

13.2.7

25a (משנה ט) → 26a (סיום הפרק)

Note #1: as per the ruling in גיטין א:א, a messenger who brings a גט to Israel from abroad must declare that the גט was written / signed in his presence.

Note #2: the rabbis were "lenient" in accepting minimal testimony about a husband's death, based on the premise that the woman will check the story carefully before remarrying; as such, when we allow a remarriage in such a case, we aren't fully relying on the witness

Note #3: based on the rule עצמו רשע אין אדם משים עצמו רשע, no person's testimony which incriminates himself is accepted

1. לא תשא שמע שוא אל תשׁת ידך עם רשע להית עד חמס: שמות כג, א

I. משנה ט witnesses to dissolution of marriage:

- a. Someone: who brings a גט and states בפ"נ ובפ"נ may not marry the "divorcee"
  - i. implication: if he brings in א"י, where we don't rely on his testimony to allow remarriage, מותר
  - ii. challenge: "מה", where we aren't relying on him (see note #2), we don't allow them to marry
  - iii. defense: in our case, there is a גט upon which to rely
  - iv. challenge (to רבנן): how can we accept "we killed him" and allow her to marry another?
  - v. Reason: v. 1 disallows accepting or joining with a רשע (which he is according to his testimony)
  - vi. Answer: based on the rule אאמע"ר (note #3) we reject the component of complicity in his testimony
  - vii. Observation: ר' יוסף, who disallows such testimony, would nonetheless accept it here (note #2)
- b. someone who testifies to the death – even as a murderer or accomplice – may not marry the "widow"
  - i. question: what is the difference between "murderer" and "accomplice"?
  - ii. answer: הרגוהו doesn't mean "accomplice", it means being present when the murder took place
  - iii. ד' יהודה: if he testifies to being an accomplice (but not the lone murderer) she may marry (another)

II. משנה יו חכם who effects dissolution

- a. If: a חכם didn't find a היתר for a woman's נדר and that led to divorce, he may not marry her
  - i. But: if he is מתיר the נדר, he may later marry her
    - 1. Referent: a lone מתיר who is a מומחה
- b. If: the woman performed מאון or חליצה in his presence, he may marry her
  - i. reason: he is part of ב"ד and there is no suspicion of malfeasance
  - ii. note: even if there were 2 involved, we wouldn't suspect malfeasance;
    - 1. point of מיאון: מיאון requires 3
- c. If: the חכם (case of נדר) or the גט-messenger married the woman, we don't force separation
  - i. Precedent: משנה (שפחה) indicates that we don't force separation based on rumor alone

III. משנה יז exceptions to the above cases where the חכם or גט-messenger may not marry the divorcee/widow:

- a. If: he was married at the time and his wife died
  - i. If: he divorced her – if they were having marital problems before the case – permitted
  - ii. If: he divorced her – if she began the quarrel that led to the divorce – permitted, however
  - iii. If: he divorced her and he had begun the quarrel after the case happened – forbidden
- b. If: the woman married someone else first and was divorced or widowed
  - i. According to רבי: only works if she was divorced after being widowed or vice-versa
  - ii. reason: רבי maintains that twice is חזקה and after 2 husbands die, she may not remarry (קטלנית)
- c. Their relatives: may marry these woman (אין אדם חוטא ולא לו)
  - i. challenge: if there are rumors about a couple, he is not allowed to marry her relatives
  - ii. defense #1: women relatives visit each other and there is חשש זנות with the mother etc.
  - iii. defense #2: woman's זנות has more intense implications and they'll be careful
  - iv. support for #2: omission of "father" in list of permitted relatives is due to "father" being obviously permitted since the son will be ashamed to have an affair with this woman