

## It trod on a vessel

## דרסה על הכלי –

### OVERVIEW

The משנה teaches us that if an animal trod on a vessel and broke it and the shards of the broken vessel scattered and broke another vessel; the owner of the animal is liable to pay a נזק שלם for the first vessel (since it is רגל) and a חצי נזק for the second vessel (since it is צרורות). Seemingly this ruling is obvious and is included in what was taught previously in the משנה;<sup>1</sup> why mention this specific case. תוספות resolves this issue.

אומר רבינו יצחק דאיצטריך לאשמועינן דסלקא דעתין אמינא דמשונה הוא -

The ר"י explains that it is necessary for the תנא of our משנה to inform us of this case where דרסה על הכלי וכו'; for if the תנא would not have taught us this ruling, it may have entered our minds that this trampling (on the first כלי) is unusual and it should be considered a תולדה דרגל not a תולדה דקרן. תוספות explains why we may have considered it משונה -

כיון דדרסה כל כך בחוזק שניתז השבר על כלי אחר ושברו ומסתמא להזיק<sup>2</sup> נתכוונה:

Since the animal trampled on the first כלי with such strength that the shard scattered on another כלי and broke the second כלי, this indicates that presumably the animal had intention to destroy the first כלי and it should be considered a תולדה דקרן since it is כוונתו להזיק (and should pay only a חצי נזק [even] on the first כלי). The משנה teaches us that even in such a case we cannot presume that it is כוונתו להזיק since it did not kick the first כלי, it merely trod on it.

### SUMMARY

We do not presume that it was כוונתו להזיק even if the trampling was very powerful.

### THINKING IT OVER

1. תוספות explained why it was necessary for the משנה to teach us that he is חייב on the first כלי a נ"ש; but why was it necessary for the משנה to teach us that for the second כלי he is חייב (only) a ח"נ? It is a simple case of צרורות!<sup>3</sup>

2. תוספות first states that it is משונה and then concludes that להזיק נתכוונה!<sup>4</sup>

<sup>1</sup> The משנה taught that רגל is a מועד (which pays a נ"ש) and צרורות pays a נזק שלם.

<sup>2</sup> The characteristic of קרן is that it is כוונתו להזיק (see ב,ב).

<sup>3</sup> See # 28. אוצר מפרשי התלמוד.

<sup>4</sup> See חידושי ר' נחום אורג'.