

Parallelism and Chiasmus

Examples of parallelism and chiasmus in the Mishnah will be taken from Chapters 1 and 8 of Bava Kamma. Read the chapters and think about the study questions at the end of this document.

M. Bava Kamma Chapter 8

(א) החובל בתברו חייב עליו משום חמשה דברים, בנזק, בצער, ברפוי, בשבת, ובבשת. בנזק פיצד. סמא את עינו, קטע את ידו, לשבר את רגלו, רואין אותו כאלו הוא עבד נמכר בשוק ושמין כמה היה יפה וכמה הוא יפה. צער, כנאו בשפוד או במסמר, ואפלו על צפרנו, מקום שאינו עושה חבורה, אומדין כמה אדם פיוצא בזה רוצה לטל להיות מצטער כה. רפוי, הכהו חייב לרפאותו. עלו בו צמחים, אם מחמת המכה, חייב. שלא מחמת המכה, פטור. חיתה ונסתרה, חיתה ונסתרה, חייב לרפאותו. חיתה כל צרפה, אינו חייב לרפאותו. שבת, רואין אותו כאלו הוא שומר קשואין, ששבר נתן לו דמי ידו ודמי רגלו. בשבת, הכל לפי המביש והמתביש. המביש את הערם, המביש את הסומא, והמביש את הישן, חייב. וישן שביש, פטור. נפל מן הגג, והזיק וביש, חייב על הנזק ופטור על הבשת, שנאמר: ושלחה ידה והחזיקה במבשיו (דברים כ"ה, יא) אינו חייב על הבשת עד שיהא מתכוון.

One who injures another is liable to pay compensation for that injury due to five types of indemnity: He must pay for damage, for pain, for medical costs, for loss of livelihood, and for humiliation.

How is payment for damage assessed? If one blinded another's eye, severed his hand, broke his leg, or caused any other injury, the court views the injured party as though he were a slave being sold in the slave market, and the court appraises how much he was worth before the injury and how much he is worth after the injury. The difference between these two sums is the amount that one must pay for causing damage.

How is payment for pain assessed? If one burned another with a skewer [beshapud] or with a hot nail, or even if one burned another on his fingernail, which is a place where he does not cause a bruise that would affect the victim's value on the slave market, the court evaluates how much money a person with a similar threshold for pain as the victim is willing to take in order to be made to suffer in this way. The one who burned the victim must then pay this amount.

How is payment for medical costs assessed? If one struck another, then he is liable to heal him by paying for his medical costs. In a case where growths, e.g., blisters or rashes, appeared on the injured party, if the growths are due to the blow, the one who struck him

is liable; if the growths are not due to the blow, the one who struck him is exempt. In a case where the wound healed, and then reopened, and again healed, and then reopened, the one who struck him remains liable to heal the injured party by paying for his medical costs, as it is apparent that the current wound resulted from the original injury. If the injury healed fully, the one who struck him is not liable to heal him by paying for any subsequent medical costs.

How is payment for loss of livelihood assessed? The court views the injured party as though he were a watchman of cucumbers, and the one who caused him injury must compensate him based on that pay scale for the income that he lost during his convalescence. This indemnity does not take into account the value of the standard wages of the injured party because the one who caused him injury already gave him compensation for his hand or compensation for his leg, and that compensation took into account his professional skills.

How is payment for humiliation assessed? It all depends on the stature of the one who humiliates the other and the one who is humiliated.

One who humiliates a naked person, or one who humiliates a blind person, or one who humiliates a sleeping person is liable, but a sleeping person who humiliates another is exempt. If one fell from the roof onto another person, and thereby caused him damage and humiliated him, then the one who fell is liable for the indemnity of damage, since a person is always considered forewarned, and exempt from the indemnity of humiliation, since a person is not liable for humiliation unless he intends to humiliate the other person.

(ב) זֶה הַמָּר בְּאָדָם מִבִּשּׁוּר, שֶׁהָאָדָם מְשַׁלֵּם נֶזֶק, צֵעַר, רַפּוּי, שְׁכֵת, וּבִשָּׁת, וּמְשַׁלֵּם דְּמֵי וְלָדוֹת, וְשׂוֹר אֵינוֹ מְשַׁלֵּם אֶלָּא נֶזֶק, וּפְטוּר מִדְּמֵי וְלָדוֹת.

