

13.15.3

117b (משנה ד) → 118b (סיום הפרק)

7. ויאמר שמשון תמות נפשי עם פלשתים ויט בלח ויפל הבית על הסרנים... שופטים טזל

- I 27 משנה ד: conflicting testimony
- a if 1 witness testified to death and she married:
- i if 1 witness arrived and countered the 1st testimony – she doesn't leave new husband
1 clarification: even if she didn't yet marry, she never abandons her first permit (may marry לכתחילה)
- ii if 2 witnesses arrived and countered 1st testimony – she must leave new husband
1 challenge (obvious):
(a) answer1: all of them are פסולי עדות, following נחמיה ר' – when we use 1 witness, we follow majority
(b) answer2: 1st witness is a woman, 2nd two are women
(i) נחמיה ר' meaning is 2 women ↔ 1 woman :: 2 men ↔ 1 man (but 1 עד מיתה = many women)
- b if 2 witnesses testified to death and then 1 witness came and countered that testimony – she may marry לכתחילה
i even if 2 witnesses are פסולי עדות, following ר"נ (anywhere we accept 1 witness, follow majority of voices)
- II משנה ה: contradictory testimony
- a 2 wives:
- i 1 testifies that he died and 1 testifies that he didn't die:
1 the one that testified that he died may remarry and collect כתובה
2 the one that testified that he didn't die may not remarry nor collect כתובה
(a) this is true even if she is silent, since one wife's testimony is invalid for another's
(b) we need to teach that if she says "לא מת" it is accepted and we don't suspect her of lying *a la* v. 1
- ii 1 testifies that he died and the other testifies that he was killed:
1 ר"מ – since they contradict each other, neither may marry
(a) question: why doesn't ר"מ dispute the 1st case?
(i) Answer1 (ר' אלעזר): he does disagree and the רישא is authored by ר"י ור"ש
(ii) Answer2 (ר' יוחנן): he doesn't disagree, since "לא מת" isn't affirmative testimony
1. challenge: end of our משנה (below [b i]) supports ר"א (כר"מ) and refutes ר"י יוחנן
2 כתובה כתובה – since they concur that he is dead, both may marry and collect ר"ש
- b Witnesses
- i 1 (עד כשר) testifies that he died and 1 testifies that he didn't die – may not marry
- ii 1 (e.g.) woman testifies that he died and 1 woman testifies that he didn't – may not marry
- III משנה ו: testimony of 1 woman and its affect on another
- a if a woman returns from מדה"י, testifies that her husband died
- i she may marry and collect כתובה
- ii her צרה may not remarry, may not collect, but regarding תרומה;
1 ר"ט allows her to continue eating
2 ר"ע is stringent and disallows
- b (משנה ז) if a woman returns from מדה"י, testifies that her husband died and then her father-in-law died:
- i (i.e. according to her testimony, she was no longer the כלה of this woman when חמיה died)
- ii she may marry and collect כתובה
- iii her mother-in-law may not remarry, may not collect, but regarding תרומה;
1 ר"ט allows her to continue eating
2 ר"ע is stringent and disallows
3 ברייתא הלכה – supporting ר"ט (in both cases) – supporting ר"ט
- c justification for both cases and disputes
- i in 1st case, suspect her b/c she hates the צרה due to "shared bed" & will try to hurt her → 2nd case, rule like ר"ע
- ii from 2nd case, perhaps ר"ע accedes to ר"ט in 1st case – קמ"ל

- IV זג: debt to 1 of 5 claimants
- a כתובה: he married 1 one of 5 women (not sure which), give גט to each, regarding כתובה:
 - i ר"ט – leave money in middle and run away
 - ii כתובה – must pay each one a full כתובה ר"ע
 - b גזלה: he stole from 1 of 5 people (not sure which), regarding repayment
 - i ר"ט – leave money in middle and run away
 - ii גזלה – must pay each one full value of גזלה ר"ע
 - c follows version of רשב"א who limits their dispute to גזלה (not מקח) and נישואין (not קידושין)
 - i קידושין means קידוש בביאה
 - ii case of קידושין taught to show extent of ר"ע's position – although he "only" violated איסור מד"ס, we fine him
 - iii Case of גזלה taught to show extent of ר"ט's position – even though he violated איסור מה"ת, he isn't fined
- V ח' משה: wife's credibility vis-à-vis יבום
- a woman, husband and son travel abroad, she returns alone and says:
 - i first the husband died (no זיקה) then the son – believed
 - 1 supports her חזקה of being מותרת לשוק before she left
 - ii first the son died, then the husband (זיקה) – not believed
 - 1 violates חזקה of being אסורה לאח, but we're cautious and have her do חליצה
- VI ט' משה: Woman and husband travel abroad, she returns alone and reports that she bore a son there and:
- a first the son died then the husband died – believed
 - i supports her חזקה of ועומדת זקוקה
 - b first the husband died then the son died – not believed
 - i violates חזקה of being אסורה לשוק, but we're cautious and have her do חליצה
- VII י' משה: woman and husband travel abroad, she returns alone and reports that her husband had a brother born:
- a whether she reports that her husband or the יבם died first, she is believed. (had חזקה of מותרת לשוק)
 - b If a woman, her husband and her יבם went abroad, and she returned alone, reporting that husband and יבם died in either order – not believed (violates חזקה of אסורה לשוק)
 - c Rule: woman isn't believed to testify that her יבם died (so she can marry) or her sister died (she can marry him)
 - d Rule: man isn't believed to testify that his brother died (so he can perform יבום) or his wife died (marry her sister)
- VIII Tangential discussion:
- a Question (ר"נ asked רבא): if a man accepts a גט on behalf of a woman in a situation of יבום – do we consider it a זכות (and, based on the rule of שלא בפניו, the acceptance is valid) or perhaps, she may like the יבם and it is to her detriment
 - b Answer: from our משנה – since we are cautious, we don't assume she either loves or loathes the יבם
 - c Question: (רבינא asked רבא): if a man accepts a גט on behalf of a woman when she is squabbling with her husband do we consider it a זכות or perhaps, she may prefer being married in any case and it is to her detriment
 - d Answer: based on ר"ל's dictum – טב למיתב טן דו מלמיתב ארמלו – we assume it to be a חוב
 - i Supportive observations: amoraic aphorisms about women who prefer staying married to their husbands, no matter how lowly, in order to have the "honor" of being considered a married woman
 - 1 Addendum – but they all are guilty of infidelity