

14.6.3

68a (משנה ר') → 69b (בין לפרנסה)

1. כִּי־בָהּ אָמַר ה' אֶל־תְּבוֹא בֵּית מִרְזֵחַ וְאֶל־תִּלְדָּךְ לְסִפּוֹד וְאֶל־תִּנְדָּךְ לָהֶם כִּי־אֶסְפְּתִי אֶת־שְׁלוֹמִי מֵאֵת הָעַסְהוּהָ נֹאסֶה' אֶת־הַחֶסֶד וְאֶת־הַרְחֻמִּים: ירמיהו טו:ה.
 2. אֶבְחַר דְּרָכֶם וְאֶשָּׁב רֵאשׁ וְאֶשְׁכֹּן כְּמִלְךָ בְּגִדוֹד כַּאֲשֶׁר אֲבַלִּים וְנָחִים: איוב כט:כח.
 3. לָקַן עֲתָהּ יָגִלוּ בְּרֵאשׁ גְּלִים וְסָר מִרְזֵחַ סְרוּחִים: עמוס ז:ז.

- I משנה ו
 - a If: a girl was an orphan and her mother/brothers married her off, she may claim her due when she is of age
 - b If: a 2nd daughter was given less than the elder daughter, she may claim the same as the 1st got
 - i ד' יהודה sometimes a father's financial situation will change over time (→he is exempt from "matching")
 - 1 Rather: we assess his property as of its current value
- II שמואל's ruling: we estimate what the father would have given for "פרנסה"
 - a Challenge: תוספתא כתובות ו:א – orphaned daughters are מתפרנסות and fed from father's estate, based on current worth
 - i Assumption: refers to dowry
 - ii Rejection: refers to actual support for her (both מתפרנסות – clothing and ניזונות – food)
 - b Challenge: our משנה (חכמים) – assumption – עני/עשיר are monetary → ת"ק holds that we use earlier status as model
 - i Note: that would be impossible – he currently doesn't have those funds
 - ii Rather: עני/עשיר are attitudinal (miserly/generous)
 - 1 And: their rule is that we appraise based on current estate, not estimate what he would give
 - iii Defense: שמואל follows ד' יהודה in our משנה
 - 1 Question: if so, why not say "הלכה כר' יהודה"?
 - 2 Answer: if he said that, we would think that that only applies if he actually married off a daughter
 - (a) Reason: that would have demonstrated his practical allocation of resources for a dowry
 - (b) But: if he didn't yet marry off any daughters, we wouldn't be able to estimate what he would give
 - (c) Therefore: שמואל presented explicated ruling – even if he hadn't yet married off a daughter, אומדנא
 - (d) Note: reason the משנה uses השיאה is to show polarity of רבנן's position
 - (i) To wit: even if he already married off a daughter and demonstrated his approach – still no אומדנא
- III רבא: reported to ר' חסדא that he was teaching in his name that ר' יהודה (ר' חסדא) הלכה כר' יהודה (was pleased)
 - a Challenge: רבא ruled like רבי, who maintained that a daughter supported by brothers gets 1/10 of the estate (not אומדנא)
 - b Answer: that's only if we have no means of estimating
 - i Support: story that רבי once gave a daughter 1/12 (per אומדנא)
- IV Revisiting רבי's ruling: if a girl is supported by her brothers, she gets 1/10 of the estate as a dowry
 - a Challenge (to רבי): if a man has 10 daughters and a son, his son gets nothing (from estate)
 - b Response (רבי): each gets 1/10 of remaining estate (compounded), then they redivide full amount
 - i Challenge: each is taking her own as she gets married – how can they redivide?
 - ii Answer: that clause was in a case when they get married at the same time – then they divide equally
 - 1 Support: רב מתנה ruled that if they marry at same time, they get their 1/10 as one (equally)
- V דביא: תוספתא כתובות ד:א: when a girl reaches בגרות or marries (whichever is first), she loses her support from estate
 - a דבי but she doesn't lose her rights to dowry
 - b דשב"א she does lose rights to dowry as well
 - i Solution: they find husbands (beforehand) in order to "rescue" dowry from estate
 - ii רבי הלכה ד' נחמן follows
 - iii Challenge (רבא): our משנה; mention of קטנה → if גדולה, her acceptance is acquiescence
 - 1 Defense: in a case where she protests, rule of משנה applies; if not, she accepted it
 - 2 Support: else, contradiction within רבי's rulings
 - (a) דבי ruled that a daughter, supported by brothers, gets 1/10 of estate
 - (i) Implication: only if she is still being supported by them – if not, no claim
 - (ii) Rather: if she protests, she can get her due; if not, she waived it
 - c דבינא told רבא that he was quoted as ruling that either בגורת or נישאת doesn't need to protest
 - i Only: if she does both – נישאת ובגורה – does she need to protest (her small dowry to claim her due)
 - ii Challenge: רבא challenged ר"נ (above) and the response was that only if she protested does she get her due
 - 1 Reconciled: if she was fed by them after marriage – embarrassed to protest (→ok w/o protest)

