

Is Painting an Old Car Before Selling It Considered *Geneivas Da'as*?

Rabbi Chaim Weg

Case: Someone owns an eight-year old car that he now wishes to sell. The car's exterior is not in the greatest condition and contains some dents after being involved in some fender-benders with other cars.

Question: Is it permitted for the owner to paint the car and have the dents removed so that it looks much nicer and newer, or would that violate the prohibition of *geneivas da'as*?

Answer: Two reasons can be suggested why this case does not pose any problem of *geneivas da'as*. The first is based on the ruling of the Shulchan Aruch that one may not paint a used utensil and sell it as if it were new due to *geneivas da'as*, but it is permitted to paint an old utensil and then sell it as being used.

The difference is that in the first case, one misleads the buyer into thinking that the utensil is new even though it is not, which is *assur* even if one does not raise the price. By contrast, in the second case, one clearly sells it as a used utensil, so even if it looks a bit nicer due to the painting, there was no attempt to mislead the buyer as to the quality.

The same applies to the case of the car as well. Painting the outside of the car may give it a nicer appearance and may even enhance the value slightly. But this does not mislead anyone into thinking that the car is new, as the inside still looks old, plus the year and model of a car for sale are quite clearly publicized. Therefore, provided one sells it at a fair price for an eight-year old car, it would be permitted to paint it. On the other hand, turning back the odometer would certainly violate *geneivas da'as*, since one misleads the buyer with regard to the amount of mileage on the car, a very significant consideration when purchasing a car.

The second reason why this case does not constitute *geneivas da'as* is based upon another ruling in the Shulchan Aruch. The Shulchan Aruch states that it is permitted to dilute wine with water before selling the wine if it is customary for everyone to taste the wine before purchase, since one who tastes it would immediately detect that additional water is present. So too, when one purchases a used car, one usually takes it to a mechanic to inspect and ensure that it is in working condition. Since the mechanic will discover immediately if a problem exists, the seller would not violate *geneivas da'as* by painting it.

Even if the buyer chooses not to bring the car to a mechanic, it would still be permitted for the seller to paint the car and sell it. The reason is that in any case where common custom is to investigate, one can assume that the buyer will do so before purchasing the product, as explained in the Shulchan Aruch. If he chooses not to, the seller is not responsible.