Mishnah Bava Kamma

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1:1 There are four primary categories of damage: The category of Ox; and the category of Pit; and the category of Maveh, which, based on a discussion in the Gemara refers either to the tooth of an animal that causes damage or to a person who causes damage; and the category of Fire. Each of these categories is unique; therefore, the halakhot of one cannot be derived from another. The defining characteristic of the primary category of Ox is not similar to the defining characteristic of the primary category of Maveh, and the defining characteristic of the primary category of Maveh is not similar to the defining characteristic of the primary category of Ox. And the defining characteristics of this category of Ox and that category of Maveh, in which there is a living spirit that causes damage, are not similar to the defining characteristic of the category of Fire, in which there is no living spirit. The mishna continues: And the defining characteristics of this primary category of Ox and Maveh and that primary category of Fire, in which the typical manner of their components is to proceed from one place to another and cause damage, are not similar to the defining characteristic of the primary category of Pit, in which the typical manner of its components is not to proceed from one place to another and cause damage; rather, it remains in place and the damage is caused by the injured party proceeding and encountering the obstacle. The common denominator of the components in all of these primary categories is that it is their typical manner to cause damage, and the responsibility for their safeguarding to prevent them from causing damage is incumbent upon you, the owner of the animal or generator of the fire or the pit. And when a component of any of these categories causes damage, the owner or generator of the component that caused the damage is obligated to pay restitution for damage with best-quality land.
1:2 With regard to anything for which I became responsible for safeguarding it to prevent it from causing damage, if it in fact causes damage, it is considered as if I actively facilitated that damage, and accordingly I must pay for it. In any case in which I facilitated part of the damage it caused, I am liable for payments of restitution for damage it caused, as if I were the one who facilitated the entire damage it caused. One is liable only with regard to damage caused to property for which, were he to use it for a non-sacred purpose, he would not be liable for the misuse of consecrated property; with regard to damage caused to property that belongs to members of the covenant,

i.e., Jews; and with regard to assigned property, the meaning of which the Gemara will explain. And one is liable for damage caused in any place except for a domain designated exclusively for the use of the one responsible for the damage. And one is liable for damage caused in a domain designated for the joint use of the injured party and the one liable for the damage. When an animal or item one is responsible to safeguard causes damage, the one liable for the damage caused by insufficiently safeguarding it is obligated to pay payments of restitution for damage with his best-quality land.

1:3 The determination of payment of damages is made by monetary appraisal. One pays with items worth money. This halakha applies before a court. And it is based upon the testimony of witnesses who are free men, i.e., men who are not Canaanite slaves, and who are members of the covenant, i.e., Jews. And women are included in the halakhot of damages in the same way as men. And both the injured party and the one liable for the damage are involved in the payment. The Gemara will explicate each of these principles.

1:4 There are five damage-causing acts that an animal can perform twice and remain innocuous even when its owner was warned each time to prevent it from doing so. After the third time, the animal is rendered forewarned. In such cases, the owner is liable to pay only half of the damages. And there are five damage-causing acts for which an animal is considered forewarned, at times even if it had never caused damage in that manner. In such cases the owner is liable to pay the full cost of the damage. An animal is not considered forewarned with regard to Goring, i.e., not for goring with its horns, nor for pushing with its body, nor for biting, nor for crouching upon items in order to damage them, nor for kicking. In these cases the animal is considered to be innocuous and its owner is liable for only half of the damages. Concerning acts of damage performed with the tooth, the animal is considered forewarned with regard to eating that which is fitting for it to eat. Concerning acts of damage performed with the foot, the animal is considered forewarned with regard to breaking items while walking. And there is a forewarned ox, which gored three times and each time his owner was warned to safeguard his ox from doing so. And there is an ox that causes damage to the property of the injured party while on the property of the injured party. And there is the person, i.e., any damage done by a person. In all of these cases the one who caused the damage is considered to be forewarned, resulting in the obligation to pay the full cost of the damage. The mishna presents the halakha for wild animals: The wolf; the lion; the bear; the leopard; the bardelas, the meaning of which the Gemara will discuss; and the snake. These are considered forewarned even if they had never previously caused damage. Rabbi Elazar says: When these animals are domesticated they are not considered forewarned. But the snake is always considered forewarned. What is the difference between the liability incurred for damage caused by an ox that is considered innocuous and the liability incurred for damage caused by an ox that is forewarned? The only differences are that for damage caused by an innocuous ox, the owner pays half the cost of the damage exclusively from proceeds of the sale of the body of the ox, and for a forewarned ox he pays the full cost of the damage from his higher property.

2:1 The mishna in the previous chapter (15b) teaches that the owner of an

animal is always forewarned with regard to the category of Trampling. The mishna elaborates: For what damage caused with the hoof is the animal deemed forewarned? It is deemed forewarned with regard to trampling objects and breaking them in the course of its walking. An animal is deemed forewarned with regard to walking in its typical manner and, by doing so, breaking objects as it proceeds. By contrast, if the animal was kicking while it was walking, or it transpired that pebbles were inadvertently propelled from under its feet and those pebbles broke vessels, cases of that kind do not fit precisely into the primary category of Trampling. In both of these cases the owner of the animal pays half the cost of the damage. If an animal trod upon a vessel and broke it and then a shard of that vessel fell upon a second vessel and broke it, the owner pays the full cost of the damage for the first vessel, as its action is classified under the primary category of Trampling, and he pays half the cost of the damage for the latter vessel, as the damage caused by the shard is tantamount to damage caused by pebbles inadvertently propelled by the foot of an animal. Chickens are deemed forewarned with regard to walking in their typical manner and breaking objects, and therefore, the owner of a chicken pays the full restitution for the damage done to any objects broken by his chicken. If there was a string [delil] tied to a chicken's leg as an indication of ownership and it wrapped around a vessel and broke it, or if the chicken was hopping in an atypical manner and breaking vessels, its owner pays half the cost of the damage.

2:2 Within the context of the primary category of Eating, for what damage caused with the tooth is an animal deemed forewarned? It is deemed forewarned with regard to eating food items fit for its consumption. The domesticated animal is deemed forewarned with regard to eating fruits and vegetables. If the animal ate garments or vessels, the owner pays half the cost of the damage. As these are not items fit for its consumption, the animal is not deemed forewarned in this case. In what case is this statement applied, that one pays the full value of the food eaten by the animal? It is a case where the animal ate the food on the property of the injured party; but if the animal ate food in the public domain, the owner of the animal is exempt from liability. And even if the animal ate food in the public domain, if the animal derives benefit from eating another's produce in the public domain, the owner pays for the benefit that it derives, just not for the full cost of the food. Under what circumstances does the owner of the animal pay for the benefit that it derives? If the animal ate produce in the public square in the area before the storefronts, the owner of the animal pays for the benefit that it derives. If the animal ate from food placed at the side of the public square, which is not a public thoroughfare, the owner of the animal pays for what it damaged, as the legal status of that area is like that of the property of the injured party. If the animal ate produce from the entrance of the store, its owner pays for the benefit that it derives, as the status of a store entrance is like that of the public domain. If the animal ate produce from inside the store, its owner pays for what it damaged.

2:3 With regard to a dog or a goat that jumped from a rooftop and broke vessels while doing so, their owners must pay the full cost of the damage to the

vessels because these animals are deemed forewarned concerning to jumping. With regard to a dog that took a cake that had been baked directly on hot coals, and went to a stack of grain to eat it, and it ate the cake and at the same time ignited the stack of grain with a coal that it had taken along with the cake, the owner of the dog must pay the full cost of the damage for the cake, and he must pay for half the cost of the damage to the stack of grain.

2:4 Which type of ox is deemed innocuous and which is deemed forewarned? An ox is deemed forewarned in any case where witnesses testified about it that it gored on three different days. And it reverts back to its previous innocuous status from when it reverses its behavior and refrains from goring for three consecutive days; this is the statement of Rabbi Yehuda. Rabbi Meir says: It is deemed forewarned in any case where witnesses testified that it gored three times, regardless of the number of days on which this behavior occurred. And it reverts back to its previous innocuous status in any case where children pet it and play with it and it does not gore them.

