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**מתני'** הגוזל את חבירו שוה פרוטה ונשבע לו יוליכנו אחריו למדי לא יתן לא לבנו ולא לשלוחו אבל נותן לשליח בית דין ואם מת יחזיר ליורשיו. נתן לו את הקרן ולא נתן לו את החומש מחל לו על הקרן ולא מחל לו על החומש מחל לו על זה ועל זה חוץ מפחות שוה פרוטה בקרן אינו צריך לילך אחריו נתן לו את החומש ולא נתן לו את הקרן מחל לו על החומש ולא מחל לו על הקרן מחל לו על זה ועל זה חוץ משוה פרוטה בקרן צריך לילך אחריו. הרי זה משלם חומש על חומש עד שיתמעט הקרן משוה פרוטה. וכן בפקדון שנאמר (ויקרא ה, כא) או בפקדון או בתשומת יד או בגזל או עשק את עמיתו או מצא אבידה וכחש בה ונשבע על שקר הרי זה משלם קרן וחומש ואשם.

Mishna: 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 Medea. The robber may not give the payment to [the victim's] son [to return it to the robbery victim], and nor 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. 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 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, except for the value of one *peruta* of the principal, he must pursue him to repay the remaining debt. 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 pays the principal and [an additional] one-fifth [payment], and [bring] a guilt-offering.

**גמ'** נשבע לו אין לא נשבע לו לא מני לא רבי טרפון ולא רבי עקיבא דתניא גזל אחד מחמשה ואינו יודע איזה מהן וכל אחד אומר אותי גזל מניח גזילה ביניהם ומסתלק דברי רבי טרפון ר"ע אומר לא זו דרך מוציאתו מידי עבירה עד שישלם גזילה לכל אחד [ואחד]. מני אי ר"ט אע"ג דאישתבע אמר מניח גזילה ביניהם ומסתלק אי רבי עקיבא אע"ג דלא אישתבע אמר עד שישלם גזילה לכל אחד ואחד. לעולם רבי עקיבא היא וכי קאמר רבי עקיבא עד שישלם גזילה לכל אחד ואחד היכא דאישתבע הוא דקאמר מאי טעמא דאמר קרא (ויקרא ה, כד) לאשר הוא לו יתננו ביום אשמתו. ורבי טרפון אע"ג דאישתבע עבוד רבנן תקנתא דתניא ר' אלעזר ברבי צדוק אומר תקנה גדולה התקינו שאם היתה הוצאה יתירה על הקרן משלם קרן וחומש לבית דין ומביא אשמו ומתכפר לו. ור' עקיבא כי עבוד רבנן תקנתא היכא דידע למאן גזליה דקא מהדר ליה ממונא למריה גזל אחד מחמשה דלא ידע למאן גזליה דלא הדר ממונא למריה לא עבוד רבנן תקנתא.

**GEMARA:** The Mishna teaches that if a robber took a false oath that he did not rob, he must travel even as far as Medea to repay the robbery victim. This indicates that if **he takes an oath to the robbery victim, he is required** to go to any length to repay his obligation, but if he **did not take an oath to him, he does not have to do so**. Whose opinion is this? It is **not** the opinion of **Rabbi Tarfon** and **not** the opinion of **Rabbi Akiva**, as it is taught in a mishna (*Yevamot* 118b): If one **robbed one of five people and he does not know which of them** he robbed, **and each one of the five says: He robbed me**, the robber **places the stolen item between them and withdraws** from them; this is **the statement of Rabbi Tarfon**. **Rabbi Akiva says: This is not the way to spare him from transgression**. He is not considered to have returned the stolen item **until he pays** the value of the **stolen item to each one** of the five. The Gemara clarifies: In accordance with **whose** opinion is the mishna written? If one suggests that it is in accordance with the opinion of **Rabbi Tarfon**, it is not so, because **even though** the robber **took** a false **oath** that he did not rob, Rabbi Tarfon **says: He places the stolen item between them and withdraws**; it is not his responsibility to ensure that it reaches the robbery victim. If one suggests that it is in accordance with the opinion of **Rabbi Akiva**, it is also not so, because **even though** the robber **did not** necessarily **take** a false **oath**, Rabbi Akiva **says: He is not considered to have returned the stolen item until he pays** the value of the **stolen item to each and every one** of the five, while the mishna rules that his obligation is contingent upon his having taken the false oath. The Gemara answers: **Actually, it is** in accordance with **Rabbi Akiva**, and **when Rabbi Akiva says** that the robber is not considered to have returned the stolen item **until he pays** the value of the **stolen item to each one** of the five, it is only in a case **where** the robber **took** a false **oath** that Rabbi Akiva **says** this. **What is the reason? As the verse states** about one who takes a false oath concerning a financial obligation: **“Unto him to whom it appertains shall he give it, on the day of his being guilty”** (Leviticus 5:24). The *halakha* that the guilty party must make a



rigorous effort to return what he owes is stated in the case of one who took a false oath, and Rabbi Akiva would state his ruling only in that case. The Gemara asks: **And** how does **Rabbi Tarfon** rule that a robber who took a false oath is not required to pay all claimants, being that the verse indicates otherwise? The Gemara answers: **Even though he took** a false **oath** and by Torah law is obligated to return the stolen item to the robbery victim, **the Sages instituted an ordinance** allowing him to place it between the five possible victims, **as it is taught** in a *baraita* that **Rabbi Elazar, son of Rabbi Tzadok, says:** The Sages **instituted a great ordinance** stating **that if the expense** required to return a stolen item to the victim **is greater than the principal**, the robber may **pay the principal and** the additional **one-fifth payment to the court**, and he then **brings his guilt-offering and achieves atonement for himself...**

But in the case of one who **robbed one of five** people, **where he does not know whom he robbed**, and **where**, by merely placing the stolen item between the five of them **the money is not returned to its owner**, **the Sages did not institute an ordinance.**