This halakha is a stringency with regard to a person who caused injury, compared to the halakha with regard to an ox that caused injury: The halakha is that the person pays compensation for damage, pain, medical costs, loss of livelihood, and humiliation; and if he caused a woman to miscarry he also pays compensation for miscarried offspring, as the verse states (see Exodus 21:22). But in the case of an ox that caused injury, the owner pays only compensation for damage, and he is exempt from paying compensation for miscarried offspring.

(ג) הַמִּפְּהָ אֶת אָבִיו וְאֶת אִמּוֹ וְלֹא עָשָׂה בָהֶם חֲבוּרָה, וְחֹבֵל בְּחֵבְרוֹ בְּיוֹם הַכְּפוּרִים, חַיֵּב בְּכֶלֶן. הַחֹבֵל בְּעֶבֶד עֶבְרִי, חַיֵּב בְּכֶלֶן חוּץ מִן הַשְּׁכֵת, בְּזִמְנֵי שֶׁהוּא

שְׁלוֹ. הַחֹבֵל בְּעַבְדֵי כְּנַעֲנֵי שֶׁל אֲחֵרִים, חַיֵּב בְּכֶלֶן. רַבִּי יְהוּדָה אוֹמֵר, אֵין לְעַבְדִּים בִּשְׁתֵּי.

The mishna continues: One who strikes his father or his mother but did not cause them to have a bruise, and therefore is not liable to receive court-imposed capital punishment, and one who injures another on Yom Kippur, the punishment for which is not court-imposed capital punishment, is liable to pay for all of the five types of indemnity.

One who injures a Hebrew slave is liable to pay for all of the five types of indemnity. This is except for compensation for loss of livelihood suffered during the time that the injured slave belongs to the one that injured him. Since the right to the slave's labor belongs to his master, his inability to work is his master's loss. One who injures a Canaanite slave belonging to others is liable to pay for all of the five types of indemnity. Rabbi Yehuda says: Canaanite slaves do not have humiliation, so the one who injures the slave pays only the other four types of indemnity.

(ד) חֵרֶשׁ, שׁוֹטֵה וְקֵטָן, פְּגִיעַתָּן רָעָה. הַחֹבֵל בְּהֵן חַיֵּב, וְהֵם שֹׁחֲבָלוּ בְּאֲחֵרִים פְּטוּרִין. הָעֶבֶד וְהָאִשָּׁה, פְּגִיעַתָּן רָעָה. הַחֹבֵל בְּהֵן חַיֵּב, וְהֵם שֹׁחֲבָלוּ בְּאֲחֵרִים, פְּטוּרִין, אֲבָל מִשְׁלָמִין לְאַחַר זְמַן. גַּתְּגַרְשָׁה הָאִשָּׁה, נִשְׁתַּחֲרַר הָעֶבֶד, חַיֵּבִין לְשָׁלֵם.

The mishna continues: With regard to a deaf-mute, an imbecile, or a minor, an encounter with them is disadvantageous. In other words, no favorable outcome is possible for someone involved in an incident with one of these people, since one who injures them is liable. But if they were the ones who injured others, they are exempt. This is because they lack awareness and are not responsible for their actions.

Similarly, with regard to a slave and a married woman, an encounter with them is disadvantageous, since one who injures them is liable. But if they were the ones who injured others, they are exempt, because they do not have money with which to pay compensation. But they pay compensation at a later time. The exemption is only temporary, as, if the woman becomes divorced or the slave becomes emancipated, and they then have their own money, they are liable to pay compensation.

(ה) הַמֶּכָּה אָבִיו וְאִמּוֹ וְעָשָׂה בְּהֵן חַבּוּרָה, וְהַחֹבֵל בְּחֵבְרוֹ בְּשַׁבָּת, פְּטוּר מִכֶּלֶן, מִפְּנֵי שֶׁהוּא נִדּוֹן בְּנַפְשׁוֹ. וְהַחֹבֵל בְּעַבְדֵי כְּנַעֲנֵי שֶׁלוֹ, פְּטוּר מִכֶּלֶן.

