

Welcome To The Learning Daycare.....

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Case 1:

• ת"ר השוכר את הספינה וטבעה לה בחצי הדרך
ר' נתן אומר אם נתן לא יטול ואם לא נתן לא יתן

- **Person A rents a boat. In the middle of his voyage the boat sinks. According to Rav Natan: if the renter already paid the rental fee he cannot get the money back from the owner. If he has not yet paid then he does not have to.**

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Analysis (Question)

- What is this case? If we say this case is about an owner who agreed to provide to a renter a particular boat to transport and unspecified cargo of wine then if the renter paid why should he not get his money back? The renter's claim is superior to the owner's therefore; he should be able to get his money back. (the renter can say to the owner, give me another boat because I'm ready to take another cargo of wine to the predetermines destination)

• (Q) היכי דמי אילימא
בספינה זו ויין סתם אם נתן
אמאי לא יטול נימא ליה הב
לי ספינתא דאנא מייתינא
חמרא

More Analysis:

- אלא בספינה סתם ויין זה אם לא נתן אמאי לא יתן נימא ליה הב לי ההוא חמרא ואנא מייתינא ספינתא
- If this is a case about an owner who agreed to provide an unspecified boat to a renter to transport a particular amount of wine, if the renter has not yet paid, why should he not pay it? The owner's claim is superior to the renter therefore he should be entitled to the entire renter's fee. (boat owner can say to the renter give me that very cargo of wine that you planned to ship and I will bring you another boat)

Answer:

- The case of Rav Natan is only when an owner agrees to provide a specific boat in order to transport a specific amount of wine. (If it was an unspecified boat/cargo of wine then the din would be cholkin)

• אמר רב פפא לא
משכחת לה אלא
בספינה זו ויין זה אבל
בספינה סתם ויין
סתם חולקין

Case 2:

• ת"ר השוכר את הספינה ופרקה לה בחצי הדרך
נותן לו שכרו של חצי הדרך ואין לו עליו אלא
תרעומת

- Person A rents a boat to transport goods. He unloads the boat halfway. The din is that the renter has to pay the owner for the boat to the midway point and owner should only have a complaint against the renter

Analysis (Question)

- What is the case? If the owner can find a new person at the midway point to continue the voyage (so that he does not lose money) then why should he have a complaint against the renter? If he cannot find another person to rent the boat for the other half then the renter should have to pay the entire fee.

• היכי דמי אילימא
דקא משכח לאגורה
אמאי אית ליה
תרעומת ואי דלא קא
משכח לאגורה כוליה
אגרה בעי שלומי

Answer 1:

• לעולם דקא משכח לאגורה אלא אמאי אית ליה תרעומת משום רפסתא דספינתא

- In truth, the owner will be able to find a person to lease the boat to half way, but he still has a complaint against the renter because the unloading and reloading more times, structurally affects the boat.

Rejection:

- If the boat structurally weakens when you reload and unload, then the owner has a bigger complaint against the renter and should be able to charge the renter for damages.
- אי הכי טענתא מעלייתא הוא וממונא אית ליה גביה

Answer 2:

• אלא מאי פרקה דפרקה לטועניה בגויה

- At the midway point, the renter loaded additional cargo onto the boat to transport to the stipulated location

Question:

- If taking additional cargo at a new port was permissible under the contract of the lease, then what complaint can the owner have against the renter?

אלא מאי תרעומת?

Answer:

• משום שינוי דעתא אי נמי לאשלא יתירא

- A complaint is justified because of the owner's changed expectations and the new need for more rope.

Case 3:

- תנו רבנן השוכר את החמור לרכוב עליה שוכר מניח עליה כסותו ולגנותו ומזונות של אותה הדרך מכאן ואילך חמר מעכב עליו חמר מניח עליו שעורים ותבן ומזונותיו של אותו היום מכאן ואילך שוכר מעכב עליו
- Person A rents out a donkey to Person B. The renter can place on the donkey his clothing and belongings needed for that entire journey. The owner can limit the amount of stuff because it weakens the animal. Person A accompanies Person B on his journey. Person A can put his things on the donkey but only for that day, barley and straw.
- * The renter and owner of the donkey can prevent one another from placing too much on the donkey because it makes the load heavier and therefore the journey is longer (donkey is weaker).

Analysis (Question):

- What is this case? If the renter is able to buy things on the way then the owner is allowed to prevent the renter from loading more than a day's worth stuff on the donkey. But, if there are no things available for the renter to purchase along the way then shouldn't the owner be allowed to load the provisions that he'll need for the entire journey. The renter should not prevent the owner from loading more than his day's worth. (Why then is it rule that the renter is allowed provisions for entire journey and the owner is only allowed for one day?)

• היכי דמי אי דשכיח למזבן
חמר נמי ליעכב ואי דלא
שכיח למזבן שוכר נמי לא
ליעכב

Answer:

- אמר רב פפא לא צריכא דשכיח למטרה ולמזבן מאוונא לאוונא חמר דרכיה למטרה ולמזבן שוכר לאו דרכיה למטרה ולמזבן
- Rav Papa: The ruling is necessary in the case! When things are available to be purchased by the renter then it's the nature of the owner to trouble himself and search for food provisions along the way. However, it is not the renter's nature to trouble himself and purchase food along the way. The owner (more likely to buy things on the way) can only bring a day's worth of his own provisions in order to minimize the burden on the animal. The renter who is probably not going to buy things along the way can bring provisions for the entire journey.

Thank you!