

Damages caused by an Animal (General)

Ref: *Sefer Nezikin, Hilchot Nezeikei Mamon, Chapter 1*

3 categories of damage caused by an ox. (*Avot Nezikin*)

- *Keren* (goring)
- *Shen* (eating)
- *Regel* (treading)

Each has sub categories (*Toldot Nezikin*).

- Goring (These activities are considered abnormal for an animal and as such starts off in the category of a *tam*, and penalty is ½ x damage. Comes from value of offending animal.)

Reminder

Pack on Fines



- *Negifah* (butting)
- *Neshichah* (biting)
- *Revitzah* (lying on top of large vessels)
- *Beitah* (kicking)
- Eating (These activities are normal for an animal and put it in the category of a *muad*, and owner is obligated to pay full cost of damage.) – Comes from resources of owner.
 - Scratching itself on the wall (*Nitchakchah*)
 - Rolling on produce (*Tinfah*)
- Treading (These activities are normal for an animal and as such starts off in the category of a *muad*. The owner is obligated to pay full cost of damage.)
 - Causing damage with body while walking (to small vessels) (*Guf*)
 - Swishing tail (*Saarah* and *zenavah*)
 - Swishing saddle (*Ukaf*)
 - Causing damage with bit in mouth (*Frumbiyah*)
 - Causing damage with bell around its neck (*Zug*)
 - Causing damage with load being carried (*Masaoui*)
 - Causing damage with cart being pulled (*Karon*)

MUAD

An animal that performs acts it is accustomed to performing by nature is called a *muad* (forewarned) i.e. eat food, tread on utensils etc.

TAM

When animal deviates from its ordinary pattern and performs an act that its species does not normally do, this is called *tam* i.e. an ox which gores or bites.

If a *tam* becomes habituated with the deviation, it is then classified as a *muad*.

The penalty for damages of a *tam* is limited to the value of the ox which did the damage. (It

was the ox's fault.)

For a *tam* it is ½ amount of damage.

If the damage is more than the value of the ox, the owner gives the ox to the litigant and is then exempt.

For a *muad* it is the full amount of damage. This is taken from persons possessions. (It was the persons fault. He was 'fore warned'.)

Reminder

Pack on Expropriation of Property



In addition the law will vary according to where the damage took place. (Here we are referring to goring.)

- i.e. Private domain of litigant (owner liable for full amount)
- Private domain of owner (owner not liable)
- Public domain
 - for normal activity damage, owner not liable
 - For abnormal activity damage
 - ◊ If *tam* – ½ damages
 - ◊ If *muad* (it has already gored thrice or e.g. a lion) – full damage