The mishna continues: One who strikes his father or his mother and causes them to have a bruise, or one who injures another on Shabbat, is exempt from paying all of the five types of indemnity, because he is judged with losing his life. The court imposes capital punishment for these acts, so there is no additional monetary punishment.

And one who injures his own Canaanite slave is exempt from paying all of the five types of indemnity, because his slave is his property.

(ו) התוקע לחברו, נותן לו סלע. רבי יהודה אומר משום רבי יוסי הגלילי, מנה. סטרו, נותן לו מאתים זוז. לאחר ידו, נותן לו ארבע מאות זוז. צרם באזנו, תלש בשערו, רקק והגיע בו רקו, העביר טליתו ממנו, פרע ראש האשה בשוק, נותן ארבע מאות זוז. זה הפלל הפל לפי כבודו. אומר רבי עקיבא, אפילו עניים שבישראל, רואין אותם כאלו הם בני חורין שיירדו מנכסיהם, שיהם בני אברהם, יצחק ויעקב. ומעשה באחד שפרע ראש האשה בשוק, באת לפני רבי עקיבא, וחיבו לתן לה ארבע מאות זוז. אומר לו רבי, תן לי זמן. ונתן לו זמן. שמרה עומדת על פתח חצרה ושבר את הפד בפניה, ובו כאסר שמן. גלתה את ראשה, והיתה מטפחת ומנחת ידה על ראשה. העמיד עליה עדים, ובא לפני רבי עקיבא. אומר לו, רבי, לזו אני נותן ארבע מאות זוז. אומר לו, לא אמרת כלום. החובל בעצמו, אף על פי שאינו רשאי, פטור. אחרים שחבלו בו, חיבין. והקוצץ נטיעותיו, אף על פי שאינו רשאי, פטור. אחרים שקצצו את נטיעותיו, חיבים.

One who strikes another must give him a sela. Rabbi Yehuda says in the name of Rabbi Yosei HaGelili that he must give him one hundred dinars. If he slapped another on the cheek, he must give him two hundred dinars. If he slapped him on the cheek with the back of his hand, which is more degrading than a slap with the palm, he must give him four hundred dinars.

If he pulled his ear, or pulled out his hair, or spat at him and his spittle reached him, or if he removed the other's cloak from him, or if he uncovered the head of a woman in the marketplace, in all of these cases, he must give the injured party four hundred dinars. This is the principle of assessing payment for humiliation caused to another: It is all evaluated in accordance with the honor of the one who was humiliated, as the Gemara will explain. Rabbi Akiva said: Even with regard to the poor among the Jewish people, they are viewed as though they were freemen who lost their property and were impoverished. And their humiliation is calculated according to this status, as they are the children of Abraham, Isaac, and Jacob, and are all of prominent lineage.

The mishna relates: And an incident occurred involving one who uncovered the head of a woman in the marketplace, and the woman came before Rabbi Akiva to request that he render the assailant liable to pay for the humiliation that she suffered, and Rabbi Akiva rendered the assailant liable to give her four hundred dinars. The man said to Rabbi Akiva: My teacher, give me time to pay the penalty, and Rabbi Akiva gave him time.

The man then waited for her until she was standing by the opening of her courtyard, and he broke a jug in front of her, and there was the value

of about an issar of oil inside the jug. The woman then exposed her own head and she was wetting [metapahat] her hand in the oil, and placing her hand on her head to make use of the oil.

The man set up witnesses to observe her actions, and he came before Rabbi Akiva, and he said to him: Will I give four hundred dinars to this woman for having uncovered her head? By uncovering her head for a minimal benefit, she has demonstrated that this does not cause her humiliation.

