

Spotlight on....Personal Injury

Background:

The end of Parashat Emor teaches us the biblical laws of damages - meaning, what happens when one person hurts another. Chapter 24:19-20 provides us with a famous principle:

וְאִישׁ כִּי-יִתֵּן מוֹם בְּעַמִּיתוֹ כַּאֲשֶׁר עָשָׂה גֵן יַעֲשֶׂה לוֹ: שִׁבְרַת תַּחַת שִׁבְרַת עֵין תַּחַת עֵין שֵׁן תַּחַת שֵׁן כַּאֲשֶׁר יִתֵּן מוֹם בְּאָדָם
גֵן יִנְתֵּן לוֹ:

“If anyone maims his fellow, as he has done so shall it be done to him: fracture for fracture, eye for eye, tooth for tooth. The injury he inflicted on another shall be inflicted on him.”

The pshat of these psukim is that if Sarah physically injures Rivka, then the courts should inflict the same injury onto Sarah. However, in the mishna in Bava Kama our rabbis take these psukim and completely reinterpret them to be referring to monetary restitution (i.e. Sarah has to pay Rivka for the physical injury and the damages associated with it - specifically: damages (compensation for the direct injury), pain (compensation for the pain associated with the injury), healthcare (compensation for any associated healthcare costs), unemployment (lost wages), and shame.)

Questions:

Take the following scenario: Reuven is walking down 16th St carrying a large beam of wood. Shimon is approaching him from the opposite direction on 16th, minding his own business. Right when Reuven and Shimon pass each other, Reuven loses his grip and drops the beam. It lands on Shimon's foot, and Shimon cries out in pain. The hospital determines that Shimon's foot is broken. This is especially difficult for Shimon because he is a dog-walker by profession and cannot work for 8 weeks until his foot heals.

1. According to the Torah, how should Reuven be punished for his actions?
2. According to the mishna in Bava Kama, how should Reuven be punished for his actions?
3. Is there anything you would add or subtract to the mishna's approach to Reuven's punishment? Why?