2:5 And what is the case of the ox that causes damage while on the property of the injured party, mentioned in an earlier mishna (15b) that listed animals that are forewarned? If the animal gored, pushed, bit, squatted upon, or kicked another animal in the public domain, the owner is liable to pay half the cost of the damage if the ox was innocuous, but if it acted while on the property of the injured party, Rabbi Tarfon says: He must pay the full cost of the damage, and the Rabbis say: He must pay half the cost of the damage, as in any other case classified as Goring. Rabbi Tarfon said to the Rabbis: If in a place where the Torah was lenient with regard to damage classified as Eating and with regard to Trampling, specifically in the public domain, as the owner is exempt from liability, nevertheless the Torah was strict with regard to these forms of damage if they occurred on the property of the injured party, requiring him to pay the full cost of the damage, then in a place where the Torah was strict with regard to cases of damage classified as Goring, specifically in the public domain, requiring the owner liable to pay for half the cost of the damage, is it not right that we should be strict with regard to this form of damage if it occurs on the property of the injured party to likewise require the owner of the animal to pay the full cost of the damage? The Rabbis said to him: Although there is an a fortiori inference being applied here, still it is sufficient for the conclusion that emerges from an a fortiori inference to be like its source, meaning that the halakha cannot be stricter with the inference than it is with the case that serves as the source of the inference. Therefore, just as one is liable to pay half the cost of the damage classified as Goring in the public domain, so too, for damage classified as Goring on the property of the injured party he is liable to pay only half the cost of the damage. Rabbi Tarfon said to them: If that is your opinion, then I as well will not derive an inference with regard to Goring from a different case of Goring. I will instead derive an inference with regard to Goring from Trampling: And if in a place where the Torah was lenient with regard to damage classified as Eating and Trampling, specifically in the public domain, as the owner is exempt from liability, nevertheless the Torah was strict with regard to damage classified as Goring, requiring him to pay half the cost of the damage, then in a place where the

Torah was strict with regard to damage classified as Eating and Trampling, specifically on the property of the injured party as the animal's owner is obligated to pay the full cost of the damage, is it not right that we should be equally strict with regard to damage classified as Goring and require payment of the full cost of the damage in this case as well? The Rabbis said to him: Here as well, it is sufficient for the conclusion that emerges from an a fortiori inference to be like its source, and therefore, just as one is liable to pay half the cost of the damage classified as Goring in the public domain, so too, for damage classified as Goring on the property of the injured party he will be liable to pay only half the cost of the damage, as ultimately your inference still depends on the fact that for Goring in the public domain one pays half the cost of the damage.

2:6 The legal status of a person is always that of one forewarned. Therefore, whether the damage was unintentional or intentional, whether he was awake while he caused the damage or asleep, whether he blinded another's eye or broke vessels, he must pay the full cost of the damage.

3:1 In the case of one who places a kad, a type of vessel, in the public domain and another person comes and stumbles on it and breaks it, the other person is exempt from paying for what he broke. And if the one who stumbled incurred damaged by it, the owner of the havit, a type of vessel, is liable to pay restitution for his damage. If one's jug broke in the public domain and another person slipped in the water from the jug and was injured from the fall, or if he was injured by the shards of the broken jug, the owner of the jug is liable. Rabbi Yehuda says: In a case where the owner of the jug acted with intent, he is liable, and in a case where he acted without intent, he is exempt.

3:2 In the case of one who pours water in the public domain, and another person in-curred damage due to it, the one who poured water is liable to pay for his damage. In the case of one who conceals a thorn or a piece of glass in his wall adjacent to the public domain, or one who puts up a fence of thorns, or one who puts up a fence that subsequently fell into the public domain, and others incurred damage due to any of these, he is liable to pay for their damage.

3:3 In the case of one who takes out his straw [teven] and his hay [kash] to the public domain to use afterward as fertilizer and another person incurred damage due to them, he is liable to pay for his damage, and whoever takes possession of the hay and straw first acquires them for himself. Rabban Shimon ben Gamliel says: With regard to anyone who places obstacles in the public domain and they cause damage, he is liable to pay damages, and whoever takes possession of them first acquires them. In the case of one who turns over dung in the public domain and another person incurred damage due to it, the former is liable to pay for his damage.

3:4 In the case of two potters carrying pots who were walking one after the other in the public domain, and the first stumbled on a bump and fell, and the second stumbled over the first and fell too, the first is liable to pay for the damage incurred by the second.

3:5 If this person came in the public domain with his barrel, and that person came from the opposite direction with his cross beam, and this one's jug was

broken by that one's cross beam, the one carrying the cross beam is exempt, because this one had permission to walk in the public domain, and that one also had permission to walk there. If they were walking in the same direction, so that the owner of the cross beam was walking first, in front, and the owner of a barrel last, behind him, and the barrel was broken by the cross beam, the owner of the cross beam is exempt, since the owner of the barrel saw him in front of him and should have been more careful. But if the owner of the cross beam stopped, causing the barrel to collide with the beam and break, the former is liable, since the latter had no way of anticipating that he would stop. And if he said to the owner of the barrel: Stop, he is exempt from liability for breaking the barrel. Conversely, if the owner of the barrel was walking first and the owner of the cross beam last, and the barrel was broken by the cross beam, the owner of the cross beam is liable. But if owner of the barrel stopped, the owner of the cross beam is exempt from liability for breaking the barrel. And if he said to the owner of the cross beam: Stop, the owner of the cross beam is liable. And similarly, these halakhot apply in a case where this one came with his lamp and that one came with his flax, and the lamp set fire to the flax.

3:6 With regard to two people who were walking in the public domain, or one who was running and another one who was walking, or who were both running, and they damaged one another, both of them are exempt.

3:7 With regard to one who was chopping wood in his private property and a chip flew off and caused damage in the public property, or one who was chopping wood in the public property and caused damage in the private property of another, or one who was chopping wood in his private property and caused damage in the private property of another, in all these cases he is liable.

3:8 With regard to two innocuous oxen that injured each other, the respective damages are evaluated, and if one amount is more than the other, the owner pays half the damages with regard to the difference. In other words, the owner of the ox that caused the greater damage pays the other owner half the difference. If both oxen were forewarned, the owner of the ox that caused the greater damage pays the full cost of the damage with regard to the difference. In a case where one of the oxen was innocuous and the other one was forewarned, if the forewarned ox caused greater damage to the innocuous ox than the reverse, the owner of the forewarned ox pays the full cost of the damage with regard to the difference. If the innocuous ox caused greater damage to the forewarned ox, its owner pays half the damage with regard to the difference. And similarly, with regard to two people who injured each other, the one who did greater damage pays the full cost of the damage with regard to the difference, since one is always considered forewarned with regard to damage he causes. If a person caused damage to a forewarned ox and the forewarned ox caused damage to the person, whichever side caused the greater damage pays the full cost of the damage with regard to the difference. In a case where a person caused damage to an innocuous ox and the innocuous ox caused damage to the person, if the person caused greater financial damage to the innocuous ox he pays the full cost of the damage with regard to the difference. If the innocuous ox caused greater damage to the person, its owner pays only half the damage with regard to the

difference. Rabbi Akiva says: The owner of the innocuous ox that injured a person also pays the full cost of the damage with regard to the difference. Rabbi Akiva does not distinguish between an innocuous and a forewarned ox in a case where an ox injures a person.

3:9 With regard to an innocuous ox worth one hundred dinars that gored an ox worth two hundred dinars, and the carcass of the dead ox is not worth anything, its owner takes the entire ox that gored it, since it is worth half the value of the damage. With regard to an innocuous ox worth two hundred dinars that gored another ox worth two hundred, and the carcass is worth nothing, Rabbi Meir said: It is about this type of case that it is stated: “Then they shall sell the live ox, and divide its monetary value” (Exodus 21:35). Rabbi Yehuda said to him: And that is the halakha, yet your interpretation of the verse is incorrect. You have upheld the clause: “Then they shall sell the live ox and divide its monetary value,” which fits your interpretation of the case. But you have not upheld the latter clause of the verse: “And the dead they shall also divide,” since in the case you mentioned the carcass is worthless. Rather, to which case is the verse referring? It is the case of an ox worth two hundred dinars that gored another ox worth two hundred dinars, and the carcass is worth fifty dinars. In this case, this party takes half the value of the living ox, one hundred dinars, and half the value of the dead ox, twenty-five dinars; and that party also takes half the value of the living ox and half the value of the dead ox.

3:10 There are cases where one is liable for an act of damage caused by his ox, but exempt from liability for the same action if he performed it himself. Conversely, there are also cases where one is exempt from liability for the action of his ox, but liable for his own action. How so? If his ox caused a person humilation, he is exempt from paying compensation, but if he himself humiliated another, he is liable. Similarly, if his ox blinded the eye of his slave or knocked out his slave’s tooth, he is exempt from having to emancipate the slave for this mutilation. But if he himself blinded his slave’s eye or knocked out his tooth, he is liable to emancipate him, as stated in the Torah (Exodus 21:26–27). By contrast, if his ox injured the owner’s father or his mother, he is liable to pay damages, but if he himself injured his father or his mother, he is exempt from paying compensation. Similarly, if his ox set fire to a haystack on Shabbat, he is liable to pay damages. But if he himself set fire to a haystack on Shabbat, he is exempt from paying damages. He is exempt from payment in these cases due to the fact that he is liable to receive the death penalty for injuring his father or mother or for desecrating Shabbat.

