

Is My Mechanic Liable For Advising Me to Buy a Lemon?

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Case: I was in the process of buying a used car and took it to my mechanic for an inspection. He gave it a clean bill of health and said that I could purchase the car with confidence. Right after I drove the car off the lot, I could tell something was wrong with it, and the engine died soon thereafter.

Question: Does my mechanic bear any liability for his bad assessment which caused a financial loss?

Answer: This story is similar to a case the Gemara discusses about a moneychanger who is asked for his advice regarding a certain coin. The person asking his advice was offered this coin as a payment and he requested from the moneychanger to advise him whether it was a valid coin or not. The moneychanger told him it was a good coin, and, based on his word, the man accepted it, only to later discover that it was, in fact, not a valid coin.

The Gemara rules that if the moneychanger was a non-expert, he is liable to pay for the loss he caused. If he is an expert, he is not liable. In this case, the Gemara sets the bar of “expert” very high and says that only someone who knows everything there is to know about the topic is considered an expert and is exempt from liability. Furthermore, even if one is an expert of that caliber, many Poskim say that he is only exempt from liability if he is not being paid. If he is being paid, like the mechanic in the question probably is, he would be liable.

Others disagree and say that any worker who commits “white collar malpractice,” i.e., malpractice on a job where he is only giving advice and not working with his hands is always exempt from liability if he has the classification of being an expert, even if he is being paid.

The Poskim also disagree if the standard of “not having anything left to learn” that a moneychanger needs in order to be considered an expert would also apply to other white collar workers. The Chavatzeles Hasharon talks about a story where someone hired a sofer to look over an old sefer Torah that he was considering purchasing and to tell him if it could be repaired. The sofer gave his approval and the man went ahead with the deal, only to discover that the Torah actually could not be repaired. He rules that the sofer can exempt himself from liability because he is an expert, even if he has not reached the level of expertise demanded of a moneychanger.

There is another dispute amongst the Poskim if a worker can be held liable for bad advice if the client did not explicitly tell him that he was relying on his opinion. Some Poskim say that he can only be held responsible if the client openly made this declaration, while others disagree and say that this does not have to be spoken aloud. The Nesivos Hamishpat says that if the worker is being paid, there is no reason to explicitly tell him that he is being relied upon, as it is obvious that the reason he is being paid is because the client is trusting his advice.

