

From the Rabbi's Desk
Rabbi Manes Kogan

Hillcrest Jewish Center
183-02 Union Turnpike, Flushing, NY 11366
rabbikogan@hillcrestjc.org

Stories with a Twist

[66]

Will I Give Four Hundred Dinars to This?

Insights into Mishna Bava Kamma 8: 6

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Background to Our Story

Laws of Damages in Jewish Law



[http://en.wikipedia.org/wiki/Damages_\(Jewish_law\)](http://en.wikipedia.org/wiki/Damages_(Jewish_law))

In cases of injury to a person, Talmudic law identifies five categories of damages:

1. damage proper (*nezek*);
2. pain; (*tza'ar*)
3. stoppage of work;
4. cost of cure; (*ripui*) and
5. shame (*boshet*)

In dealing with these categories, the Gemara (BQ 83b et seq.) first discusses why the literal rule of eye for eye must yield to the more humane law of compensatory damages in money. Since the interpretation of "eye for eye" is established as monetary compensation, there is no reason for them to doubt that "bruise for bruise" means money for the pain suffered and does not mean the infliction of like pain. The separate elements of liability are:

Damage Proper (Nezek) and its Appraisal

How much should a person be compensated for injuries? The Mishnah says the damage is appraised by calculating the different of two values: how much the person injured would have been worth as a slave in the market before the infliction of the injury and how much the injured party is worth after it. This difference represents the liability for damage proper (*nezek*). But if the result of the injury has been to render its victim deaf, he is considered worth nothing whatever, and the damage is accordingly equal to the whole of his former value.

Pain

Pain, "as when he has singed him with a spit or spike, even on his finger-nail, where no mark is left." Here the question arises, should the judges ask themselves (a) how much money would "such a man"—that is, one as strong or as delicate as the injured man—be willing to take to submit to the pain, or rather (b) how much would he be willing to pay to forego the pain? The former measure, though named in the Mishnah, is in the Gemara deemed inadmissible; for many people would not take all the money in the world and willingly submit to the pain: the latter measure is held to be more reasonable. Where the pain is incident to a mutilation, the judges should say: "Suppose the wounded man to have been sentenced to have his hand cut off, how much would he be willing to pay to have it taken off under the influence of a drug [an anesthetic], rather than have it rudely hacked off; and this amount would serve to represent the damage" (Bava Kamma 85a).

Stoppage of Work

The Mishnah allows to the injured man his wages only as a "watcher of cucumbers"—that is, such wages as he can earn in his disabled condition—"because he has already been paid the value of his eye or the value of his hand"; for the action might be brought at once when the injury was done, and the judges would estimate the loss of time beforehand. This estimate should be paid in full, though the injured man should recover sooner than was expected (Bava Kamma 85b).

An example is put, where violence may bring about stoppage of work alone, without mutilation or pain or need for cure: it is in the case of unlawful imprisonment (ib.).

Cost of Cure

Talmudic law provided for a kind of health cost coverage; a liability imposed on whomever causes injury.

As the Scripture says, he "shall cause him to be thoroughly healed" (Exodus 21:19), the inference is that the guilty party shall pay for the services of a physician. He may not offer his own services, no matter what his skill may be; nor can he avoid the outlay of money by finding a physician that will do the healing work free of charge. Should ulcers arise in consequence of a wound, the cost of healing such ulcers also falls on the assailant; but if ulcers arise from other causes—for instance, because the wounded man disregards the orders of his physician—the cost of healing these is not to be assessed. The wound may disappear and break out again and again: the cost of cure will still rest on the assailant; but if it is fully healed (literally, "to its full need"), the liability comes to an end (Mishna Bava Kamma 8:1). The cost of cure may exist without any of the other elements of damage; for instance, where one has forcibly thrown chemicals upon another, giving to his skin the whiteness of leprosy, it is his duty to pay the cost of having the skin restored to a healthy color (Bava Kamma 85b).

Shame or Humiliation

For the sages, it was deemed of utmost importance to avoid shaming another person. Hence, they sought to impose liability for humiliating personal injury, regardless of the physical effects of the injury.

Here it is impossible to lay down hard and fast rules; for, as the Mishnah says, "it all depends on who is put to shame and who it is that puts him to shame." But for certain acts of violence that involve very little pain and no permanent disablement, but mainly disgrace, the

sages fixed a scale of compensation, namely: for a stroke with the fist, one sela or shekel (nominally 60 cents); for a slap with the open hand, two hundred zuzin (1 zuz = 15 cents); for a back-handed slap, or for pulling a man's ear or hair, or tearing off his cloak or a woman's headgear, or spitting at a person if the spittle reaches his flesh, four hundred zuzin (\$60 nominal) (Mishna Bava Kamma 8:6). A kick with the knee costs three selas; with the foot five selas; a stroke with an ass' saddle thirteen (Bava Kamma 27b, see Rashi.). According to Maimonides (Yad ha-Ḥazaqah, Ḥobel u-Mazziq, 3: 8-10), each slap, kick, or stroke counts separately. But he also says (following Bava Kamma 36b) that these sums are not meant for the full-weight or Tyrian coins, but for the "country currency," worth only one-eighth of the Tyrian.

These liquidated damages cover only pain and shame: if sickness ensue, stoppage and cure have to be paid for separately.

Rabbi Akiva



Koren Talmud Bavli, The Noe Edition. Kiddushin. Koren publishers Jerusalem. 459.

Rabbi Akiva ben Yosef was one of the greatest of the *tanna'im*. He lived from just after the destruction of the Second Temple until the bar Kokheva revolt. According to legend, Rabbi Akiva began his studies at the age of forty, when Raḥel, the daughter of the wealthy Kalba Savua, consented to marry him on condition that he would study Torah.