3:11 With regard to an ox that was pursuing another ox, and the ox being pursued became injured, but there are no witnesses as to how it was injured, and this one, the owner of the injured ox, says to the owner of the pursuing ox: Your ox injured my ox, and you are liable to pay me damages, and that one, the owner of the pursuing ox, says in response: No; rather, it was hurt by a rock, and I am not liable, then in this case, the burden of proof rests upon the claimant. As long as the owner of the injured ox cannot prove that the injury was inflicted by the pursuing ox, the owner of the pursuing ox is not

liable. In a case where two oxen, belonging to two different owners, were pursuing one ox belonging to a third person, and that ox was injured by one of the pursuing oxen, and this one, the owner of one of the pursuing oxen, says to the owner of the other: It was your ox that caused the injury, and that one, the owner of the other pursuing ox, says: No, it was your ox that caused the injury, the two of them are exempt, since each of them rejects the claim of the injured party that his ox caused the injury. If both oxen belonged to one person, both are liable, as will be explained in the Gemara. If the pursuing oxen both belonged to one person, and were both innocuous, so that restitution is paid exclusively from proceeds of the sale of the belligerent ox, and one was large and the other one small, in this case, if the injured party says that the large ox caused the damage, and he is therefore entitled to receive restitution for half the damage from the value of the large ox, but the one liable for damage says: No; rather, the small ox caused the damage, and half of its value is not sufficient to cover half the damage; or, similarly, in a case where one ox is innocuous and one is forewarned, and the injured party says: The forewarned ox caused the damage, and the injured party is therefore eligible to receive full damages, but the one liable for damage says: No; rather, the innocuous ox caused the damage, in which case he is liable to pay only half the damage; in both of the above cases, the principle is that the burden of proof rests upon the claimant. If the injured animals were two oxen, one large and the other one small, and the ones that caused the damage were also two oxen, one large and one small, and the injured party says: The large one injured the large one and the small one injured the small one, and the one liable for damage says: No; rather, the small one injured the large one, in which case, if half the value of the belligerent ox does not cover half the damage, he is not required to pay more, and the large one injured the small one; or, similarly, if one of the belligerent oxen was innocuous and one forewarned, and the injured party says: The forewarned ox injured the large one, and the innocuous ox injured the small one, and the one liable for damage says: No; rather, the innocuous ox injured the large one and the forewarned ox injured the small one; here too, the burden of proof rests upon the claimant.

4:1 With regard to an innocuous ox that gored four or five other oxen one after the other, its owner shall pay the owner of the last one of them half of the damages from the proceeds of the sale of the belligerent ox; and if there is surplus value left in his ox after he pays that owner, he shall return it to the owner of the previous ox that was gored; and if there is still surplus value left in his ox after he pays that owner, he shall return it to the one prior to the previous one. The principle is that the owner of the latest of the oxen gored in succession gains. This is the statement of Rabbi Meir. Rabbi Shimon says that the division of the compensation is as follows: With regard to an innocuous ox worth two hundred dinars that gored an ox worth two hundred dinars, thereby killing it, and the carcass is worthless, the injured party takes one hundred dinars, i.e., half the cost of the damage, from the proceeds of the sale of the belligerent ox, and the owner of the belligerent ox takes the remaining one hundred dinars. If the ox, after goring the first ox but before compensation had been paid, again gored another ox worth two hundred

dinars, and the carcass is worthless, the owner of the last ox that was gored takes one hundred dinars, and with regard to payment for the previous goring, the owner of this ox that was gored takes fifty dinars, which is half the remaining value of the belligerent ox after one hundred dinars were paid to the last injured party, and the owner of that belligerent ox takes the remaining fifty dinars. If the ox, after goring the first two oxen but before compensation had been paid, again gored another ox worth two hundred dinars, and the carcass is worthless, the last injured party takes one hundred dinars, the previous one takes fifty dinars, and the first two, i.e., the first injured party and the owner of the belligerent ox, divide the remainder, each receiving one gold dinar, which is worth twenty-five silver dinars.

4:2 With regard to an ox that is forewarned with regard to its own species, as it already gored other oxen three times, but is not forewarned with regard to other species; or an ox that is forewarned with regard to people, but is not forewarned with regard to animals; or one that is forewarned with regard to small specimens of a species, but is not forewarned with regard to large specimens of that species; in all these cases, if the ox gores the type of animal or person with regard to which it is forewarned, its owner pays the full cost of the damage, and if it gores an animal or person with regard to which it is not forewarned, he pays half the cost of the damage. The Sages said before Rabbi Yehuda: What would be the halakha if this ox is forewarned with regard to Shabbatot but is not forewarned with regard to weekdays? He said to them: For damage it causes on Shabbatot its owner pays the full cost of the damage, and for damage it causes on weekdays, he pays half the cost of the damage. When is it rendered innocuous again after being forewarned with regard to Shabbat? It reverts to its innocuous status when its behavior reverts to normal, i.e., when it refrains from goring for three days of Shabbat, i.e., Shabbat in three successive weeks.

4:3 With regard to an ox of a Jew that gored a consecrated ox, and conversely, a consecrated ox that gored a non-sacred ox, i.e., an ox owned by a Jew, the owner of the ox is exempt from paying compensation, as it is stated: “And if one man’s ox hurts the ox of another” (Exodus 21:35). It is derived from the phrase “the ox of another” that one is liable only if it is a non-sacred ox, but not if it is a consecrated ox, which belongs to the Temple treasury, regardless of whether the latter was the ox that gored or the ox that was gored. With regard to an ox of a Jew that gored the ox of a gentile, the owner of the belligerent ox is exempt from liability. But with regard to an ox of a gentile that gored the ox of a Jew, regardless of whether the goring ox was innocuous or forewarned, the owner of the ox pays the full cost of the damage.

4:4 If an ox of a halakhically competent person gored an ox of a deaf-mute, an imbecile, or a minor, all of whom are not considered halakhically competent, the owner is liable for damages. But if an ox of a deaf-mute, an imbecile, or a minor gored an ox of a halakhically competent person, the owner of the ox is exempt from liability. If an ox belonging to a deaf-mute, an imbecile, or a minor gored another ox and caused damage, the court appoints a steward for them and warns them with regard to the ox that gored in the presence of the steward.

The ox is thereby rendered a forewarned ox, since the steward is considered its owner with regard to the requirement of the verse: “And warning has been given to its owner” (Exodus 21:29). If, after the ox was rendered forewarned in this manner, the deaf-mute regained his hearing, the imbecile became halakhically competent, or the minor reached the age of majority, the ox has thereby reverted to its status of innocuousness. This is the statement of Rabbi Meir, who maintains that the ox had the status of a forewarned ox only while it was under the custody of the steward. Rabbi Yosei says: It retains its previous status of being forewarned. If a stadium [ha’itztadin] ox, i.e., one that is trained to fight in a stadium, gores and kills a person, it is not liable to be put to death, as it is stated: “And if an ox gores a man or a woman” (Exodus 21:28). This is referring only to an ox that gores on its own initiative, but not to the case of an ox where others induced it to gore. Therefore, the owner of a stadium ox, which is trained to gore, is exempt from liability if it does.

4:5 With regard to an ox that gored a person and the person died, if the ox was forewarned its owner pays ransom, but if it was innocuous he is exempt from paying the ransom. And both this forewarned ox and that innocuous ox are liable to be put to death for killing a person. And the same halakha applies in a case where the animal killed a boy and the same applies in a case where it killed a girl. If the ox gored and killed a Canaanite slave or a Canaanite maidservant, its owner gives the victim’s master thirty sela, whether he was a slave worth one hundred maneh, i.e., one hundred silver dinars, or worth only one dinar.

4:6 If an ox was rubbing against a wall, and as a result the wall fell on a person and killed him; or if the ox intended to kill another animal but killed a person; or if it intended to kill a gentile but killed a Jew; or intended to kill a non-viable baby but killed a viable person; in all these cases the ox is exempt from being killed.

4:7 With regard to an ox belonging to a woman, and similarly an ox belonging to orphans, and an ox belonging to orphans that is in the custody of their steward, and a desert ox, which is ownerless, and an ox that was consecrated to the Temple treasury, and an ox belonging to a convert who died and has no heirs, rendering the ox ownerless; all of these oxen are liable to be put to death for killing a person. Rabbi Yehuda says: A desert ox, a consecrated ox, and an ox belonging to a convert who died are exempt from being put to death, since they have no owners.

4:8 With regard to an ox that is leaving court to be stoned for killing a person and its owner then consecrated it, it is not considered consecrated, i.e., the consecration does not take effect, since deriving benefit from the ox is prohibited and the ox is therefore worthless. If one slaughtered it, its flesh is forbidden to be eaten and it is prohibited to derive benefit from it. But if its owner consecrated it before its verdict the ox is considered consecrated, and if he slaughtered it its flesh is permitted.

4:9 If the owner of an ox conveyed it to an unpaid bailee, or to a borrower, or to a paid bailee, or to a renter, and it caused damage while in their custody, they enter into the responsibilities and liabilities in place of the owner. Therefore, if it was forewarned the bailee pays the full cost of the damage,

and if it was innocuous he pays half the cost of the damage. If the ox's owner tied it with reins to a fence or locked the gate before it in an appropriate manner, but nevertheless the ox emerged and caused damage, whether the ox is innocuous or forewarned the owner is liable, since this is not considered sufficient precaution to prevent damage; this is the statement of Rabbi Meir. Rabbi Yehuda says that if the ox is innocuous the owner is liable even if he safeguarded it appropriately, since the Torah does not limit the required safeguarding for an innocuous ox. But if the ox is forewarned, the owner is exempt from paying compensation for damage, as it is stated in the verse describing damage by a forewarned ox: "And the owner has not secured it" (Exodus 21:36), and this ox that was tied with reins or behind a locked gate was secured. Rabbi Eliezer says: An ox has no sufficient safeguarding at all other than slaughtering it with a knife; there is no degree of safeguarding that exempts the ox's owner from liability.

