

14.11.1; 95b (משנה א) → 97a (הדרי זבני) (מסכת)

1. למס מרעהו חסד ויראת שדי יעזוב: איוב מרקו מסוק יד

I אלמנה: disposition of משנה א

a she is fed from estate

i question: does the משנה state

1 "ניזונה" - prescriptive, following גליל אנשי (it is her decision when to collect כתובה and leave) or

2 "הניזונה" - conditional, following אנשי יהודה (it is the heirs' decision when to pay her off)

ii attempt: מציאה ruled that an אלמנה keeps her מציאה

1 Proof: supports the position of אנשי יהודה - else, the heirs are like בעל and should get מציאה

2 Rejection: perhaps heirs still must feed, but the תקנת חכמים of אשה לבעלה is meant to prevent enmity, which is now irrelevant

(a) Tangent: all מלאכות that a wife does for her husband, an אלמנה does for heirs, except those related to intimacy (washing him, pouring his wine, making his bed)

(b) Parallel: all מלאכות that a slave does for his master, a student does for his teacher

(i) Exception: untying his shoes (people may think him an עבד)

(ii) Caveat: exception only holds if people don't know him or he isn't wearing תפילין

(iii) Strictures: against not letting a student serve his teacher (v. 1)

iii Ruling: if an אלמנה seizes מטלטלין for food, we let her keep it (supporting story)

1 דבינא only applies to food, not כתובה

2 דב אשי both - she only collects from קרקע → תפיסת מטלטלין works

iv ruling: if an אלמנה suspends requests for food for 2-3 years (2 if brash, 3 if modest etc.), she loses rights to claim them as back pay (but may continue to claim them from this point on)

v question: if she claims that she wasn't fed, but they claim they fed her, who has burden of proof? '

1 response 1: until she marries, they must prove she received it (i.e. she is מוחזקת)

2 response2: it is a מחלוקת תנאים:

(a) ד' יהודה she must write which she is collecting for food, which for מזונות (heirs are מוחזקין)

(b) ד' יוסי she writes how much she collected without designation - that gives her leeway

3 challenge: perhaps all hold her to be מוחזקת, ר' יהודה is giving her good advice that she shouldn't be thought of as a big eater

(a) support: else, why wouldn't ר' יוחנן infer from משנה that she is מוחזקת, since it states that she should write that she sold this amount for food - must be just an עצה טובה: the ruling of ר' י

4 challenge2: perhaps all hold the heirs to be מוחזקין; ר' יוסי considers like אבוי קשישא - that the strength of a מתנת שכב מרע is to have it unspecified, so the creditor can accept it as a gift or payment (if as gift, he has no recourse from לקיחות; similarly with a widow)

vi how does she sell for food?

1 ר' הונא - she sells a yearly food stipend once a year and is given rations every 30 days

2 ר' יהודה - she sells a 6-month stipend every 1/2 year and is given rations every 30 days

(a) support from ברייתא (rejection of ר' הונא)

vii question: if she sells for food, can she then seize that same property for כתובה?

1 Suggestion: the sale of אלמנה and of court leaves אחריות on the heirs

2 Or: the לוקח may say that he doesn't take אחריות for her, just for her creditors

3 Answer: she can sell property until the value of the כתובה - but no more

4 Block: perhaps that is only עצה טובה, that she shouldn't be considered a reneger

5 Rejection: it shouldn't say "she relies on that land for כתובה" if she can seize it

viii Tangential question: if someone sells land and later is found to not need the funds, can deal be reversed?

1 Answer: case with ר' פפא where he returned land

2 Rejection: ר' פפא was acting beyond the legal requirement

3 Story: real estate went down and people sold, based on errant information - they were allowed to reclaim houses

4 Ruling: the deal may be reversed in such a case

b her wages go to heirs (who are feeding her)

c they are not obligated to pay for her burial

d her heirs ("יורשיה") who inherit her כתובה are obligated to pay for her burial