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UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



STORY LINE

By Rabbi Meir Orlian

RUN OVER

Mr. Sender was late for work. He rushed out of his house and hopped into his car, ignited the engine and pulled out. No sooner had he done this, when he heard a bang and felt the car ride over something hard.

Mr. Sender immediately stopped the car and got out to see what had happened. He saw that his neighbor, Mr. Neuman, had left his bike lying in front of Mr. Sender's car. He had run over the bike and broken the brakes and gearshift.

"What's his bike doing in front of my car?" Mr. Sender thundered. "It's good that it didn't damage the car."

Mr. Sender moved the bike aside. "I'll have to deal with Mr. Neuman in the evening."

When Mr. Sender returned from work, he called Mr. Neuman. "You left your bike in front of my car last night. I accidentally ran over it."

"It was a new bike," said Mr. Neuman. "I just bought it!"

"You should not have left it there," replied Mr. Sender.

"That's true," acknowledged Mr. Neuman, "but you didn't have to run over it."

"Obviously, I wasn't trying to," explained Mr. Sender. "It was below my eye level and I didn't see it over the hood. You left it in a place where it was liable to get ruined."

"A driver is expected to watch where he's driving," argued Mr. Neuman. "That's no excuse for not being careful."

"When you're not careful with your bike," countered Mr. Sender, "why do you expect me to be careful about it?"

"Because you're the driver!" exclaimed Mr. Neuman.

"It's not my fault," insisted Mr. Sender. "I went straight from the house into the car. The bike was left negligently right in front of the car. I had no way of seeing it."

"It seems that we're not getting anywhere," said Mr. Neuman. "I suggest that we bring the case to Rabbi Dayan and let him decide."

"Agreed!" responded Mr. Sender.

The two came before Rabbi Dayan and asked: "Is Mr. Sender liable for the bike?"

"If the bike was on the sidewalk or in other public property, Mr. Sender is liable," answered Rabbi Dayan. "If it was left in his driveway, he is exempt."



BHI HOTLINE

DECEITFUL CLAIMS

At one online shopping site there is a feature that allows a buyer

to submit a "best offer" on an item for sale. The seller may choose to accept this offer even though it is substantially lower than his asking price.

Q: If I want to buy an item but am not sure the seller will accept my offer, is it permissible to have friends and family put in very low bids for the item I want, so that the seller might be more inclined to accept my slightly higher offer (which is still well below his asking price)?

A: It is prohibited to deceive another party when making a transaction. This prohibition includes nondisclosure of a defect in an item that one is selling. It is also prohibited to falsely claim to a gentile that meat is kosher when, in fact, it is not (C.M. 228:6).

In your situation, since your friends and family are submitting low bids to falsely give the seller the impression that his product is not worth as much as he thought, it violates the prohibition of *geneivas daas* (using deception in a transaction).

Likewise, it is prohibited for a merchant to have friends and family submit false bids so that other customers will get the impression that the item is more valuable than it actually is.

Similarly, it is prohibited for a merchant to falsely claim that he has customers who are prepared to pay \$X for an item in order to pressure an actual customer to pay more for that item. Even those authorities who maintain that a customer cannot void a transaction if he discovers that the merchant lied about receiving other offers (*Taz*, C.M. 332:4, cf. *Chavos Yair* 69, cited by *Pischei Teshuvah* 207:9), all agree that it is

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STORY LINE

"Could you please explain?" asked Mr. Neuman.

"The *Mishnah* (B.K. 26a) teaches: *Adam mu'ad l'olam, bein shogeg bein meizid* — A person is liable for his damage, whether accidental or intentional," replied Rabbi Dayan. "Thus, Mr. Sender remains liable even though he damaged accidentally" (C.M. 378:1).

"Wasn't Mr. Neuman negligent, though, in leaving the bike there?" asked Mr. Sender.

"Indeed, *Tosafos* (B.K. 4a *keivan*) cites the Yerushalmi that if items were placed next to a sleeping person, who rolled over and broke them, he is exempt," replied Rabbi Dayan. "This is because it was beyond his control (*oness*) or because of the owner's negligence. However, a driver is required to watch where he drives. Although Mr. Neuman was also careless, Mr. Sender is not comparable to the sleeping person, who was not at fault, because Mr. Sender was negligent in doing the damage" (C.M. 379:4; 412:2; 421:4).

"What if the bike was left in my driveway?" asked Mr. Sender. "Why would I be exempt?"

"The *Gemara* (B.K. 28a) teaches that if barrels were piled all across someone's courtyard, the owner may break his way in," said Rabbi Dayan. "*Tosafos* (B.K. 28a *meshaber*) explains that the Sages didn't require the owner of the courtyard to carefully pile the barrels elsewhere. This does not apply here, though, where Mr. Sender could easily have moved the bike aside; he has no right to damage it. Nonetheless, Rambam and Shulchan Aruch rule that one who unintentionally damaged an item left in his property without permission is exempt, especially if he was unaware of it" (C.M. 378:4,6; Sma 378:3; Gra 378:17; Pischei Choshen, *Nezikin* 1:24 [56-60]).



MONEY MATTERS

EMPLOYMENT #12 Work Done for Others

(Based on writings of Harav Chaim Kohn, shlita)

Q: Someone asked me to do work for his neighbor. Whom do I bill?

A: If the person indicated that he accepts responsibility for the payment (*s'charcha alai*), or initially hired you for his own work but instead instructed you to do work for his neighbor, or if you were unaware that the work was for the neighbor, the person is liable for your wages; he assumed the role of the employer. He is entitled to reimbursement from the neighbor according to the benefit he provided (C.M. 336:1; Sma 336:4).

However, if you knew that the work was for the neighbor and the person did not indicate that he accepted responsibility for your wages, he is not liable; you should not have assumed that he would cover the salary. The neighbor is liable for the amount that you benefited him.

Alternatively, if the person asked you as the neighbor's agent, or in his presence and he remained silent, the neighbor is fully responsible as if he hired you (Rama 336:1).



BHI HOTLINE

prohibited for the merchant to employ such a technique, and if he does so, he violates the prohibition of *midvar sheker tirschak* — one should distance himself from falsehood (*Teshuras Shai* 253).

Sefer Chassidim (311) writes that one should not claim that he received offers for an item or that he purchased it for a particular price when that information is not true. Such practices are prohibited by the *passuk* that states (*Tzefaniah* 3:13): "The remnant of *Yisrael* shall do no wrong and speak no falsehood; a deceitful tongue shall not be in their mouths (see *Mishpat Shalom* 227:3). The Chofetz Chaim (*Sefas Tamim* 2) decries this type of behavior in very strong terms, and concludes that as tempting as it may be to lie in order to earn a greater profit, one loses more by lying than he anticipates that he will gain by lying (see *Hotline, Business Weekly*, #99).

Another form of deception that is prohibited is false advertising. For example, a merchant may not advertise that his items are "on sale" when he is charging the regular market price (*Hilchos Mishpat* 228:6). Similarly, many snacks come in bags that are much larger than necessary. If the packaging fools customers into thinking they are getting more than they actually are, the prohibition is violated. However, if the norm is to sell snacks in this manner, Sma (228:16) permits the practice, since consumers are all aware of the practice. However, *Shulchan Aruch Harav* (*Onaah* 19) writes that one who is conscientious will avoid this practice since some customers may be fooled.

A store that cultivates an image of a high-end store, but on occasion sells a lower-quality item, will likely fool customers and violate this prohibition as well (see C.M. 228:16).

For questions on monetary matters,
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