

הניח גחלת על לב עבדו כולי -

He placed a coal on his servant's heart, etc.

OVERVIEW

רבה posed a query; what is the rule if a stranger placed a coal on the heart of someone's slave, is he exempt (since it is like placing it on a person's body, where we assume the person will remove it) or is he liable (because it is like placing it on his property [where the owner may not mind]). תוספות clarifies the circumstances of this query.

כשעבד כפות¹ ורבו עומד אצלו² איירי כדפרישית לעיל (דף כב, ב דיבור המתחיל והיה) -

This query is **discussing** a case **where the עבד was bound** (and could not remove the coal) **and his master was standing next to the עבד**, as I explained previously -

ומיירי שלא מת העבד אלא הוזהק -

And we are discussing a case **where the עבד did not die**, but was merely **damaged** -

ולהכי³ מספקא ליה שמא לא יחוש הרב לסלקו מפני שישלם לו דמי⁴ נזקו:

And therefore רבה was uncertain for perhaps the master is not concerned to **remove the coal** since the perpetrator will pay him the money for his damages.

SUMMARY

The query is where the slave was bound and the master was present.

THINKING IT OVER

Is the query in a case where the perpetrator remains there as the coal burns the עבד (and either kills him or wounds him); or in a case where the perpetrator left?⁵

הדרן עלך כיצד הרגל

¹ If the slave was not bound, he would not be liable, for he assumed the slave will certainly remove it.

² If the master was not there (and the slave was bound) he will definitely be liable.

³ However if the עבד died, he is certainly מיתה חייב, regardless what the master will do. See (however) 'Thinking it over'. Regarding payment he will certainly be פטור, for if he died there is a מיתה חייב and no חיוב ממון on account of קם ליה בדרכה מיניה.

⁴ Therefore the perpetrator is חייב (because he should not have expected the owner to remove the coal). On the other hand a slave is a person (not merely property) who is מחויב במצות, so it is possible for the perpetrator to assume that the master will not allow his slave to be burnt (even though he will get paid for the damage) and therefore he assumed the owner would remove the coal (just as one would remove the coal from his own body) and therefore he should be פטור.

⁵ See בחלת משה.