5:1 In the case of an innocuous ox that gored and killed a cow, and the cow's fetus was found dead at its side, and it is not known whether the cow gave birth before the ox gored it and the fetus's death is unrelated to the goring or whether it gave birth after the ox gored it and the fetus died on account of the goring, the owner of the ox pays half the cost of the damage for the cow and one-quarter of the cost of the damage for the offspring. Since it is uncertain whether the ox was responsible for the death of the fetus, in which case he would pay half the damages, its owner pays only half the amount for the fetus that he would ordinarily be required to pay, i.e., one-quarter. And likewise, there is uncertainty in the case of an innocuous cow that gored an ox, and the cow's newborn offspring was found at its side dead or alive, and it is not known whether the cow gave birth before it gored the ox or whether the cow gave birth after it gored. When damage is caused by an innocuous animal, the liability of the owner is limited to the value of the animal that gored. Therefore, half the cost of the damage is paid from the value of the cow, as in the standard case of an innocuous animal. And if that does not suffice to pay for half the cost of the damage, one-quarter of the cost of the damage is paid from the offspring. Since it is uncertain whether the offspring was part of the cow at the time the cow gored, the owner pays only half of what he would pay if it were certain that it was part of the cow.

5:2 In the case of a potter who brought his pots into a homeowner's courtyard without permission, and the homeowner's animal broke the pots, the homeowner is exempt. If the owner's animal was injured by the pots, the owner of the pots is liable. But if the potter brought them inside with permission, the owner of the courtyard is liable if his animal caused damage to the pots. Similarly, if someone brought his produce into the homeowner's courtyard without permission, and the homeowner's animal ate them, the homeowner is exempt. If his animal was injured by them, e.g., if it slipped on them, the owner of the produce is liable. But if he brought his produce inside with permission, the owner of the courtyard is liable for the damage caused by his animal to them.

5:3 Similarly, if one brought his ox into the homeowner's courtyard without permission, and the homeowner's ox gored it or the homeowner's dog bit it,

the homeowner is exempt. If it gored the homeowner's ox, the owner of the goring ox is liable. Furthermore, if the ox that he brought into the courtyard without permission fell into the owner's pit and contaminated its water, the owner of the ox is liable to pay compensation for despoiling the water. If the homeowner's father or son were inside the pit at the time the ox fell and the person died as a result, the owner of the ox pays the ransom. But if he brought the ox into the courtyard with permission, the owner of the courtyard is liable for the damage caused. Rabbi Yehuda HaNasi says: The homeowner is not liable in any of the cases in the mishna, even if he gave his permission for the items to be brought into his premises, unless he explicitly accepts responsibility upon himself to safeguard them.

5:4 In the case of an ox that was intending to gore another ox but struck a pregnant woman, and her offspring, i.e., the fetuses, emerged due to miscarriage, the owner of the ox is exempt from paying compensation for miscarried offspring. But in the case of a person who was intending to injure another but struck a pregnant woman instead, and her offspring emerged due to miscarriage, he pays compensation for miscarried offspring. How does he pay compensation for miscarried offspring, i.e., how is their value assessed? The court appraises the value of the woman by calculating how much she would be worth if sold as a maidservant before giving birth, and how much she would be worth after giving birth. He then pays the difference in value to the woman's husband. Rabban Shimon ben Gamliel said: If so, the consequences would be absurd, as when a woman gives birth her value increases. Rather, the court appraises how much the offspring are worth, and the one liable for the damage gives that amount to the husband. And if she does not have a husband, e.g., her husband died, he gives the money to his heirs. If the pregnant woman was a Canaanite maidservant and then she was emancipated, or a convert, and she was married to an emancipated Canaanite slave or to a convert who died without any heirs, the one who caused the damage is exempt from pay-ing compensation for miscarried offspring. This is because this payment is made specifically to the husband, not to the woman.

5:5 One who digs part of a pit on private property and opens its entrance in the public domain, or digs a pit in the public domain and opens its entrance on private property, or digs a pit on private property and opens its entrance on another person's private property, is liable for damage caused by the pit in each case. In the case of one who digs a pit in the public domain and an ox or a donkey fell into it and died, he is liable. The halakha is the same for one who digs either a pit; a ditch, which is narrow and long; or a cave, which is rectangular and roofed; trenches and water channels. In all these cases he is liable. If so, why is the verse stated as referring to a pit, as it states: "And if a man shall open a pit" (Exodus 21:33)? To teach that just as a pit that has sufficient depth to cause death when falling into it is at least ten handbreadths deep, so too, any other excavations that have sufficient depth to cause death may be no less than ten handbreadths. If any of the types of excavations were less than ten handbreadths deep, and an ox or a donkey fell into one of them and died, the digger of the excavation is exempt. But if it was injured in it, not killed, he is liable to pay damages.

5:6 If a pit belonging to two partners was uncovered and the first partner passed by it and did not cover it, and then the second passed by it and did not cover it, the second is liable for any damage caused by means of the pit. The mishna lists several halakhot that pertain to damage classified as Pit: In the case of a pit that the first person who passed by covered after using it, and then the second came to use it and found it uncovered after the cover fell off or was damaged, and he did not cover it, the second one is liable for damage caused by the pit. If the owner covered the pit appropriately and an ox or a donkey fell into it and died, he is exempt. If he did not cover the pit appropriately and an ox or a donkey fell into it and died, he is liable. If a man was digging or widening a pit, and an ox passing by fell forward into it in fright due to the sound of the digging, he is liable. If it fell backward into the pit due to the sound of the digging, he is exempt. If an ox and its accoutrements, i.e., the vessels it was carrying, fell into the pit and the vessels were broken, or if a donkey and its accoutrements fell in and the accoutrements were torn, the owner of the pit is liable for damage to the animal caused by the pit, but he is exempt from liability for damage caused to the vessels, by Torah edict. If an ox that was impaired by being deaf, or an ox that was an imbecile, or an ox that was very young fell into the pit, he is liable. If a boy or a girl, a Canaanite slave or a Canaanite maidservant fell in, he is exempt, since there is a Torah edict that the digger of a pit is liable only for damage caused to an animal.

5:7 The halakha is the same whether concerning an ox or whether concerning any other animal with regard to liability for falling into a pit, and with regard to keeping its distance from Mount Sinai at the time of the receiving of the Torah, when it was forbidden for any animal to ascend the mountain, and with regard to the payment of double the principal by a thief, and with regard to the mitzva of returning a lost item, and with regard to unloading its burden, and with regard to the prohibition of muzzling it while threshing, and with regard to the prohibition of diverse kinds, and with regard to the prohibition against its working on Shabbat. And similarly, undomesticated animals and birds are subject to the same halakhot as domesticated animals. If so, why are all of the above halakhot stated in the Torah only in reference to an ox or a donkey? Rather, the reason is that the verse speaks of a common scenario, from which the other cases may be derived.

6:1 In the case of one who brought his flock of sheep into the pen and locked the door before it in a manner that is appropriate, and despite this sheep went out and caused damage in another person’s field by eating produce or trampling it, the owner is exempt, since he safeguarded the animals appropriately. If he did not lock the door before the sheep in a manner that is appropriate, and sheep went out and caused damage, the owner is liable, since his negligence led to the damage. If the owner locked the door appropriately but the wall of the pen was breached at night, or bandits breached it, and sheep subsequently went out and caused damage by eating or trampling, the owner of the sheep is exempt from liability. If the bandits themselves took the sheep out of the pen and the animals subsequently caused damage, the bandits are liable.

6:2 If the owner left the animal in the sun, causing it to suffer, or if he conveyed it to a deaf-mute, an imbecile, or a minor, who are not able to safeguard it, and the animal went out and caused damage, the owner is liable because he was negligent. If the owner conveyed the animal to a shepherd to care for it, the shepherd enters in his place and is responsible for the damage. If the animal fell into a garden and derives benefit from produce there, its owner pays for the benefit that it derives and not for other damage caused. If the animal descended into the garden in its usual manner and caused damage there, its owner pays for what it damaged. How does the court appraise the value of the damage when the owner pays for what it damaged? The court appraises a large piece of land with an area required for sowing one se'a of seed [beit se'a] in that field, including the garden bed in which the damage took place. This appraisal includes how much it was worth before the animal damaged it and how much is it worth now, and the owner must pay the difference. The court appraises not only the garden bed that was eaten or trampled, rather the depreciation in value of the bed as part of the surrounding area. This results in a smaller payment, as the damage appears less significant in the context of a larger area. Rabbi Shimon says: This principle of appraisal applies only in a case where the animal ate unripe produce; but if it ate ripe produce, the owner pays the value of the ripe produce. Therefore, if it ate one se'a of produce, he pays for one se'a, and if it ate two se'a, he pays for two se'a.

