

He preceded and removed it

קדם וסילקו –

OVERVIEW

רבה ruled that if someone threw down a vessel from the top of a roof where there were pillows underneath (so it would not be broken), and then the thrower hurried and removed the pillows before the vessel landed, and it broke, the thrower is exempt from payment. תוספות offers two explanation for this ruling based on whether this case is considered גרמי or גרמא.¹

פירש רב אלפס דרבה לטעמיה דלית ליה דינא דגרמי² בריש³ הגוזל קמא (לקמן דף צח, א) - פרק הגוזל קמא explained that רבה follows his opinion in the beginning of קמא where he does not agree to the rule of גרמי

ולרבינו יצחק נראה דהא גרמא בניזקין הוא⁴ ופטור לכולי עלמא: And it is the view of the ר"י that this case is considered not גרמי but rather גרמא which is פטור according to everyone.

SUMMARY

Causing inevitable damage without being in direct contact with the damaged item is considered גרמי according to the ר"ף, and גרמא according to the ר"י.

THINKING IT OVER

Why is this not considered גרמי according to the ר"י, since he actually threw down the vessel (and removed the cushions)?

¹ גרמי is referred to damage caused indirectly. All agree that גרמא is פטור, but there is a dispute whether גרמי is חייב. For instance if one placed poison before his neighbor's animal; this is considered גרמא, since we are not certain the animal will eat it and/or he did nothing directly to the בהמה, therefore he is פטור. However if one burns the שטר of a friend, where he will surely suffer an loss and/or he directly burnt the שטר, this is considered גרמי. For a more detailed discussion of גרמי and גרמא see זאת ד"ה כו, ב תוספות, where תוספות writes דדינא דגרמי חייב היינו שעושה. See 'Summary'.

² This is considered גרמי (according to the ר"ף) since the damage to the vessel is inevitable.

³ רבה rules there; if one knocks his friend's coin out of his hand into the ocean and the water is clear so the coin can be seen, the thrower is פטור, for he can tell him; 'the coin is in front of you'. Similarly he rules, if one bashes in the image on a coin he is פטור, since he did not diminish anything from the coin. Even though in both these cases he caused a loss to the owner (he has to hire a diver to retrieve the coin and the bashed in coin does not have the same value), nevertheless he did not do direct damage, and this is considered a damage of גרמי (causation) which רבה maintains is פטור. Others (גרמא for instance) are דאין דינא דגרמי and hold him liable.

⁴ It is considered גרמא (according to the ר"י) since he did nothing directly to the vessel to cause it to break. See 'Thinking it over'.