

How Much Liability Does a Watchmaker Have For The Watches in His Shop?

Rav Chaim Weg

Question: I am a watchmaker and people bring me very expensive watches to repair. At any given time, there could be a million dollars' worth of watches in my shop. I am a little concerned about that. What is my liability on the watches?

Answer: A craftsman, such as a watchmaker, is a *Shomer Sachar* since he is gaining from having the watches in his possession. Even though he is only paid for repairing them and not guarding them, because he earns his living from having them in his possession, he is considered a *Shomer Sachar*. The Chasam Sofer explains that there are two fundamental differences between a *Shomer Chinam* and *Shomer Sachar*. Firstly, a *Shomer Chinam* is not liable for *geneivah* and *aveidah*, while a *Shomer Sachar* is. Secondly, a *Shomer Sachar* is obligated to make a "*shemirah me'ulah*", a high-level watching. A *Shomer Chinam*, however, is not responsible to watch the animal on this level.

The Chasam Sofer says that a *Shomer* is only responsible to do a *shemirah me'ulah* if he is getting paid. However, if someone has the halachos of a *Shomer Sachar* because of some other benefit he is receiving, although he is liable for *geneivah* and *aveidah*, he does not have to make a *shemirah me'ulah*. This would apply to a *Socher* or a craftsman like a watchmaker. Although they have an obligation to guard the watches that are in their care, they are not being paid to watch them, therefore, they do not have to make a *shemirah me'ulah*. The example he gives is that if there is an emergency, a *Shomer Sachar* must save the item he is watching before saving his own items. However, a *Shomer Chinam*, a *Socher* or a craftsman are allowed to save their own items before saving the items in their possession.

If the watchmaker keeps the watch in his possession even after the work is completed and he will not return it until he is paid in full, he is considered a *Shomer Sachar*. This is because he is still gaining from having the watch in his possession, as it serves as a guarantee that he will be paid.