Rabbi Akiva said to him: You did not say anything, i.e., this claim will not exempt you. One who injures himself, although it is not permitted for him to do so, is nevertheless exempt from any sort of penalty, but others who injured him are liable to pay him. In this case as well, the man was liable to compensate the woman for shaming her, despite the fact that she did the same to herself. Similarly, one who cuts down his own saplings, although it is not permitted for him to do so, as this violates the prohibition of: “You shall not destroy” (see Deuteronomy 20:19), is exempt from any penalty, but others who cut down his saplings are liable to pay him.

(ז) אף על פי שהוא נותן לו, אין נמחל לו עד שִׁיבְקֵשׁ מִמֶּנּוּ, שְׁנֵאמַר: וְעַתָּה הֵשֵׁב אִשְׁתְּךָ וְגו' (בראשית כ"ז). וּמִיָּזוּן שֶׁלֹּא יִהְיֶה הַמּוֹחֵל אַכְזָרִי, שְׁנֵאמַר: וַיִּתְפַּלֵּל אַבְרָהָם אֶל הָאֱלֹהִים וַיִּרְפָּא אֱלֹהִים אֶת אַבְיִמֶלֶךְ וְגו' (בראשית כ"יז). הָאוֹמֵר סָמָא אֶת עֵינָי, קָטַע אֶת יָדֵי, שָׁבַר אֶת רַגְלֵי, חִיָּב. עַל מְנַת לְפֹטֵר, חִיָּב. קָרַע אֶת כְּסוּתֵי, שָׁבַר אֶת פְּדֵי, חִיָּב. עַל מְנַת לְפֹטֵר, פְּטוּר. עָשָׂה כֵּן לְאִישׁ פְּלוֹנִי, עַל מְנַת לְפֹטֵר, חִיָּב, בֵּין בְּגוּפוֹ בֵּין בְּמִמוֹנּוֹ.

Despite the fact that the assailant who caused damage gives to the victim all of the required payments for the injury, his transgression is not forgiven for him in the heavenly court until he requests forgiveness from the victim, as it is stated that God told Abimelech after he had taken Sarah from Abraham: “Now therefore restore the wife of the man; for he is a prophet, and he shall pray for you, and you shall live” (Genesis 20:7). And from where is it derived that if the victim does not forgive him that he is cruel? As it is stated: “And Abraham prayed to God; and God healed Abimelech, and his wife, and his maidservants; and they bore children” (Genesis 20:17).

The mishna continues: With regard to one who says to another: Blind my eye, or: cut off my hand, or: break my leg, and he does so, the one who performed these actions is liable to pay for the damage, despite having been instructed to do so. Even if he explicitly instructed him: Do so on the condition that you will be exempt from payment, he is nevertheless liable.

With regard to one who says to another: Tear my garment, or: break my

jug, and he does so, he is liable to pay for the damage. But if he instructed him explicitly: Do so on the condition that you will be exempt from payment, he is exempt from payment. If one says to another: Do so, i.e., cause damage, to so-and-so on the condition that you will be exempt from payment, and he did so, he is liable, whether the instructions were with regard to the victim himself, or whether the instructions were with regard to his property.

(א) אַרְבַּעָה אַבּוֹת נִזְקִין, הַשּׁוֹר וְהַבּוֹר וְהַמְבַּעָה וְהַקְּבֵיעַר. לֹא הָרִי הַשּׁוֹר כְּהָרִי הַמְבַּעָה, וְלֹא הָרִי הַמְבַּעָה כְּהָרִי הַשּׁוֹר. וְלֹא זֶה וְזֶה, שְׂיֵשׁ בְּהֵן רוּחַ חַיִּים, כְּהָרִי הָאֵשׁ, שְׂאִין בּוֹ רוּחַ חַיִּים. וְלֹא זֶה וְזֶה, שְׂדֵרְכָן לִילָף וְלִהְזִיק, כְּהָרִי הַבּוֹר, שְׂאִין דְּרָכּוֹ לִילָף וְלִהְזִיק. הַצַּד הַשְּׂוֶה שְׂבָהֶן, שְׂדֵרְכָן לְהִזִּיק וְשְׂמִירְתּוֹ עָלֶיהָ. וְכִשְׁהִזִּיק, חָב הַמְזִיק לְשַׁלֵּם תְּשֻׁלוּמֵי נֹזֶק בְּמִיטֵב הָאָרֶץ.