6:3 In a case of one who stacks his produce in another's field without permission from the owner of that field, and an animal belonging to the owner of the field eats the produce, the owner of the field is exempt. And if the animal is injured by the produce, the owner of the stack is liable. But if he stacked them in that field with permission, the owner of the field is liable for damage caused to the produce.

6:4 One who sends a fire, i.e., places a burning object, in the hand of a deaf-mute, an imbecile, or a minor is exempt for any damage later caused by the fire according to human laws but liable according to the laws of Heaven. If he sent it in the hand of a halakhically competent person, the halakhically competent person is liable, not the one who sent him. If one person brought the fire, and one other person subsequently brought the wood, causing the fire to spread, the one who brought the wood is liable for any damage caused. Conversely, if one person first brought the wood, and subsequently one other person brought the fire, the one who brought the fire is liable, since it was he who actually kindled the wood. If another came and fanned the flame, and as a result the fire spread and caused damage, the one who fanned it is liable, since he is the proximate cause of the damage. If the wind fanned the flames, all the people involved are exempt, since none of them actually caused the damage. If one sends forth a fire, i.e., allows it to escape, and it consumes wood, or stones, or earth, he is liable, as it is stated: "If a fire breaks out, and catches in thorns, so that a stack of grain, or standing grain, or the field, is consumed, the one who kindled the fire shall pay compensation" (Exodus 22:5), which teaches that he is liable also for destroying the field itself. If one kindled a fire that crossed a fence that is four cubits high, or

if the fire crossed the public thoroughfare, or if the fire crossed a river, and in each case it caused damage on the other side, he is exempt from liability. In a case of one who kindles a fire on his own premises, up to what distance may the fire travel within his property for him to still bear liability for damage caused? Rabbi Elazar ben Azaria says: The court views his location where he kindled the fire as if it were in the center of a beit kor. Therefore, if the fire spreads and causes damage farther away than half a beit kor, the one who kindled the fire is exempt, since he could not anticipate that the fire would spread so far. Rabbi Eliezer says: One is liable up to a distance of sixteen cubits, like the width of a public thoroughfare. Rabbi Akiva says: One is liable up to a distance of fifty cubits. Rabbi Shimon says: The verse states: "The one who kindled the fire shall pay [shallem yeshallem] compensation" (Exodus 22:5), to teach that everything is according to the fire.

6:5 With regard to one who kindles a stack of wheat or barley and there were vessels concealed inside the stack and they caught fire and burned together with the stack, Rabbi Yehuda says: The one who kindled the fire also pays compensation for what was inside the stack, but the Rabbis say: He pays compensation only for the stack of wheat or barley, as the case may be, and he is not responsible for that which was concealed within it. If there was a goat tied to the stack of grain, and there was a Canaanite slave nearby who was not tied to it, and both the goat and the slave were burned together with the stack and killed, the one who kindled the fire is liable to pay compensation for both. Conversely, if the slave was tied to the stack and there was a goat nearby that was not tied to it, and they were both burned together with it, the one who kindled the fire is exempt from payment for damage because he is liable to receive capital punishment for murder, and he is punished only for the greater transgression. And the Rabbis, who disagree with Rabbi Yehuda and exempt one from payment for vessels concealed inside the stack in the field, concede to Rabbi Yehuda that if one sets fire to a building, he pays compensation for everything that was burned inside it, since it is the normal way of people to place items in houses.

6:6 In the case of a spark that emerged from under the hammer of a blacksmith and started a fire, causing damage, the blacksmith is liable for the damage caused. In the case of a camel that was laden with flax and was passing through the public domain, and its flax extended into a store and the flax caught fire from a lamp in the store belonging to the storekeeper, and as a result of the burning flax the camel set fire to the building together with all its contents, the owner of the camel is liable. But if the storekeeper placed his lamp outside, thereby causing the flax on the camel to catch fire, and consequently the building was set on fire, the storekeeper is liable. Rabbi Yehuda says: In a case where the lamp placed outside was a Hanukkah lamp, the storekeeper is exempt, since it is a mitzva for a Hanukkah lamp to be placed outside.

7:1 The principle of double payment applies more broadly than the principle of fourfold or fivefold payment, as the principle of double payment applies both to the theft of something that is alive and to the theft of something that is not alive, but the principle of fourfold or fivefold payment applies only to

the theft of an ox or a sheep, as it is stated: “If a man steal an ox or a sheep, and slaughter it or sell it, he shall pay five oxen for an ox and four sheep for a sheep” (Exodus 21:37). Having stated a limitation to the halakha of fourfold and fivefold payment, the mishna mentions a further limitation, which applies to all three types of payments. One who steals an item after a thief has already stolen it, i.e., one who steals a stolen item, does not pay the double payment to the thief or to the prior owner, nor does one who slaughters or sells an ox or a sheep after a thief has already stolen it pay the fourfold or fivefold payment. Rather, he pays only the principal, i.e., the value of the item he stole.

7:2 The mishna lists a series of cases in which a thief is required to pay the fourfold or fivefold penalty. If one stole an animal, as established based on the testimony of two witnesses, and he subsequently slaughtered the animal or sold it, also based on the testimony of the same witnesses, or based on the testimony of two other witnesses, he pays the fourfold or fivefold payment. If one stole an animal and sold it on Shabbat, or if he stole it and sold it for idol worship, or if he stole it and slaughtered it on Yom Kippur, he pays the fourfold or fivefold payment. Although his sale or slaughter in these circumstances involved a sin, he is not liable to receive the death penalty for the sale and must consequently pay the fourfold or fivefold payment. If one stole an animal of his father’s and then slaughtered it or sold it, and afterward his father died and he inherited his father’s estate either on his own or in partnership with his brothers, or if he stole an animal and slaughtered it and afterward he consecrated it, he pays the fourfold or fivefold payment. In the case of one who stole an animal and slaughtered it, not for the purpose of eating its meat, but to use it for medicinal purposes or to feed the meat to dogs, and likewise a thief who slaughters the animal to eat its meat but it was found to be an animal with a condition that will cause it to die within twelve months [tereifa], or a thief who slaughters a non-sacred animal in the Temple courtyard, he pays the fourfold or fivefold payment. Rabbi Shimon exempts the thief from the fourfold or fivefold payment in these last two cases, as he maintains that the legal status of an act of slaughter that is not fit for accomplishing its full ritual purpose is not considered an act of slaughter.

7:3 If one stole an ox or a sheep, as established based on the testimony of two witnesses, and he subsequently slaughtered the animal or sold it, also based on the testimony of the same witnesses, and these witnesses were found to be conspiring witnesses, these witnesses pay everything, i.e., not only the principal amount but also the fourfold or fivefold payment. This is in accordance with the Torah’s decree with regard to conspiring witnesses: “You shall do to him as he had conspired to do to his brother” (Deuteronomy 19:19). Since these witnesses attempted to obligate the alleged thief to pay the fourfold or fivefold payment, they themselves must pay that full amount. With regard to one who stole an ox or a sheep, as established based on the testimony of two witnesses, and he subsequently slaughtered the animal or sold it, based on the testimony of two other witnesses, if both these witnesses and those witnesses were found to be conspiring witnesses, the first set of

witnesses, who testified about the theft of the animal, pay the alleged thief the double payment, which is what they had conspired to cause him to pay. And the last set of witnesses, who attested to the slaughter or sale of the animal, pay the alleged thief a twofold payment for a sheep or a threefold payment for an ox, which they had conspired to cause him to pay over and above the double payment. If only the witnesses in the last set were found to be conspiring witnesses, while the testimony about the theft remains intact, the thief pays the double payment to the animal's owner and the second set of witnesses pay the alleged thief the twofold or threefold payment, the amount over and above the double payment, which is what they had conspired to cause him to pay. If only one individual from the last set of witnesses was found to be a conspiring witness, the second testimony is nullified, as it was not submitted by two valid witnesses, whereas the first testimony remains intact. If one individual from the first set of witnesses is found to be a conspiring witness, the entire testimony concerning the thief is nullified. The reason is that if there is no theft established by reliable testimony there is no liability for slaughtering the animal and there is no liability for selling it.

7:4 If one stole an ox or a sheep, as established based on the testimony of two witnesses, and he subsequently slaughtered or sold the stolen animal, as established based on the testimony of one witness or based on his own admission, i.e., he himself admitted that he performed these acts, without there being any witness testimony, he pays the double payment, but he does not pay the fourfold or fivefold payment. If one stole an animal and slaughtered it on Shabbat, which is a capital offense, or if he stole an animal and slaughtered it for the purpose of idol worship, or if he stole his father's animal and subsequently his father died, and afterward he slaughtered or sold it, or if he stole an animal and subsequently he consecrated it as an offering and afterward he slaughtered or sold it, in all these cases the thief pays the double payment, but he does not pay the fourfold or fivefold payment. Rabbi Shimon says: In the case of sacrificial animals for which the owner bears financial responsibility to replace with another animal if one of the original animals that one stole is lost or dies, the thief is obligated to pay the fourfold or fivefold payment if he slaughters one of the animals. If it is a sacrificial animal for which the owner bears no financial responsibility, the thief is exempt from the fourfold or fivefold payment.

