

## בין לרב בין לשמואל היינו בור –

Whether according to רב or whether according to שמואל, it is בור

### OVERVIEW

Our גמרא states that if damage was caused by a person's אבנו סכינו ומשאו (which he was מפקיר) it is considered בור, both according to רב and שמואל.<sup>1</sup> Our תוספות reconciles our גמרא with another seemingly contradictory גמרא.

תוספות asks:

ואם תאמר הא רב אית ליה לקמן (דף ג,ב) בור שחייבתו תורה להבל<sup>2</sup> ולא לחבטו -

**And if you will say; but רב maintains later, that the בור for which the תורה holds him liable, is for the (foul) air and not for the blow.** In the case of אבנו סכינו ומשאו there is no הבל, which was made by the owner, he only caused the חבטא, and רב maintains that there is no בור for חבטא; only for הבל.

תוספות answers:

ויש לומר דהתם משום דקרקע עולם הזיקתו<sup>3</sup> אבל הכא חבטא דידיה<sup>4</sup> הוא:

**And one can say; that there** by a regular בור there can be no חבטא for the חבטא, **since he was damaged by the 'ground of the world';** not the ground of the pit's owner; **however here** by אבנו סכינו ומשאו, **the חבטא is on account of the owner;** it is his אבנו וסכינו that made the חבטא. In such a case even רב agrees that you are חייב for חבטא.

### SUMMARY

רב agrees by חבטא דידיה הוא that he is חייב for the חבטא, since אבנו סכינו וכו'.

### THINKING IT OVER

1. What would be the דין if a person tripped on אבנו וכו' and was hurt by the קרקע (according to רב [and שמואל])?<sup>5</sup>
2. Why according to רב is there a חבטא for opening a בור; seemingly it is עולם הבל?<sup>6</sup>

<sup>1</sup> According to שמואל it is בור, and according to רב it is a חבטא. They argue concerning a תקלה which was אפקרינהו. לא אפקרינהו. שור. By תולדה of שור. By אפקרינהו both agree that it is a תולדה of שור.

<sup>2</sup> See ד"ה להבלו there רש"י; who writes; 'because he made 'air' for the pit [but not because of the blow]'.

<sup>3</sup> The owner of the בור cannot be held liable for a חבטא which he did not make, but is made by a public property.

<sup>4</sup> It is considered חבטא דידיה; even though we are discussing a case of אפקרינהו, nevertheless since it belonged to him originally and the damage was done by him placing the object in the רה"ר, it is considered חבטא דידיה.

<sup>5</sup> See כה,ב תוס' ד"ה ונשוף.

<sup>6</sup> See אילת השחר ועוד.