

Bechoros – Simanim

פרק ב – הלוקח עובר פרתו

דף יח – Daf 18

1. *Machlokes* which lamb the Kohen receives when it is unknown which was born first

In the Mishnah on the previous Daf, Rebbe Tarfon said that if two lambs appeared to be born simultaneously, הכהן – *the Kohen chooses for himself the better* of the two lambs. The Gemara explains that he assumes משמנין ביניהם – *the stronger one emerged first*, pushing past its weaker twin. Rebbe Akiva says – *we rule that the “fat” is between them*, i.e., the difference in value between the lambs. Rebbe Chiya bar Abba thought this means that the two parties divide the difference in value. However, Rebbe Yochanan proved that this cannot be, since Rebbe Akiva rules in the סיפא that הראיה עליו המוציא מחבירו – *the burden of proof is on the one attempting to collect*. Instead, Rebbe Yochanan says Rebbe Akiva holds the Kohen receives the כחושה – *the weaker* lamb. Accordingly, “משמנין” means שומן יהא ביניהם – *the “fat” is the point of contention between them*, and the owner tells the Kohen, אייתי ראיה דבור הוא ושקיל – *bring me proof that [the better lamb] is a bechor and take it*.

2. *Machlokes* whether the lamb kept by the owner is obligated in מתנות

The Mishnah taught, regarding the second lamb (which the owner keeps), וחייב במתנות – *[the owner] is obligated to* give the Kohanim’s *gifts* of זרוע לחיים וקיבה of this lamb. Rebbe Yose exempts the owner from מתנות. Rebbe Yochanan explains the reasoning of Rebbe Meir (the Tanna Kamma): – *because the Kohen challenges [the owner] from both sides* and says, “If the animal is actually the *bechor*, it is entirely mine, and if not, *they treated [the Kohen] who did not acquire [the bechor] like one who already acquired it*, and although it never came into his possession, כמאן – *give me the מתנות from it!*” Rebbe Yose holds עשו שאינו זוכה כזוכה – *they treated [the Kohen] who did not acquire [the bechor] like one who already acquired it*, and although it never came into his possession, כמאן – *it is considered as if it came into his possession* and he then sold it to a Yisroel in its blemished state in exchange for the (non-*bechor*) animal the Yisroel gave him. Thus, if the true *bechor* was given to the Yisroel, it was given as a sale, and is exempt from מתנות. [Accordingly, in the case of a single bechor, כהן, שאין חליפין בידו – *where there is no exchange in the Kohen’s hand*, Rebbe Yose would agree the owner must give the מתנות.]

3. *Machlokes* where one of the two lambs dies

The Mishnah taught that if one of the two lambs dies, Rebbe Tarfon says יחלוקו – *they divide* the remaining lamb’s value. Rebbe Ami said that Rebbe Tarfon must have retracted his original ruling, which assumes the stronger lamb is the *bechor*, and instead agrees that it is unknown which lamb was born first. Rebbe Akiva rules המוציא מחבירו עליו הראיה, and the owner keeps the remaining lamb. The Gemara ultimately explains their *machlokes* in a case where the Kohen is a shepherd in the owner’s חצר. Rebbe Tarfon holds the owner grants the Kohen the right to acquire *bechoros* with his *chatzer*, [בממוניה], – *for he is pleased that a mitzvah should be performed with his possessions*. Since the חצר is jointly shared, this case is akin to two people who deposited animals with a shepherd and one animal died, שמניח רועה ביניהם ומסתלק – *that the shepherd leaves the remaining animal between [the owners] and withdraws*; they then divide it between themselves. Rebbe Akiva holds that the owner does not grant the Kohen rights in the חצר, since he stands to lose by doing so. Thus, the case is akin to one who left his animal with someone who has his own animals; if one dies, we rule הראיה עליו המוציא מחבירו.

Siman – Chuppah (בן י"ח לחופה)

At the **chuppah**, where the Kohen Chosson intended to be *mekadesh* the kallah with a *bechor* he would be given from the weaker of twin lambs, and told the caterer he could serve the זרוע לחיים וקיבה that the owner was obligated to give him from the stronger lamb he kept, things went array when one of the lambs died and the owner took away the remaining one stating, “המוציא מחבירו עליו הראיה.”

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Chuppah



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3 things to remember

1. **Machlokes** which lamb the Kohen receives when it is unknown which was born first
2. **Machlokes** whether the lamb kept by the owner is obligated in תננות
3. **Machlokes** where one of the two lambs dies