7:5 If a thief sold a stolen animal in a partial fashion, e.g., except for one one-hundredth of it, which he kept for himself; or if he had a partnership in owning the animal before stealing it; or in the case of a thief who slaughtered the stolen animal and it became non-kosher meat in his hand because he slaughtered it improperly; or in the case of a thief who ripped open the animal rather than slaughtering it halakhically; or in the case of a thief who tore loose the gullet or windpipe of the animal as he slaughtered it, rendering the slaughter invalid, in all these cases he pays the double payment but does not pay the fourfold or fivefold payment. The fourfold or five-fold payment applies only if the animal is entirely sold or if it is slaughtered in accordance with the halakhic definition of animal slaughter. If one stole an animal in its owner's domain, i.e., he took hold of it or established control over it but

had not yet removed it from the owner's premises, and then he slaughtered it or sold it outside of the owner's domain; or if he stole an animal outside of the owner's domain and slaughtered it or sold it in the owner's domain; or if he stole an animal and slaughtered it or sold it, and all of this occurred outside the owner's domain, in all of these cases, he must pay the fourfold or fivefold payment. But if he stole it and slaughtered or sold it, and all of this occurred in the owner's domain, he is exempt from any of the fines for theft, as it is not considered theft until the stolen object is actually removed from the owner's premises.

7:6 If the thief was in the process of leading the animal and leaving the owner's premises, and it died while it was still in the owner's domain, the thief is exempt from payment. If he lifted it up or led it out of the owner's domain and then the animal died, he is liable for his theft. For an act to be considered theft, the thief must acquire the item by pulling it or moving it, which are ineffective forms of acquisition on the owner's premises; or by lifting it up, which is effective even when performed in the owner's domain. If the thief gave the animal as payment for the redemption of his firstborn son, or as payment to a creditor, or conveyed it for safeguarding to an unpaid bailee, or lent it to a borrower, or conveyed it for safeguarding to a paid bailee, or leased it to a renter, and he was leading out the animal and it died in the owner's domain, the thief is exempt from payment. If that individual, following the thief's instructions, lifted up the animal or led it out of the owner's domain, and it subsequently died, the thief is liable for the theft. The thief is liable for instructing another to remove the animal for the purposes of payment of a debt, safekeeping, borrowing, or rental, as this is tantamount to the thief taking it with his own hands.

7:7 One may not raise small domesticated animals, i.e., sheep and goats, in settled areas of Eretz Yisrael, as they graze on people's crops. But one may raise them in Syria, despite the fact that with regard to many other halakhot Syria is treated like Eretz Yisrael, and in the wilderness of Eretz Yisrael. One may not raise chickens in Jerusalem, due to the sacrificial meat that is common there. There is a concern that chickens will pick up garbage that imparts ritual impurity and bring it into contact with sacrificial meat, thereby rendering it ritually impure. And priests may not raise chickens anywhere in Eretz Yisrael, because of the many foods in a priest's possession that must be kept ritually pure, e.g., teruma. Furthermore, one may not raise pigs anywhere, and a person may not raise a dog unless it is tied with chains. One may spread out traps [nishovim] for pigeons only if this was performed at a distance of at least thirty ris, which is 8,000 cubits, from any settled area, to ensure that privately owned pigeons are not caught in the traps.

8:1 One who injures another is liable to pay compensation for that injury due to five types of indemnity: He must pay for damage, for pain, for medical costs, for loss of livelihood, and for humiliation. How is payment for damage assessed? If one blinded another's eye, severed his hand, broke his leg, or caused any other injury, the court views the injured party as though he were a slave being sold in the slave market, and the court appraises how much he was worth before the injury and how much he is worth after the injury. The

difference between these two sums is the amount that one must pay for causing damage. How is payment for pain assessed? If one burned another with a skewer [beshapud] or with a hot nail, or even if one burned another on his fingernail, which is a place where he does not cause a bruise that would affect the victim's value on the slave market, the court evaluates how much money a person with a similar threshold for pain as the victim is willing to take in order to be made to suffer in this way. The one who burned the victim must then pay this amount. How is payment for medical costs assessed? If one struck another, then he is liable to heal him by paying for his medical costs. In a case where growths, e.g., blisters or rashes, appeared on the injured party, if the growths are due to the blow, the one who struck him is liable; if the growths are not due to the blow, the one who struck him is exempt. In a case where the wound healed, and then reopened, and again healed, and then reopened, the one who struck him remains liable to heal the injured party by paying for his medical costs, as it is apparent that the current wound resulted from the original injury. If the injury healed fully, the one who struck him is not liable to heal him by paying for any subsequent medical costs. How is payment for loss of livelihood assessed? The court views the injured party as though he were a watchman of cucumbers, and the one who caused him injury must compensate him based on that pay scale for the income that he lost during his convalescence. This indemnity does not take into account the value of the standard wages of the injured party because the one who caused him injury already gave him compensation for his hand or compensation for his leg, and that compensation took into account his professional skills. How is payment for humiliation assessed? It all depends on the stature of the one who humiliates the other and the one who is humiliated. One who humiliates a naked person, or one who humiliates a blind person, or one who humiliates a sleeping person is liable, but a sleeping person who humiliates another is exempt. If one fell from the roof onto another person, and thereby caused him damage and humiliated him, then the one who fell is liable for the indemnity of damage, since a person is always considered forewarned, and exempt from the indemnity of humiliation, as it is stated: "and putting out her hand, she takes hold of his private parts" (Deuteronomy 25:11); a person is not liable for humiliation unless he intends to humiliate the other person.

8:2 This halakha is a stringency with regard to a person who caused injury, compared to the halakha with regard to an ox that caused injury: The halakha is that the person pays compensation for damage, pain, medical costs, loss of livelihood, and humiliation; and if he caused a woman to miscarry he also pays compensation for miscarried offspring, as the verse states (see Exodus 21:22). But in the case of an ox that caused injury, the owner pays only compensation for damage, and he is exempt from paying compensation for miscarried offspring.

8:3 The mishna continues: One who strikes his father or his mother but did not cause them to have a bruise, and therefore is not liable to receive court-imposed capital punishment, and one who injures another on Yom Kippur, the punishment for which is not court-imposed capital punishment, is liable to pay for all of the five types of indemnity. One who injures a Hebrew slave is liable to pay for all of the five types of indemnity. This is except for

compensation for loss of livelihood suffered during the time that the injured slave belongs to the one that injured him. Since the right to the slave's labor belongs to his master, his inability to work is his master's loss. One who injures a Canaanite slave belonging to others is liable to pay for all of the five types of indemnity. Rabbi Yehuda says: Canaanite slaves do not have humiliation, so the one who injures the slave pays only the other four types of indemnity.

8:4 The mishna continues: With regard to a deaf-mute, an imbecile, or a minor, an encounter with them is disadvantageous. In other words, no favorable outcome is possible for someone involved in an incident with one of these people, since one who injures them is liable. But if they were the ones who injured others, they are exempt. This is because they lack awareness and are not responsible for their actions. Similarly, with regard to a slave and a married woman, an encounter with them is disadvantageous, since one who injures them is liable. But if they were the ones who injured others, they are exempt, because they do not have money with which to pay compensation. But they pay compensation at a later time. The exemption is only temporary, as, if the woman becomes divorced or the slave becomes emancipated, and they then have their own money, they are liable to pay compensation.

8:5 The mishna continues: One who strikes his father or his mother and causes them to have a bruise, or one who injures another on Shabbat, is exempt from paying all of the five types of indemnity, because he is judged with losing his life. The court imposes capital punishment for these acts, so there is no additional monetary punishment. And one who injures his own Canaanite slave is exempt from paying all of the five types of indemnity, because his slave is his property.

8:6 One who strikes another must give him a sela. Rabbi Yehuda says in the name of Rabbi Yosei HaGelili that he must give him one hundred dinars. If he slapped another on the cheek, he must give him two hundred dinars. If he slapped him on the cheek with the back of his hand, which is more degrading than a slap with the palm, he must give him four hundred dinars. If he pulled his ear, or pulled out his hair, or spat at him and his spittle reached him, or if he removed the other's cloak from him, or if he uncovered the head of a woman in the marketplace, in all of these cases, he must give the injured party four hundred dinars. This is the principle of assessing payment for humiliation caused to another: It is all evaluated in accordance with the honor of the one who was humiliated, as the Gemara will explain. Rabbi Akiva said: Even with regard to the poor among the Jewish people, they are viewed as though they were freemen who lost their property and were impoverished. And their humiliation is calculated according to this status, as they are the children of Abraham, Isaac, and Jacob, and are all of prominent lineage. The mishna relates: And an incident occurred involving one who uncovered the head of a woman in the marketplace, and the woman came before Rabbi Akiva to request that he render the assailant liable to pay for the humiliation that she suffered, and Rabbi Akiva rendered the assailant liable to give her four hundred dinars. The man said to Rabbi Akiva: My teacher, give me time to pay the penalty, and Rabbi Akiva gave him time. The man then waited for her until she was standing by the

opening of her courtyard, and he broke a jug in front of her, and there was the value of about an issar of oil inside the jug. The woman then exposed her own head and she was wetting [metapahat] her hand in the oil, and placing her hand on her head to make use of the oil. The man set up witnesses to observe her actions, and he came before Rabbi Akiva, and he said to him: Will I give four hundred dinars to this woman for having uncovered her head? By uncovering her head for a minimal benefit, she has demonstrated that this does not cause her humiliation. Rabbi Akiva said to him: You did not say anything, i.e., this claim will not exempt you. One who injures himself, although it is not permitted for him to do so, is nevertheless exempt from any sort of penalty, but others who injured him are liable to pay him. In this case as well, the man was liable to compensate the woman for shaming her, despite the fact that she did the same to herself. Similarly, one who cuts down his own saplings, although it is not permitted for him to do so, as this violates the prohibition of: "You shall not destroy" (see Deuteronomy 20:19), is exempt from any penalty, but others who cut down his saplings are liable to pay him.

