

However, if a person tied it he is liable

אבל קשרו אדם חייב –

OVERVIEW

The משנה taught that if a תרנגול damaged through a דליל¹ which was tied to its feet, the בעל התרנגול pays a חצי נזק. On this הונא commented that he pays a ח"נ only if it got entangled by itself; however if a person tied it to the feet of the תרנגול, the בעל התרנגול is liable [to pay a שלם]. Our תוספות clarifies this ruling.

פירוש² בתר דנייה ומשום בור³ -

The explanation of אבל קשרו אדם חייב is limited to a case where it damaged **after it came to a rest**, and a person (or an animal) tripped over it, and the owner of the דליל is liable **on account** that this דליל is considered his בור.

ולאו דוקא קשרו⁴ אלא כל היכא דלא אצנעיה כקשרו דמי -

And this rule that the בעל הדליל is חייב **is not necessarily only when he tied it, but rather in any event where the owner of the דליל did not conceal** the דליל properly, it is **as if he tied it** on the תרנגול and he is חייב a נ"ש.

כדקאמר אי דלא אצנעיה פושע הוא:

As the גמרא stated when discussing the ruling of רב הונא (that חייב he is נקשר מאליו); **'if he did not hide the דליל, he is negligent'**! And he should be liable for a נ"ש. The גמרא clearly states that for not properly storing the דליל the owner is חייב a נ"ש, even though he did not actually tie it on the תרנגול.

SUMMARY

The דליל damaged after it came to rest, and the owner of the דליל is liable if he did not store it properly.

THINKING IT OVER

1. What is the connection⁵ between the beginning of תוספות (that it is בתר דנייה

¹ See רש"י in the ד"ה דליל (יז,א) that 'anything which gets tied (entangled) on the foot of a chicken is called a דליל' (i.e. a string).

² The term פירוש (as in most places) comes to reject other explanations. It does not mean that the תרנגול damaged by flinging the דליל, or that the תרנגול damaged with the דליל while it was moving, for in those two cases the payment would be shared by the בעל התרנגול and the בעל הדליל [see later וכי ד"ה]; and the expression אבל קשרו אדם חייב indicates that the payment is the exclusive responsibility of the בעל הדליל. See מהר"ם. [Additionally the case of אדייה was introduced later in the גמרא, but not at this point.]

³ It is considered a בהמה ברגלי בהמה; see the end of this סוגיא (and the גמרא on ו,א).

⁴ See 'Thinking it over' # 2.

⁵ See אמ"ה # 74-76.

and the conclusion of תוספות (that קשרו דוקא בור (ומשום בור)?

2. The case of קשרו אדם חייב;⁶ is this discussing that the one who tied it was the owner of the דליל, or was it another person who found the דליל and tied it on the תרנגול?⁷

⁶ See footnote # 4.

⁷ See חז"ל נחום אות סב.