

25.4.3

33a (משנה ה') → 33b (והודה מעצמו)

- I 'משנה ה': single and multiple liabilities – depending on formulation of oath
- a If: he challenged them vis-à-vis multiple claims (פקדון, תשימת יד וכו') to one debtor
- i And: they answered: "we swear that we know no testimony" – one liability
- ii But: if they answered: "we swear that we know no testimony about 'גזל, פקדון וכו'" – multiple liabilities
- b If: he challenged them regarding a single claim of multiple items (פקדון של חטים שעורים וכו')
- i And: they answered: "we swear that we know no testimony" – one liability
- ii But: if they answered: "we swear that we know no testimony that 'פ' owes you 'וכי' – multiple liabilities
- II 'משנה ו': applicability to קנס and payments that might have been exempted
- a If: he challenged them to come testify about פתוי אונס, כפל, ד' וה', אונס, פתוי, נזק, חצי נזק, נזק, that my son hit me, that a fellow battered me, or that 'פ' torched my grain on יוה"כ – liable (in apposition to next משנה – see p. 30)
- i Analysis: is there liability for קנס עדי?
- 1 Caveat: according to ראב"ש, who maintains that admission of guilt for a קנס doesn't exempt the perpetrator from liability
- (a) (Explanation: מודה בקנס פטור means that that admission isn't sufficient to generate liability)
- (b) Then: he is certainly liable – witnesses will always be valid for generating liability
- 2 Rather: according to רבנן – if they accept רבנן here (דבר הגורם לממון לאו כממון דמי)
- (a) Lemma1: if the perpetrator would admit – he would be exempt
- (b) Lemma2: he hasn't yet admitted – so their testimony, as of now, will generate liability
- ii Answer: seems to be, from our משנה, which includes:
- 1 חצי נזק block – follows opinion that חצי נזק is ממון
- (a) Counter: what about the מ"ד that קנס?
- (b) Answer: חצי נזק here refers to ח"נ צרורות – as per הלמ"מ, it is ממון
- 2 כפל block – liability for קרן (same with ד' וה')
- 3 אונס ופתוי: on account of the פגם בושט ופגם payments (which are certainly ממון)
- 4 In sum: the first part teaches that חצי נזק צרורות is ממון
- (a) And: the last part teaches that we do not accept ר' נחוניא בן הקנה for exemption from financial liability incurred during מלאכה due to קלב"מ
- 5 מוציא שם רע - if father administers oath that 'פ' was guilty of אונס/פתוי of his daughter – liable
- (a) Even though: if the perpetrator would admit it, he'd be exempt
- (b) Answer: the author is ראב"ש – even if the perpetrator admits, if עדים come afterwards – liable
- (i) Challenge: the סיפא seems to be contra ראב"ש
- (ii) Answer: meaning of סיפא – there's no way to generate liability without עדים