**Liability and Responsibility**

*Lisa is using her friend’s laptop. A neighbor’s cat jumped onto the keyboard and broke it. Who has to pay?*

*A retailer buys coats from a wholesaler with the agreement that whatever he does not sell can be returned. After the winter season, the retailer sets aside coats to return, and they get burned up in a freak accident. Who is responsible?*

***Shemos 22***

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| 6. If a man gives his neighbor money or articles for safekeeping, and it is stolen from the man's house, if the thief is found, he shall pay twofold. |  | **ו.**כִּי יִתֵּן אִישׁ אֶל רֵעֵהוּ כֶּסֶף אוֹ כֵלִים לִשְׁמֹר וְגֻנַּב מִבֵּית הָאִישׁ אִם יִמָּצֵא הַגַּנָּב יְשַׁלֵּם שְׁנָיִם: |
| **[7](http://www.chabad.org/library/bible_cdo/aid/9883" \l "v=7)**. If the thief is not found, the homeowner shall approach the judges, [to swear] that he has not laid his hand upon his neighbor's property. |  | **ז.**אִם לֹא יִמָּצֵא הַגַּנָּב וְנִקְרַב בַּעַל הַבַּיִת אֶל הָאֱלֹים אִם לֹא שָׁלַח יָדוֹ בִּמְלֶאכֶת רֵעֵהוּ: |
| **[8](http://www.chabad.org/library/bible_cdo/aid/9883" \l "v=8)**. For any sinful word, for a bull, for a donkey, for a lamb, for a garment, for any lost article, concerning which he will say that this is it, the plea[s] of both parties shall come to the judges, [and] whoever the judges declare guilty shall pay twofold to his neighbor. |  | **ח.**עַל כָּל דְּבַר פֶּשַׁע עַל שׁוֹר עַל חֲמוֹר עַל שֶׂה עַל שַׂלְמָה עַל כָּל אֲבֵדָה אֲשֶׁר יֹאמַר כִּי הוּא זֶה עַד הָאֱלֹהִים יָבֹא דְּבַר שְׁנֵיהֶם אֲשֶׁר יַרְשִׁיעֻן אֱלֹהִים יְשַׁלֵּם שְׁנַיִם לְרֵעֵהוּ: |
| **[9](http://www.chabad.org/library/bible_cdo/aid/9883" \l "v=9)**. If a man gives his neighbor a donkey, a bull, a lamb, or any animal for safekeeping, and it dies, breaks a limb, or is captured, and no one sees [it], |  | **ט.**כִּי יִתֵּן אִישׁ אֶל רֵעֵהוּ חֲמוֹר אוֹ שׁוֹר אוֹ שֶׂה וְכָל בְּהֵמָה לִשְׁמֹר וּמֵת אוֹ נִשְׁבַּר אוֹ נִשְׁבָּה אֵין רֹאֶה: |
| **[10](http://www.chabad.org/library/bible_cdo/aid/9883" \l "v=10)**. the oath of the Lord shall be between the two of them provided that he did not lay his hand upon his neighbor's property, and its owner shall accept [it], and he shall not pay. |  | **י.**שְׁבֻעַת ה תִּהְיֶה בֵּין שְׁנֵיהֶם אִם לֹא שָׁלַח יָדוֹ בִּמְלֶאכֶת רֵעֵהוּ וְלָקַח בְּעָלָיו וְלֹא יְשַׁלֵּם: |
| **[11](http://www.chabad.org/library/bible_cdo/aid/9883" \l "v=11)**. But if it is stolen from him, he shall pay its owner. |  | **יא.**וְאִם גָּנֹב יִגָּנֵב מֵעִמּוֹ יְשַׁלֵּם לִבְעָלָיו: |
| **[12](http://www.chabad.org/library/bible_cdo/aid/9883" \l "v=12)**. If it is torn apart, he shall bring witness for it; [for] the torn one he shall not pay. |  | **יב.**אִם טָרֹף יִטָּרֵף יְבִאֵהוּ עֵד הַטְּרֵפָה לֹא יְשַׁלֵּם: |
| **[13](http://www.chabad.org/library/bible_cdo/aid/9883" \l "v=13)**. And if a person borrows [an animal] from his neighbor and it breaks a limb or dies, if its owner is not with him, he shall surely pay. |  | **יג.**וְכִי יִשְׁאַל אִישׁ מֵעִם רֵעֵהוּ וְנִשְׁבַּר אוֹ מֵת בְּעָלָיו אֵין עִמּוֹ שַׁלֵּם יְשַׁלֵּם: |
| **[14](http://www.chabad.org/library/bible_cdo/aid/9883" \l "v=14)**. If its owner is with him, he shall not pay; if it is a hired [animal], it has come for its hire. |  | **יד.**אִם בְּעָלָיו עִמּוֹ לֹא יְשַׁלֵּם אִם שָׂכִיר הוּא בָּא בִּשְׂכָרוֹ: |