Rabbi Akiva became the student of Rabbi Eliezer ben Hyrcanus and Rabbi Yehoshua ben Ḥananya. Ultimately, he became a prominent Torah scholar with twenty-four thousand students. Among Rabbi Akiva's first students were Shimon ben Azzai and Shimon ben Zoma, with whom he entered the orchard (see *Ḥagiga* 14b), i.e., engaged in the study of esoteric elements of the Torah.

Subsequently, Rabbi Meir and Rabbi Shimon bar Yoḥai, among others, became his students. He was a staunch supporter of bar Kokheva's revolt against Rome and even declared him the Messiah. During the period of the Roman emperor Hadrian's decrees, Torah study was prohibited, but Rabbi Akiva continued convening assemblies and teaching Torah. Ultimately, he was apprehended and executed, and he is one of the ten martyrs whose execution is described in liturgy.

Rabbi Akiva collected early rabbinic statements and began organizing the material of the Oral Torah. The Mishna, redacted by Rabbi Yehuda HaNasi and his disciples, is based on his work.

Hair Covering in Jewish Law

The law (Talmud) Ketubot 72a, Shulchan Aruch, Orach Chaim, 75:2) is based on Numbers 5:18, where it is stated that the kohen "reveals the hair of the [Sotah] woman." This is a clear indication that women have always covered their hair.

So why don't women cover their hair before marriage?

1. The verse in Numbers is referring to a (sotah) married woman. Therefore, only married women are bound by this rule.
2. Practically, women's hair is considered to be sensuous. Once a woman is married, she reserves her sensuous side for her husband. Additionally, once a woman is married, she must make a special effort not to "advertise" herself, for the results of a married woman's

illegitimate relationship are much more disastrous than if a single girl were to make the same mistake.

Halacha (Jewish law) requires married women to cover their hair; Maimonides calls this requirement *Dat Moshe* (the law of Moses). The most common hair coverings in the Haredi community are the snood, the tichel (scarf), and the sheitel (wig); some Haredi women cover their hair with hats or berets. Observance of this law is not universal among Modern Orthodox women, but even in this sector virtually all cover their hair in synagogue. The most common hair covering for Modern Orthodox women is a hat or beret; younger women often wear baseball caps and bandannas when dressed casually, and some wear bright, and colorful scarves tied in a number of ways. A style of half wig known as a "fall" has become increasingly common in many segments of Modern and Haredi Orthodox communities. It is usually worn either with a hat or headband.

Coin System from the Talmud (Not so simple)

- 1 Perutah = 1/2 barley kernel
- 1 Issar = 8 Perutahs = 4 barley kernels
- 1 Me'ah/Gayrah = 2 Pundyonin. = 16 barley kernels
- 1 Dinar (also called Zuz) 6 Me'ain = 192 Perutahs = 96 barley Kernels
- 1 Sela (Talmudic Shekel) = 4 Dinarin = 384 barley kernels (weight).

- 1 Dinar Zahav (Gold Dinar) = 25 dinarim
- 1 Maneh = 4 Dinar Zahavim
- 1 Maneh Shel Kodesh = 2 Manehim
- 1 Kikar (talent) = 60 Maneh Shel Kodesh
- 1 Kikar shel Kodesh = 2 Kikarin

Fragrant Oil



Issar

A copper coin 1/24 of a dinar (zuz). Dinar (pl. dinarim), a silver coin.

The Text: Mishna Bava Kamma 8:6

ומעשה באחד שפרע ראש האשה בשוק, באת לפני רבי עקיבא, וחיבו לויתן לה ארבע מאות זוז. אמר לו: רבי, תן לי זמן, ונתן לו זמן. שמרה עומדת על פתח חצרה, ושבר את הפד בפניה ובו כאיסר שמן, גילתה את ראשה והיתה מטפחת ומנחת ידה על ראשה, העמיד עליה עדים ובא לפני רבי עקיבא, אמר לו: לזו אני נותן ארבע מאות זוז? אמר לו: לא אמרת כלום, החובל בעצמו אף על פי שאינו רשאי – פטור, אחרים שחבלו בו – חיבים.

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 [*metapaḥat*] 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? 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.



Explaining the Story - What is going on in our story? (Explain the sequence of events)


Comprehension and Analysis Questions


Extra Bonus  Why did the man uncover the head of the woman in the marketplace?

Answer 1 _____

Answer 2 _____

Answer 3 _____

 Why did the woman come to Rabbi Akiva?

 Why did Rabbi Akiva rule that the man must give the woman 400 dinars?

? Why did the man ask for time from Rabbi Akiva?

Answer 1 _____

Answer 2 _____

? Why did Rabbi Akiva grant the man his request?

? What did the man want to prove by breaking a jug containing an issar worth of oil before the woman?

Extra Bonus ? What prompted the woman to expose her head?

Answer 1 _____

Answer 2 _____

Answer 3 _____

? Why did the man bring witnesses with him?

? What did the man mean by “Will I give four hundred dinars to this?!”

Bonus ? Why did Rabbi Akiva dismiss the man’s claim?

Answer 1 _____

Answer 2 _____

“The Twist” – Or the Lessons We Can Learn from the Text

! The poor behavior (or low standards) of others doesn’t justify yours!



The context of our story is the discussion of the Mishna on the laws of damages, including payment for humiliation. In our story, we encounter a man who uncovers a woman’s head in public. The woman went to Rabbi Akiva and was awarded a settlement of 400 dinars. The man, not wanting to pay the woman, set a trap for her and brought witnesses who testified how she, willingly, uncovered her head in public.

Rabbi Akiva dismissed the claim of the man, forcing him to pay the 400 dinars, reminding him and all of us, that the poor behavior and low standards of others doesn’t excuse ours.