

When he burrowed under

בשחתר –

OVERVIEW

The גמרא explained that the בעל הגחלת is פטור because he guarded the coal and the dog was nonetheless able to burrow its way in. תוספות explains why the גמרא did not offer an alternate solution.

תוספות asks:

ואם תאמר ולישני כגון דנפלה גודא בליליא¹ וידע בעל הכלב ובעל הגחלת לא ידע -

And if you will say; and the גמרא should answer that the wall fell at night and the dog's owner knew of it (and did not watch his dog), but the coal's owner did not know that his wall collapsed; therefore he is not considered a פושע.

תוספות answers:

ויש לומר דאין זה רגילות דבעל הכלב ידע ובעל הגחלת לא ידע -

And one can say; that it is not usual that the dog's owner knew and the coal's owner did not know that the wall of the הגחלת בעל collapsed; it should be the opposite!

תוספות responds to an anticipated difficulty:

ולקמן² גבי עיזי דבשדות³ רגילות הוא לפעמים:

And later regarding the goats, it is different, for in a field it is sometimes usual that the owner of the field is not aware that his fence collapsed, but the owner of animals (who may be out tending his flock) is aware.

SUMMARY

In a house, the owner knows before anyone if his wall collapsed; however in a field others may know first.

THINKING IT OVER

What would be gained if the גמרא gave the answer תוספות suggests?⁴

¹ See 'Thinking it over'.

² כגב, towards the bottom. The גמרא there asks how is it possible to be liable for שן; if the field is not fenced in, the animal's owner can claim 'fence in your field'; and if the field is fenced in, how do the goats get inside. The גמרא answers either the animal burrowed under, or the wall fell (where the owner of the field did not know and the owner of the animal knew). It is evident from that גמרא that it is possible that the owner does not know and others do, not like תוספות assumes here.

³ However regarding a coal which is in the house, the owner will be the first to know if his house wall collapsed.

⁴ See previous תוס' ד"ה כשימר.