

ויהבי להו ליתמי דבר מועט –

And they gave a small amount to the orphans

OVERVIEW

The orphans had some land (used for a dump) for which the קרמנאי would pay them a pittance for its use. Someone went and built a house on that property, denying the orphans their income from the קרמנאי. This person was told to settle with the orphans for the loss he caused them, and when he refused, רב נחמן took away the house from him and gave it to the orphans. תוספות explains why that person had to pay such a steep price, when he caused them only minimal damage.

ומחמת כן חייב לשלם מה שנהנה¹ אף על פי שלא חיסר כל כך -

And on account of this minimal damage that he caused **he is obligated to pay for the benefit** he derived (which is the full rental value²), **even though he did not damage them so much -**

וכן מוכח כולה שמעתין כדאמרינן לעיל³ משום שחרוריתא דאשייתא:

And this is evident in the entire גמרא here as the גמרא **stated previously; on account of the blackening of the walls** (which is a minimal damage) he is obligated to pay the full rent (which is more than דאשייתא).

SUMMARY

If there is even a minimal חסר the נהנה must pay for his full הנאה even if it exceeds the חסר.

THINKING IT OVER

If the rule is that by זה חסר (even a little) the נהנה must pay the full הנאה, why did ר"נ initially tell the person (who built the אפדנא and caused the יתומים damage), 'go and settle with the יתומים'; why did he not make him pay for the full הנאה?!⁴

¹ may be teaching us that מגבי לאפדנא מיניה does not mean that ר"נ took away the אפדנא until they will pay the minimal damage, but rather he took the אפדנא as payment for the full הנאה.

² See אמ"ה # 33.

³ כ,ב.

⁴ See בית לחם יהודה אות צט (בסופו) and # 32 אוצר מפרשי התלמוד.