

Does The Concept of “Odom Memashmesh B’Kiso” Still Apply Today?

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Question: There is a concept found in the Gemara if “*odom memashmesh b’kiso b’chol sha’ah*”, which means that a person is always presumed to be aware of the valuable items he is carrying in his pockets and knows if he drops any money. In our times, when people are often unaware of what exactly is in their pockets, does this concept still apply?

Answer: Some Poskim do suggest that because the Gemara is only referring to valuable items, therefore it would not apply today to small change. Accordingly, an argument could be made that one who finds small change cannot assume that the loser knows he dropped it and the rule of *yiush shelo m’daas* would apply.

However, the Gedolai HaPoskim say that the Gemara’s concept is still applicable. Rav Moshe Feinstein says explicitly that it applies even to small change. The Chazon Ish is quoted as saying that once Chazal established this halacha, any such items that are lost have the status of “*hefker beis din hefker*”; therefore, someone who finds money on the street without a *siman* can rely on that in order to keep it.