

20.4.07

42a (כי קאמרי הכא כרבי) → 43a (תניא אידך בעל השור נקי)

1. וכי יגח שור את איש או את אשה ונתן סקול יסקל השור ולא יאכל את בשרו ובעל השור נקי: שמות פרק כ"א פסוק כ"ח

2. או בן יגח או בת יגח כמאמר הזה יעשה לו: שמות כ"א, לא

3. ואם שור נגח הוא מתמל שלשם והועד בבעליו ולא ישמרנו והמית איש או אשה השור יסקל וגם בעליו יומת: שמות כ"א, כט

4. ואם אין אחים לאביו ונתתם את נחלתו לשארו הקרב אליו ממשפחתו ויש אתה ויהיה לבני ישראל לחקת משפט כאשר צוה ה' את משה במדבר כו, יא

5. וכי יגחו אנשים ונגפו אשה הרח ויצאו ילדיה ולא יהיה אסון ענוש יענש כאשר ישית עליו בעל האשה ונתן בפללים: שמות כ"א, כב

I Continued discussion of applications of v. 1

- a עבד (שקלים 30) interprets ר"ע as exempt for paying for (death of an) ברייתא
 - i Challenge: Why doesn't ר"ע challenge himself (as he challenged ר"א) – the animal pays from its body – and it's dead!
 - ii Answer: case is where the owner slaughtered it before it could be stoned;
 - 1 סד"א: pay the 30 from its meat – קמ"ל that it is exempt
 - 2 Challenge: why doesn't ר"ע anticipate this answer in his attack on ר"א (above)?
 - (a) Answer: he anticipated it, but expected a more nuanced answer (which he got)
 - 3 Challenge: why doesn't ר"א use this same אוקימתא above? (instead of 2 answers – insufficient עדים or intent)
 - (a) Answer: in this case, the animal was slated to die, so כופר ½ is certainly off the table; in those cases, for one reason or another, he wasn't slated to die, so we would think that כופר would be paid – קמ"ל
 - iii Challenge: ר"ע certainly agrees that this case is more obviously exempt – why would he raise it as a possibility?
 - 1 Answer1(ר' יוסי בר חנינא): since ר"ע says that a תם who injures a person pays ג"ש סד"א also pays 30 – קמ"ל
 - (a) Challenge: ר"ע already defeated himself, in interpreting v. 2 as meaning that תם always pays
 - 2 Answer2(רבא): – since we are more stringent about an עבד (always pay 30, even if he is worth less) – סד"א that תם pays 30 - קמ"ל (supporting ברייתא)

II Interpretation of v. 3: והמית איש או אשה

- a ברייתא - ר"ע - cannot be needed to teach liability for injuring woman (already in v. 1)
 - i Rather: juxtaposes איש:אשה: – just as כופר goes to man's heirs, similarly כופר goes to woman's heirs (not her husband)
 - 1 Challenge: ר"ע interprets v. 4 as teaching that a husband inherits his wife's assets
 - (a) Answer: כופר is unique in that it is a payment that can only come due after death (ראוי) - as per the sequence in v. 3 - to which husband doesn't have rights of inheritance
 - (b) Challenge: ר"ע applies this rule to other נזקין וולדות, e.g. דמי וולדות (v. 5)
 - (i) Ruling: נזק וצער go to the woman or her heirs (not the husband) and דמי וולדות to the man or his heirs
 - (c) Answer (רבה ור"נ): ר"ע's ruling there is only in case of גרושה
 - (i) Challenge: why shouldn't the גרושה get part of the payment for וולדות
 - 1. Answer: the תורה grants full rights to the father as per v. 5
 - (ii) Challenge: why don't רבה ור"נ prefer a non-גרושה scenario, where her heirs seized מעות (ר"נ) or קרקע (ר"נ) or (רבה) קרקע (ר"נ) or (רבה) מעות (ר"נ)
 - 1. Answer: their dispute is along the lines of רבנן (רבי) (contra) who maintained that a בכור doesn't get a double-portion of the appreciation of the property after death of the father; their answer here (גרושה) is according to רבי, who says that he does (→ here, the husband would get her portion, unless they were divorced)