8:7 Despite the fact that the assailant who caused damage gives to the victim all of the required payments for the injury, his transgression is not forgiven for him in the heavenly court until he requests forgiveness from the victim, as it is stated that God told Abimelech after he had taken Sarah from Abraham: "Now therefore restore the wife of the man; for he is a prophet, and he shall pray for you, and you shall live" (Genesis 20:7). And from where is it derived that if the victim does not forgive him that he is cruel? As it is stated: "And Abraham prayed to God; and God healed Abimelech, and his wife, and his maidservants; and they bore children" (Genesis 20:17). The mishna continues: With regard to one who says to another: Blind my eye, or: cut off my hand, or: break my leg, and he does so, the one who performed these actions is liable to pay for the damage, despite having been instructed to do so. Even if he explicitly instructed him: Do so on the condition that you will be exempt from payment, he is nevertheless liable. With regard to one who says to another: Tear my garment, or: break my jug, and he does so, he is liable to pay for the damage. But if he instructed him explicitly: Do so on the condition that you will be exempt from payment, he is exempt from payment. If one says to another: Do so, i.e., cause damage, to so-and-so on the condition that you will be exempt from payment, and he did so, he is liable, whether the instructions were with regard to the victim himself, or whether the instructions were with regard to his property.

9:1 In the case of one who robs another of wood and fashions it into vessels, or one who robs another of wool and fashions it into garments, he pays the robbery victim according to the value of the goods at the time of the robbery, but he need not return the vessels or garments. He has acquired the stolen items because they had undergone a change. If one robbed another of a pregnant cow and it then gave birth while in his possession, or if one robbed another of a ewe that was laden with wool and the robber then sheared it, the robber pays the value of a cow that is ready to give birth or the value of a ewe that is ready to be shorn. He pays the value of the animal at the time of the robbery, and the calf or the wool remains his. If one robbed another of a cow, and it

became pregnant in his possession, and it then gave birth; or if one robbed another of a ewe, and it became laden with wool in his possession, and he then sheared it, then the robber pays according to the value of the animal at the time of the robbery. This is the principle: All robbers pay according to the value of the stolen item at the time of the robbery.

9:2 If one robbed another of an animal and it aged while in his possession, consequently diminishing its value, or if one robbed another of Canaanite slaves and they aged while in his possession, they have been changed. The robber therefore pays according to the value of the stolen item at the time of the robbery. Rabbi Meir says: With regard to Canaanite slaves, he says to the robbery victim: That which is yours is before you. If one robbed another of a coin and it cracked, thereby reducing its value; or if one robbed another of produce and it rotted; or if one robbed another of wine and it fermented, then he pays according to the value of the stolen item at the time of the robbery. If he robbed another of a coin and it was invalidated by the government; or if he robbed another of teruma and it became ritually impure; or if he robbed another of leavened bread and Passover elapsed over it, and therefore it is prohibited to derive benefit from it; or if he robbed another of an animal and a sin was performed with it, thereby disqualifying it for use as an offering; or if the animal was disqualified from being sacrificed upon the altar for some other reason; or if the animal was going out to be stoned because it gored and killed a person at some point after the robbery, the robber says to the robbery victim: That which is yours is before you. In all of these cases, although the value of the stolen item has been diminished or altogether lost, since the change is not externally discernible, the robber returns the item in its current state.

9:3 If one gave items to craftsmen to fix and they damaged them, the craftsmen are liable to pay for the damage. For example, if one gave a chest, a box, or a cabinet to a carpenter to fix, and he damaged it, he is liable to pay. And a builder who committed to demolish a wall and while demolishing it he broke the stones, or who damaged them, is liable to pay. If he was demolishing on this side of the wall, and the wall fell from another side and caused damage, he is exempt from liability. But if a stone fell and caused damage due to the force of the blow, he is liable.

9:4 In the case of one who gives wool to a dyer and it was burned in the cauldron during the dyeing process, thereby completely ruining the wool so that there is no enhancement, only loss, the dyer gives the owner the value of his wool. If he dyed it unattractively [ka’ur] so that the dye is not absorbed well by the wool, if the enhancement, i.e., the amount that the value of the wool has increased by being dyed, exceeds the dyer’s expenses, the owner of the wool gives the dyer the expenses. And if the expenses exceed the enhancement, he gives him the value of the enhancement. If the owner gave wool to a dyer to dye it red for him and instead he dyed it black, or to dye it black and he dyed it red, Rabbi Meir says: The dyer gives the owner of the wool the value of his wool. Rabbi Yehuda says: Here too, if the value of the enhancement exceeds the dyer’s expenses, the owner of the wool gives the dyer the expenses. And if the expenses exceed the enhancement, he gives him the

value of the enhancement.

9:5 One who robs another of an item having the value of at least one peruta and takes a false oath to the robbery victim claiming his innocence, and then later wishes to repent, must bring the money, which includes the principal together with an additional one-fifth payment, to the robbery victim, even if this necessitates following after him to a distant place like Media. The robber may not give the payment to the robbery victim's son to return it to the robbery victim, and neither may he give it to his agent, but he may give the payment to an agent of the court. And if the robbery victim dies, he returns it to his heirs.

9:6 If he gave the robbery victim the principal value of the stolen item but did not give him the additional one-fifth payment, or if the owner forgave him concerning the principal but did not forgive him concerning the additional one-fifth payment, or if he forgave him concerning this and concerning that, with the exception of the value of less than one peruta of the principal, he need not pursue him to repay the remaining debt. By contrast, if he gave the robbery victim the additional one-fifth payment but did not give him the principal, or if the robbery victim forgave him concerning the additional one-fifth payment but did not forgive him concerning the principal, or if he forgave him concerning this and concerning that, with the exception of the value of one peruta of the principal, he must pursue him to repay the remaining debt.

9:7 If the robber gave the robbery victim the principal and took a false oath to him concerning the additional one-fifth payment, asserting that he had already paid it, then the additional one-fifth is considered a new principal obligation. The robber pays an additional one-fifth payment apart from the additional one-fifth payment about which he had taken a false oath. If he then takes a false oath concerning the second one-fifth payment, he is assessed an additional one-fifth payment for that oath, until the principal, i.e., the additional one-fifth payment about which he has most recently taken the false oath, is reduced to less than the value of one peruta. And such is the halakha with regard to a deposit, as it is stated: "If anyone sins, and commits a trespass against the Lord, and he defrauds his counterpart with regard to a deposit, or with regard to a pledge, or with regard to a robbery, or if he exploited his counterpart; or he has found that which was lost, and deals falsely with it, and swears to a lie…he shall restore it in full, and shall add the fifth part more to it" (Leviticus 5:21–24). This one must pay the principal and an additional one-fifth payment, and bring a guilt-offering. If the owner asked the bailee: Where is my deposit? And the bailee said to him: It was lost. And the owner said: I administer an oath to you, and the bailee said: Amen, therefore accepting the oath; and the witnesses testify about the bailee that he consumed it, then he must pay the principal. If the bailee admitted on his own that he had taken a false oath, then he must pay the principal and the additional one-fifth payment, and bring a guilt-offering.

9:8 If the owner asked the bailee: Where is my deposit, and the bailee said to him: It was stolen; and the owner said: I administer an oath to you, and the bailee said: Amen, therefore accepting the oath; and the witnesses testify

about the bailee that he stole it, he must pay the payment of double the principal. If the bailee admitted on his own that he had taken a false oath, then he must pay the principal, the additional one-fifth payment, and bring a guilt-offering.

9:9 The mishna continues: In the case of one who robs his father and the father demands that he return the stolen item, and he takes an oath to his father that he did not rob him; and then the father dies; and then the son admits that he robbed him and took a false oath, necessitating the return of the principal and the giving of the additional one-fifth payment to his father's heirs, of which he is either one of several or the only one; what should he do? This son pays the principal and the additional one-fifth payment to his father's sons or brothers, and brings a guilt-offering and does not keep his own share. And if he does not want to forfeit his share or where he does not have sufficient funds to pay the other heirs while forfeiting his share, he borrows money in the amount of the value of the stolen item and the creditors come and are repaid in part from his share in the stolen item.

