as *tamei*. If this were true, the application to *tzererot* would be quite different than our previous suggestion. Any **action** of the animal is considered *regel* and mandates full payment. Only secondary projectiles, which are not defined as *ma'aseh be-heimah* – can be considered half-damage *tzererot*.

To summarize, there are two very different images that emerge from the association between *tzerorot* and *zav*. According to the first version, **all damage** is *tzerorot* unless the damage involves **direct** bodily contact with the animal or its extensions; *heset* merely expands the possibility of body extensions. The second version asserts that **any exerted force** of a *zav* conveys *tuma*, and likewise any exerted animal force that creates breakage is considered classic *regel* and warrants full payments.

Apparent *nafka minot* would include scenarios in which direct pressure was applied by the animal, but no contact – classic or through bodily extensions-occurred. An animal drawing a wagon may be considered to be applying direct contact to the broken utensil since – through the logic of *tumat zav* – the wagon may be deemed an extension of the animal, and it directly contacts the item upon breakage. But if an animal depresses one side of a large plank, thereby jostling an item perched on the other end and causing it to break, would the situation be deemed classic *regel* or atypical *tzerorot*? If classic *regel* demands direct contact, either with the actual body or an extension, this would fail to meet the criteria and would default to *tzerorot*; the plank cannot be deemed an extension of the animal. If, however, **any** action or pressure causing breakage is classic *regel*, this scenario would qualify. In fact, the Meiri defines this situation as *regel*, while the Ra'avad deems it *tzerorot*, perhaps indicating that they debate this very issue about the *zav* – mapped boundary between *regel* and *tzerorot*.

An interesting statement in the Yerushalmi further amplifies this issue: If an animal steps on two dishes piled upon each other, the owner pays full *regel* compensation for the top item, but only partial *tzerorot* payment for the lower one. The lower item was clearly damaged by direct pressure and a direct **act** of damage of the animal. But since no direct contact causes the damage, the case is defined as *tzerorot* and not *regel*. It is apparent that the Me'iri would not endorse this position of the Yerushalmi.

A third example may surround the definition of damages caused by urination and defecation. Based on an apparent contradiction, some authorities (cited by the Ri Migash in a response quoted by the Shittah Mekubetzet in *Bava Kama* (19b)) assert a difference between urination-based damages, which would be deemed *regel*, and defecation damages, which would default to *tzerorot*.

Presumably, neither situation provides direct contact between the animal and the damaged item, yet this position defines damage from urination as “direct” enough to qualify as classic *regel*. Evidently, any **direct action** that causes damage qualifies as *regel*, even if no contact entails. Since urine is emitted in one stream, it can be considered the **direct** act of the animal (as opposed to defecation, which is emitted in spurts).