There are **four primary categories of damage**: The category of **Ox**; **and the** category of **Pit**; **and the** category of *Maveh*, which, based on a discussion in the Gemara refers either to the tooth of an animal that causes damage or to a person who causes damage; **and the** category of **Fire**.

Each of these categories is unique; therefore, the *halakhot* of one cannot be derived from another. The defining characteristic of **the** primary category of **Ox is not similar to** the defining characteristic of **the** primary category of *Maveh*, **and** the defining characteristic of **the** primary category of *Maveh* **is not similar to** the defining characteristic of **the** primary category of **Ox**. **And** the defining characteristics of **this** category of Ox **and that** category of *Maveh*, **in which there is a living spirit** that causes damage, **are not similar to** the defining characteristic of **the** category of **Fire**, **in which there is no living spirit**.

The mishna continues: **And** the defining characteristics of **this** primary category of Ox and *Maveh* **and that** primary category of Fire, **in which** the **typical manner** of their components is **to proceed** from one place to another **and** cause **damage**, **are not similar to** the defining characteristic of **the** primary category of **Pit**, **in which** the **typical manner** of its components is **not to proceed** from one place to another **and** cause **damage**; rather, it remains in place and the damage is caused by the injured party proceeding and encountering the obstacle.

The common denominator of the components in all of **these** primary categories is **that** it is **their typical manner to cause damage**, **and** the responsibility for **their safeguarding** to prevent them from causing damage is incumbent **upon you**, the owner of the animal or generator of the fire or the pit. **And when** a component of any of these categories **causes damage**, **the** owner or generator of the component that **caused** the **damage is obligated to pay** restitution for **damage with best-quality land**.

(ב) כָּל שְׁחָבְתִי בְשִׁמְרָתוֹ, הִכְשַׁרְתִּי אֶת נֹזֵקוֹ. הִכְשַׁרְתִּי בְּמִקְצֵת נֹזֵקוֹ, חֲבָתִי בְּתַשְׁלוּמֵינִי כִּהְכַשֵּׁר כָּל נֹזֵקוֹ. נֹכְסִים שָׂאִין בָּהֶם מְעִילָה, נֹכְסִים שָׁל בְּנֵי בְרִית, נֹכְסִים הַמְיַחֲדִים, וּבְכֹל מְקוֹם חוּץ מִרְשׁוֹת הַמְיַחֲדֵת לַמַּזִּיק וּרְשׁוֹת הַנֹּזֵק וְהַמַּזִּיק. וּכְשֶׁהַזִּיק, חָב הַמַּזִּיק לְשַׁלֵּם תַּשְׁלוּמֵי נֹזֵק בְּמִיטֵב הָאָרֶץ.

With regard to **anything** for **which** I became responsible for **safeguarding it** to prevent it from causing damage, if it in fact causes damage, it is considered as if I actively **facilitated that damage**, and accordingly I must pay for it. In any case in which I **facilitated part of the damage it caused, I am liable for payments** of restitution for **damage it caused, as if I were the one who facilitated the entire damage it caused.**

One is liable only with regard to damage caused to **property for which**, were he to use it for a non-sacred purpose, he **would not be liable for the misuse** of consecrated property; with regard to damage caused to **property that belongs to members of the covenant**, i.e., Jews; and with regard to **assigned property**, the meaning of which the Gemara will explain.

And one is liable for damage caused in any place except for a domain designated exclusively for the use of the one responsible for the damage.

And one is liable for damage caused in a domain designated for the joint use of the injured party and the one liable for the damage.

When an animal or item one is responsible to safeguard causes damage, the one liable for the damage caused by insufficiently safeguarding **it is obligated to pay payments** of restitution for **damage with his best-quality land.**

(ג) נְשׂוּם כֶּסֶף, וְשׂוּהָ כֶּסֶף, בְּפָנֵי בֵּית דִּין, וְעַל פִּי עֵדִים בְּנֵי חוּרִין בְּנֵי בְרִית. וְהַנְּשִׂים בְּכֹל הַנֹּזֵק. וְהַנֹּזֵק וְהַמַּזִּיק בְּתַשְׁלוּמֵינִי.