9:10 In the case of one who says to his son in a vow: It is forbidden like an offering [konam], and for that reason you may not derive benefit from my property, if the father then dies the son inherits from him, because it is no longer the father's property once he dies. The mishna continues: If the father stated in his vow that his son may not derive benefit from his property in his life and in his death, then even if the father then dies the son does not inherit from him, as the prohibition is still in effect. And instead of taking his inheritance, he returns his portion in the estate to his sons or to his brothers. And if he does not have sufficient funds to subsist without his inheritance, he borrows money in the amount of the value of his share in the inheritance and the creditors come and are repaid from his share.

9:11 With regard to one who robs a convert and takes a false oath denying having done so, and then the convert dies, the robber, in order to achieve repentance, pays the principal, i.e., the stolen item or, if it is no longer extant, its monetary value, and an additional one-fifth of its value to the priests, and presents a guilt-offering to the altar, as it is stated: "But if the man has no kinsman to whom restitution may be made for the guilt, the restitution for guilt that is made shall be the Lord's, even the priest's; besides the ram of the atonement, whereby atonement shall be made for him" (Numbers 5:8). If the robber was bringing the money and the guilt-offering up to Jerusalem and he died before paying the priests and bringing his offering, the money shall be given to the robber's children, and the animal designated for the guilt-offering shall graze until it becomes blemished and consequently disqualified from being sacrificed. And the animal shall then be sold and the money received for it shall be allocated for communal gift offerings.

9:12 If the robber gave the money to the members of the priestly watch and then died before they sacrificed his guilt-offering, the heirs cannot remove the money from the priests' possession, as it is stated: "And every man's hallowed things shall be his; whatsoever any man gives to the priest, it shall be his" (Numbers 5:10). The mishna continues: If the robber gave the money to the priestly watch of Joiarib and then gave the guilt-offering to the priestly

watch of Jedaiah, the following priestly watch, to sacrifice on his behalf, he has fulfilled his obligation. By contrast, if he first gave the guilt-offering to the priestly watch of Joiarib and then gave the money to the priestly watch of Jedaiah, if the animal designated for the guilt-offering is extant, then members of the priestly watch of Jedaiah, who received the money, should sacrifice it. But if it is no longer extant because the priestly watch of Joiarib had already sacrificed it, he should return and bring another guilt-offering; for one who brings his stolen item to the priests before he brings his guilt-offering has fulfilled his obligation, but one who brings his guilt-offering before he brings his stolen item has not fulfilled his obligation. Although he cannot sacrifice the offering before paying the principal, if he gave the principal but did not yet give the additional one-fifth payment, the lack of having given the additional one-fifth payment does not preclude sacrificing the offering.

10:1 In the case of one who robs another of food and feeds it to his children, or who left a stolen item to them and then died, the children are exempt from paying the victim of the robbery after their father’s death. But if the stolen item was something that serves as a legal guarantee of a loan, the heirs are obligated to pay. One may not exchange larger coins for smaller ones from the trunk of customs collectors nor from the purse of tax collectors, and one may not take charity from them, as they are assumed to have obtained their funds illegally. But one may take money from the collector’s house or from money he has with him in the market that he did not take from his collection trunk or purse.

10:2 If customs collectors took one’s donkey and gave him a different donkey that was taken from another Jew in its stead, or if bandits took his garment and gave him a different garment that was taken from a Jew in its stead, these items are now his because the owners despaired of retrieving them when they were stolen, and they may therefore be acquired by another. In a case of one who salvages items from a river, or from a troop [hagayis] of soldiers, or from bandits, if the owners of the items despaired of retrieving them, they are his, i.e., they belong to the one who salvaged them. And so too, with regard to a swarm of bees, if the owners despaired of retrieving the bees, they are his, i.e., they belong to the one who found them. Rabbi Yohanan ben Beroka said: A woman or a minor, whose testimony is not generally accepted by the court, is deemed credible to say: It was from here that this swarm emerged, and it therefore belongs to a certain individual. And one may walk into another’s field in order to salvage his own swarm of bees that has relocated there, and if he damaged some property in the process, he must pay for what he has damaged. But if the bees settled on a branch of a tree, he may not cut off the other’s branch in order to take the bees, even on the condition that he will later give him the money for it. Rabbi Yishmael, son of Rabbi Yohanan ben Beroka, says: He may even cut off the branch and later give him the money for it as compensation.

10:3 In a case of one who recognizes his stolen vessels and scrolls in another’s possession, and a rumor had spread in the city that the former had been the victim of theft, the purchaser, i.e., the one in possession of these

items, must take an oath to the victim as to how much money he spent on the purchase, and he then takes that sum of money in exchange for returning the items. And if no such rumor had spread, it is not in the purported victim's power to assert that the items were stolen, and he is not entitled to demand their return, as I could say: The items were never stolen; rather, the purported victim sold them to another, and this individual who currently possesses the item purchased them from that other person.

10:4 In a situation where this individual came with his barrel of wine, and that individual came with his jug of honey, if the barrel of honey cracked and this first individual poured out his wine and salvaged the other's honey, which is worth more than the wine, by collecting it into his wine barrel, the owner of the wine has the right to collect only his wage, i.e., compensation for the effort he put into salvaging the honey. He is not, however, entitled to compensation for the wine itself. But if the owner of the wine said: I will salvage your honey and you will pay me the value of my wine, the owner of the honey is obligated to pay him compensation for the wine. Similarly, if a river washed away his donkey and the donkey of another, and his donkey was worth one hundred dinars and the donkey of the other was worth two hundred, and the individual with the less valuable donkey abandoned his donkey and instead salvaged the donkey of the other, he has the right to collect only his wage, i.e., compensation for the effort he put into salvaging his fellow's donkey. But if he said to the owner of the more valuable donkey: I will salvage your donkey and you will pay me the monetary value of mine in exchange, the owner of the more valuable donkey is obligated to pay the rescuer compensation for his donkey.

10:5 In a case of one who robs a field from an-other and thugs [massikin] subsequently take the field from the robber, the halakha is dependent upon the circumstances: If it is a regional disaster in which the thugs seize all the property in the region, the robber says to the owner of the field: That which is yours is before you, i.e., it is your prerogative to try to reclaim it from the thugs. No compensation is required since the thugs would have seized the property in any event. But if the thugs took that field alone due to the robber, the robber is obligated to provide the owner with a different field. If a river flooded a misappropriated field, the robber may say to its owner: That which is yours is before you, and no compensation is required. Since the field would have been flooded in any case, the robber has not caused the damage to the field, and is therefore exempt.

10:6 With regard to one who robs another or who borrowed money from him, or one with whom another had deposited an item, if any of these interactions took place in a settled area, he may not return the item to him in an unsettled area, where it is of little benefit to the owner and he cannot safeguard it. If the loan or deposit was given on the condition that the recipient may go out and return it to the owner in an unsettled area, he may return it to him in an unsettled area.

10:7 In the case of one who says to another: I robbed you, or: You lent me money, or: You deposited an item with me, and I do not know if I returned your property to you or if I did not return it to you, he is liable to pay the sum

or item in question. But if he said to him: I do not know if I robbed you, or: I do not know if you lent me money, or: I do not know if you deposited an item with me, he is exempt from paying the sum or item in question.

10:8 In the case of one who stole a lamb from a flock and returned it without informing the owner that he had done so, and then it died or was stolen, the thief is liable to pay restitution for it. If the lamb's owners did not know about the entire incident, i.e., they did not know that it was stolen and they did not know that it was returned, and they counted the flock of sheep and found it whole, the thief is exempt from paying.

10:9 One may not purchase wool, milk, and kids from the shepherds who tend the flocks of others, due to the concern that they have stolen these items from the owners of the flocks. And similarly, one may not purchase wood and produce from produce watchmen. But one may purchase from women woolen goods in Judea, and linen goods in the Galilee, and calves in the Sharon, as women in these locations often work with those commodities and it can be assumed that they are selling the items with the owner's consent. And with regard to all these items, in a case where the seller told the buyer to conceal the purchase, it is prohibited, as there is good reason to suspect that the items are stolen. And one may purchase eggs and chickens from everywhere, as it is unlikely that one would steal and sell these commodities.

10:10 Strands of wool that the launderer removes from the garment belong to him, as it can be assumed that the customer is uninterested in them, but strands that the carder, i.e., one who prepares wool for use as a textile, removes belong to the customer, as it is assumed that the customer would want them, since the carder often removes a significant number of strands. A launderer takes three threads that were inserted at the edge of a garment, and they are his, but with regard to more threads than this, these additional threads belong to the customer. If these were black threads on a white garment, he takes all of them and they are his. As the removal of the threads improves the appearance of the garment, the customer does not want them. In the case of a tailor who left enough thread attached to the cloth that it could be used in order to sew with it, or if there was a patch of cloth that is three fingerbreadths by three fingerbreadths left from the cloth given to the tailor by the customer, these items belong to the customer. That which a carpenter removes with an adze belongs to him, because an adze removes only small shavings of wood, which the customer is uninterested in; but what he removes with an ax [uvakashil] belongs to the customer. And if he was doing his work in the domain of the customer, then even the sawdust belongs to the customer.