

## Injury to People and Property by People

Ref: *Sefer Nezikin, Hilchot Chovel Umazik, Chapters 1 and 6*



Law of injury to People and damage to Property.<sup>1</sup>

### Reminder

Pack on Misbehaviour



#### INJURY TO PEOPLE.

##### Compensation (Introduction)

A person who causes damage to a colleague, whether intentional or unintentional, is always regarded as *muad* (unless it is totally beyond his control). I.e. he has to reimburse the injured person from his money or possessions. This is because he is 'forewarned' i.e. responsible.

The reimbursement could also be from his landed property.

There are **five** ways a person has to be compensated for injury to a colleague:

- *Nezek* (damages)
- *Tzaar* (pain)
- *Ripuy* (medical treatment)
- *Shevet* (loss of employment)
- *Boshet* (embarrassment) – Here only liable if embarrassment was intentional. However whenever injury is intentional, he is also liable for embarrassment even though the embarrassment was not intentional.



The compensations are financial. *Halachah Mosheh Misinai*.

We derive that compensation is needed, direct from Torah and also as *Mosheh Misinai*.

In assessing the injury, the court will look at

- The injury
- The circumstances
- The object which caused the injury

#### THE INJURY

The damaged limb is assessed as one would assess the value of an *eved* (servant).

The other 4 damages are also assessed by the court.

#### CIRCUMSTANCES

If injury was intentional, liability would be for all **5** compensations.

If injury was unintentional, liability would be for only **4**. (Embarrassment would be excluded.)

If a person did an act which was not negligent, he would only be liable for injury (**1** compensation).

If a person did an act which caused injury and this injury was totally beyond his control, he

is not liable for any compensation (o).

#### OBJECT OF INJURY

If object used was too small to cause injury (ordinarily), then injurer is not liable.

However if he intended to harm, he would be liable for embarrassment (e.g. spat at a colleague).

Court needs to evaluate object of injury.

Metal objects are never evaluated. They are capable of killing even if the size of a pin.

#### MAZIK

This involves a person causing damage to property. Person is liable for damaging someone else's property even if he did it unintentionally but it also depends in whose domain it took place. i.e. if the damage was done in the domain of the person who caused the damage, then he is not liable, unless he did the damage wilfully.

Examples.

- May defend an attacked ox but not to attack the aggressive ox unnecessarily.
- People knocking in to each other on a street. Depend on who was in front and who behind. Also depends on who was walking and who running. The one running carries responsibility.
- Examples of derivative actions (toldot) i.e. throwing a stone, shooting an arrow etc which cause liability as with a direct action. (These are indirect damages)
- Examples where multiple persons involved.

Damages not evident to eye.

When a person causes damage not visible to the eye, he is not liable according to Scriptural Law.



However *Derabanan* he is liable and he has to pay entire damages from his best property. If damage was done unintentionally, then there are no penalties.

If someone causes damage to a colleague's property indirectly, he is still liable for the damages.

Extends even to preventing a colleague from performing a positive *mitzvah*.



The *Rabanim* imposed a fixed fine of 10 gold pieces for preventing a colleague from performing a positive *mitzvah*.

#### Reminder

Pack on Fines



If extent of damage not known to the one who damaged, then person whose property was damaged takes a Rabbinic oath to justify the amount of his claim.

#### Reminder

Pack on Oaths