The determination of payment of damages is made by **monetary appraisal**. One pays with items **worth money**. This *halakha* applies **before a court**. And it is **based upon** the testimony of **witnesses** who are **free men**, i.e., men who are not Canaanite slaves, and who are **members of the covenant**, i.e., Jews. **And women are included in the halakhot of damages** in the same way as men. **And both the injured party and the one liable for the damage** are involved in the **payment**. The Gemara will explicate each of these principles.

(ד) חמשה תמין וחמשה מועדין, הבהמה אינה מועדת לא לגח ולא לגח ולא לשוף ולא לרביץ ולא לבעט. השן מועדת לאכל את הראוי לה, הרגל מועדת לשפר בדרך הלוחה, ושור המועד, ושור המזיק ברשות הנזק, והאדם. הזאב והארי והדב והנמר והברדלס והנחש, הרי אלו מועדין. רבי אליעזר אומר, בזמן שהן בני תרבות, אינן מועדין. והנחש מועד לעולם. מה בין תם למועד. אלא שהתם משלם חצי נזק מגופו, ומועד משלם נזק שלם מן העליה.

There are **five** damage-causing acts that an animal can perform twice and remain **innocuous** even when its owner was warned each time to prevent it from doing so. After the third time, the animal is rendered forewarned. In such cases, the owner is liable to pay only half of the damages. **And** there are **five** damage-causing acts for which an animal is considered **forewarned**, at times even if it had never caused damage in that manner. In such cases the owner is liable to pay the full cost of the damage.

An animal is not considered **forewarned** with regard to Goring, i.e., **not for goring** with its horns, **nor for pushing** with its body, **nor for biting, nor for crouching** upon items in order to damage them, **nor for kicking**. In these cases the animal is considered to be innocuous and its owner is liable for only half of the damages.

Concerning acts of damage performed with **the tooth**, the animal is considered **forewarned with regard to eating that which is fitting for it** to eat. Concerning acts of damage performed with **the foot**, the animal is considered **forewarned with regard to breaking** items **while walking**. **And** there is a **forewarned ox**, which gored three times and each time his owner was warned to safeguard his ox from doing so. **And** there is an **ox that causes damage** to the property of the injured party while **on the property of the injured party**. **And** there is **the person**, i.e., any damage done by a person. In all of these cases the one who caused the damage is considered to be forewarned, resulting in the obligation to pay the full cost of the damage.

The mishna presents the *halakha* for wild animals: **The wolf; the lion; the bear; the leopard; the bardelas**, the meaning of which the Gemara will discuss; **and the snake**. **These are** considered **forewarned** even if they had never previously caused damage. **Rabbi Elazar says: When these animals are domesticated they are not considered forewarned. But the snake is always considered forewarned.**

What is the difference **between** the liability incurred for damage caused by an ox that is considered **innocuous** and the liability incurred

for damage caused by an ox that is **forewarned?**

The **only** differences are **that** for damage caused by **an innocuous** ox, the owner **pays half** the cost of the **damage** exclusively **from** proceeds of the sale of **the body** of the ox, **and** for a **forewarned** ox **he pays the full** cost of the **damage from** his **higher** property.

Study Questions

1. We will examine how the five payments for physical injury listed in Bava Kamma 8:1 are arranged. Think about the following:
 - a. Which of the five differs from the others in terms of its formulation and presentation?
 - b. What connections or internal parallels can you detect among these payments?
2. Next we will examine the structure of Bava Kamma Chapter 1 – what connections or internal parallels can you detect in this chapter?
 - a. Which of the four "avot nezikin" listed in m. 1 are presented in m. 4, and how is the presentation different in the two mishnayot?
 - b. What is the relationship between the laws listed in m. 2 and those listed in m. 3?
3. Time permitting, we will examine the structure of Bava Kamma Chapter 8 – what connections or internal parallels can you detect in this chapter?