

If Someone Borrows a Car is he Liable For Causing a Flat Tire?

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Question: I borrowed a car from my friend and, while I was driving around, I got a flat tire. I took it to a repair shop and was told that the flat was caused by driving over a nail. Am I obligated to pay for the damage?

Answer: When you borrowed the car, you became a *Shoel*, which makes you responsible for almost every type of damage. The one exception is “*meisah machmas melacha*”, which means if the animal or object breaks through the job it is being used for.

The Ramban and Rashba explain that *meisah machmas melacha* is exempt because the owner lent out a faulty item that could not withstand the work it is meant to do. The borrower cannot be held liable if he was lent something that wasn't fit for the job he borrowed it for. The Rosh, cited by the Rema, disagrees and says that *meisah machmas melacha* is *patur* because the owner knew that his item would be used for a certain job, and he lent it out knowing that potential mishaps could take place in the course of the work. Since he knew that something like this could happen, he accepted that he would take the loss if it did occur. A modern-day example of this would be this case, where one borrows a car and gets a flat tire. The owner knew that the car would be taken out on the street, and he understood that this means that there is a chance that the car will get a flat tire. Therefore, the *Shoel* is not liable to pay for it.

There are those who suggest that a compromise should be reached in such a situation; however, *bais din* would not be able to force the borrower to pay because of the Rema's opinion that he would be *patur*.