

18.05.02

49b (כתובת אשה בזיבורית) → 50b (דשוו כולהו אהדדי)

7. בחוץ תעמד והאיש אשר אתה נשה בו יוציא אליך את העבוט החוצה: דברים כז, יא

## I Analysis of collection of כתובה – from זיבורית

- a only if she's collecting from orphans (heirs); but from him (divorce) – from בינונית
- i challenge: anything collected from orphans only ranks זיבורית (as per ה:ב) – why single out כתובה?  
1 Answer: חינא (make her more attractive to a new husband) – from בינונית אלמנה סד"א
- ii Challenge (דבא): ר"מ claims she gets from בינונית – must be from him, and even there רבנן disagree (זיבורית)  
1 Answer: חינא due to ה"ב rule of ר"מ trumps dispute is re collection from heirs
- iii Challenge (אבוי): our משנה, which must be from him (else, all collections are זיבורית) and כתובה is from זיבורית  
1 Answer: our משנה refers to a case where the father is the ערב (guarantor) for damages incurred by his son, for loans taken by his son and for his son's כתובה:  
(a) Therefore: נזקין and debts, which are collectible when the creditor is alive, follow their normal ranking  
(b) However: כתובה, which may only be collected after death, is collected as it is from orphans – זיבורית  
(c) Challenge: in any case, the ערב of a כתובה isn't obligated to pay  
(i) Answer: could be a קבלן (someone who accepted the obligation of כתובה – more than an ערב)  
(ii) Challenge: this only works according to the authority that קבלן has to pay if the לווה has money  
(iii) However: according to the authority who maintains that only if the לווה has money, קבלן owes...  
(iv) Answer1: could be a case where the son had money which was subsequently destroyed  
(v) Answer2: he's always indebted if accepting obligations on behalf of his own son
- iv Tangential ruling: an ערב of a כתובה is never משתעבד; a קבלן of a debt is always משתעבד  
1 Question: ערב of a כתובה and קבלן of a debt  
(a) some say he is משתעבד even if the debtor has no property; others say he isn't if לווה has no property  
(b) final ruling: in all cases, he's משתעבד, except for ערב of כתובה – who is simply doing a מצוה and the woman lost nothing corresponding to which he would become indebted
- v רבינא: the original explanation for זיבורית מיבורית was the a woman wants to marry more than a man – but if the rule only applies to יתמי, that should be the stated reason – **מר זוטרא is effectively rejected.**
- b Tangent: another ruling of זוטרא בריה דר"ג: a שט"ח used to collect from orphans – may only collect from זיבורית
- i Even if: it states עידיית in the שטר
- ii Support (אבוי): בע"ח generally collects from בינונית but may only collect זיבורית from יתומים  
1 Rejection (דבא): בע"ח essentially should collect from זיבורית (as per v. 1) and gets בינונית to promote lending – and in the case of יתומים, the law is left at its דאורייתא standing  
2 However: in this case, the essential law provides for עידיית (as per the שטר) – should be עידיית even from יתמי  
(a) Challenge: נזקין are certainly עידיית מה"ת – but יתומים only pay זיבורית  
(b) Answer: this follows ר"י and is a case where עידיית דמזיק=ניזק and due to העולם he collects as per עידיית דמזיק – and, in the case of יתמי, we keep the דאורייתא law intact (בדניזק)
- iii Challenge: we only collect from יתמי using זיבורית – even if they are עידיית  
1 Assumption: means – even if the שטר calls for collection from עידיית  
2 Rather: עידיית here is euphemistic – "שפאי עידיית" – meaning, the very worst (מה"ת - collection from זיבורית)
- II 'ב משנה: more תקנות regarding collection:
- a collection from יתמי - only זיבורית
- i question: are these יתומים minors (תקנה made to protect minors) or even adults (תקנה made since the lender doesn't assume the borrower will die)
- ii answer: includes even adult heirs, both for שבועה (can't collect without a שבועה) and for זיבורית
- b we only collect from משועבדים if there are no ב"ח – even if the ב"ח are זיבורית
- i question: does this apply even if the new owners received it as a gift? i.e. was this תקנה formulated for דלקוחות?  
1 Proofcase: if a שכ"מ orders 100 to X, 200 to Y and 300 to Z (assumption - gifts), and a שט"ח is brought out, they are all equally liable; but if he sequenced them, then the בע"ח goes to the last – even if זיבורית included  
2 Rejection: could be the recipients are בעלי חוב ("give" = "give to pay my debt")  
(a) Note: must be that these debts were oral, else we could see whose debt was earlier ("שטר" – of gift)  
(b) Alternatively: meaning of "collect from last one" – he is the one who will ultimately lose  
(c) Alternatively: could be a case where the lands are all of equal status