***The 4 Shomrim: Bava Metziah 93a***

**MISHNAH.** THERE ARE FOUR BAILEES: A GRATUITOUS BAILEE (Shomer Chinam), A BORROWER, A PAID BAILEE AND A HIRER (Socher). A GRATUITOUS BAILEE MUST SWEAR FOR EVERYTHING. A BORROWER MUST PAY FOR EVERYTHING. A PAID BAILEE OR A HIRER MUST SWEAR CONCERNING AN ANIMAL THAT WAS INJURED, CAPTURED [IN A RAID] OR THAT PERISHED; BUT MUST PAY FOR LOSS OR THEFT.

***Defining the Shomer Chinam, Socher: Bava Metziah 80b***

**MISHNAH**. ALL ARTISANS ARE REGARDED AS PAID BAILEES;  BUT IF THEY DECLARE,  'TAKE YOUR PROPERTY AND THEN BRING US MONEY, THEY RANK AS UNPAID BAILEES.

'WATCH THIS ARTICLE [FOR ME], AND I WILL WATCH [ANOTHER] FOR YOU,' HE RANKS AS A PAID BAILEE. [IF HE REQUESTED,] 'WATCH [THIS] FOR ME,' AND HE REPLIED, 'PUT IT DOWN BEFORE ME,' HE IS AN UNPAID BAILEE.

IF A MAN LENDS ANOTHER ON A PLEDGE,[16](http://halakhah.com/babamezia/babamezia_80.html" \l "80b_16)  HE RANKS AS A PAID TRUSTEE. R. JUDAH SAID: IF HE LENDS HIM MONEY [ON A PLEDGE], HE IS AN UNPAID TRUSTEE; IF PROVISIONS, HE IS A PAID BAILEE. ABBA SAUL SAID: ONE MAY HIRE OUT A PLEDGE TAKEN FROM A POOR MAN, FIXING A HIRING FEE AND PROGRESSIVELY DIMINISHING THE DEBT, BECAUSE IT IS LIKE RETURNING A LOST ARTICLE

***81a* Gemara.** It has been taught in accordance with Amemar: If one takes goods from a tradesman [on approval] to send them [as a gift] to his father-in-law, and stipulates. 'If they are accepted, I will pay you their value, but if not, I will pay you its goodwill benefit;'  if they are accidentally damaged on the outward journey, he is liable;  but exempt if on the return journey, because he is regarded as a paid bailee.

A man once sold a donkey to his neighbour. Said the latter, 'I will take it to that place, if it is sold, it is well; if not, I will return it to you.' He went, but it was not sold, and on his way back it was accidentally injured. On his going before R. Nahman, he held him liable.

Thereupon Raba raised an objection to R. Nahman: If they are damaged on the outward journey, he is liable; but exempt if on the return journey, because he is regarded as a paid bailee! — He answered: The return journey of this person is an outward journey. Why so? — It is common-sense. For if he found a purchaser on his return, would he not sell it?