- VI תנאי כתובה (as reported by רב הונא (רב הונא) פרנסה (dowry) is *not* akin to תנאי כתובה)
- a Proposed meaning (1): פרנסה can be seized from משועבדים, unlike כתובה
 - i Rejection: that's a well-known rule, as we see regularly
 - b Proposed meaning (2): פרנסה can also be seized from מטלטלים, unlike כתובה (only קרקע)
 - i Rejection: according to רבי, both may be collected from either (per ברייתא)
 - c Rather: means that, unlike תנאי כתובה, if he says (on his deathbed) that the daughters don't get dowry, we obey it
- VII רב's letter to רבי - between the lines, he asked if brothers were משעבד property, can it be seized for dowry?
- a ד' חייא asked if he meant that the brothers had sold it or had mortgaged it
 - b ד' דני: no difference; in either case, we seize for dowry (פרנסה) but not for support (מזונות)
 - i Note: רב wrote in this equivocal fashion:
 - 1 If: he wrote מכרו and רבי answered that we don't seize, wouldn't answer משכנו
 - 2 And if: he wrote משכנו and רבי answered that we do seize, wouldn't inform us about מכרו
 - 3 Therefore: he wrote שעבדו, that implies both/either
 - c ד' יוחנן: we don't seize for either פרנסה or מזונות
 - i Question: was ר"י unaware of רבי's ruling and if he were aware he would have accepted it?
 - 1 Or: perhaps he was aware but disagreed
 - 2 מימרא: ר"י ruled that if a man died, leaving 2 sons and a daughter
 - (a) And: the 1st daughter went ahead and took 1/10 of the estate (for dowry)
 - (b) And: before the 2nd got married, the son died, the second one waived her פרנסה (and gets ½ of estate)
 - (c) ד' חנינא: ruling that we seize for dowry but not for מזונות – how could you rule that 2nd daughter waived?
 - (i) However: if ר"י hadn't heard רבי's ruling, he would have inquired as to author of that ruling
 - (ii) Block: perhaps ר"י didn't hear and would've acceded, but this case is different – she gets ½ estate
 - (iii) Note: רב אשי limits this thinking to ביתא רווח from the estate
 1. But not: if she finds a מציאה (e.g.) that that means she waives her rights to עישור נכסים

VIII Status of daughter vis-à-vis estate:

 - a אממר: she is an heir - and may therefore insist on her portion from the estate (not be "bought off" by brothers)
 - b ד' אשי: she is a בעלת חוב and may be "paid off"
 - i Note: אממר changed his mind, per story with brothers who wished they could've paid her off (אמר was silent)
 - c Conclusion: once we've agreed that she is a בעלת חוב – of whom? Father (a"ח) or brothers?
 - i Impact: to collect from בינונית w/o שבועה as opposed to only collecting from זיבורית - and only with a שבועה
 - 1 Explanation: may only collect from יתומים with an oath, and then, only זיבורית
 - 2 However: a בע"ח collects בינונית w/o שבועה
 - ii Answer: רבינא seized for אשי ר' daughter from בינונית w/o שבועה; then when the son died, from זיבורית w/שבועה
 - 1 In other words: he considered her a בע"ח of the brothers
 - 2 Stories: of חכמים who would issue a writ for her to collect from קרקע (בינונית) or land rental (קרקע)
 - d Tangential story: of ר' הונא and ר' ענן (vv. 1-3)
 - e Final ruling (רבא): we only seize from קרקע, for support, for the כתובה or for dowry.