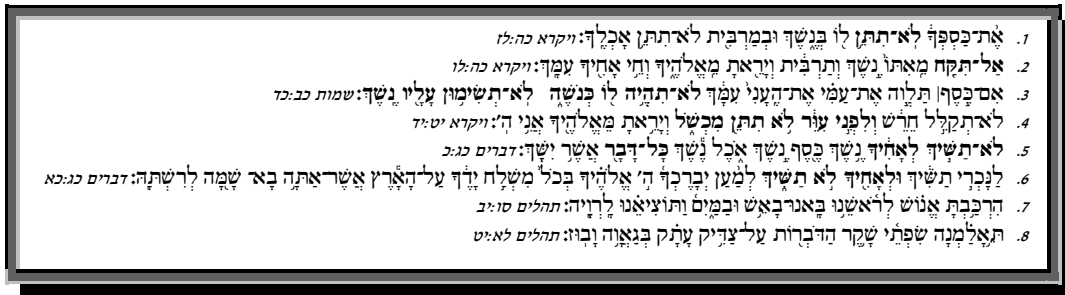


21.5.12

74a (היה הוא תחלה) → 75b (סיום הפרק)



- I Continued analysis of **מסנה** if he was the first harvester...
 - a **כז**: as long as there are only two tasks left in the process; if 3 (or more), may not yet set price
 - b **שמואל**: if the **מלאכות** are in man's control, no matter how many – may set price; if **בידי שמים** even 1 – may not yet **מוסק**
 - c **Challenge**: our **מסנה** allows at **גדיש** – still missing 4 steps (including winnowing)
 - i **לרב**: if it was already dried out
 - ii **שמואל**: possible to use a hand-sifter for winnowing
 - d **Challenges**: from the other three items in **מסנה**
 - i **Answer (for all)**: if some of these steps were already done and the local custom was for the buyer to do last step
 - 1 **Note**: for **שמואל** – no need for plaster to be set in – as long as it is able to be set in
 - e **Clay "eggs"**: **ברייתא**: **ר"מ** – **ר"מ** – may not set price until the clay "balls" are made; **ר' יוסי** – this only applies with white clay
 - i **But**: with dark clay – if he doesn't have it, someone else does.
 - ii **Story**: **אמימר** paid from the moment that they brought the clay in –
 - 1 **Per**: **ר' יוסי** – in **אמימר's** town clay was rare (couldn't reason **יש לזה יש לזה**); only relies on it if it is present
 - f **Dung**: **חכמים** seem to have same position as **ת"ק**
 - i **Difference**: in rainy season (**לה"ק** – always available; **חכמים** -only in summer months)
- II Expansion on last clause - he may set price per "high" rate
 - a **Story**: a man gave money for dowry and was dispatched by father-in-law (to be) to buy jewelry
 - i **In the meantime**: the value of the jewels went down – fiancé wanted to back out
 - ii **ל"פ**: if the agreement was per **שער הגבוה**, he must pay per current rate; if not, per original rate
 - iii **Challenge (students to ל"פ)**: why pay per original rate? It is just money, which was not **קונה** yet
 - 1 **Answer (ל"פ)**: only meant that **מי שפרע** obtains;
 - (a) **If**: they agreed on **שער הגבוה**, then seller is under ban of **מי שפרע** if he reneges; if not – buyer is under **ל"פ**
 - iv **Question**: perhaps this is per **ר"ש** who says **מעות קונות** (above, **מד**), and that's why if he didn't set **שער הגבוה**, he must pay per original agreement – but **רבנן** would allow him in any case to pay per current (low) price
 - v **Answer**: we assume that **ר"ש** limits his ruling to a case where there is one **שער**, not 2
 - 1 **Proof**: else, how is there ever a **מי שפרע** on the buyer? Since he can never legally renege, ban never applies
 - (a) **Note**: we certainly accept that **ל"פ** applies to buyer, per **תוספתא** of "מכל מקום"
 - vi **Challenge (אשי לרי אשי)**: fiancé is a שליח of the father-in-law; why can't he cancel שליחות?
 - 1 **Answer**: case where fiancé himself was a salesman (**גאונים**) – but see (**רש"י**) → not a שליח of חמיו
 - III **מסנה** permitted to lend to his share-cropper wheat for wheat (**סאה בסאה**) for seed, but not for food
 - a **Per**: **ר"ג**; and if the value changed, he would take the lesser amount as a supererogatory practice
 - b **ברייתא**: permission only until **אריס** has gone to the field to work it
 - i **Explanation**: our **מסנה** refers to place where **אריס** provides seed; regardless of whether he's gone down, valid
 - 1 **But**: **תנא ברא** – owner provides seed; so, in this case, where the owner is "lending" seed to **אריס**, until the **אריס** goes down, owner may cancel relationship → if price goes down, he goes per lower price.
 - (a) **But if**: the **אריס** already went down, owner may not remove him → it is a loan → **אסור** (:: **סאה בסאה**)
 - c **ברייתא**: a man may borrow a set amount of wheat as long as they set a value;
 - i **If**: the price goes down, he returns wheat; if appreciates, gives the money value
 - 1 **Question**: didn't they set a value?
 - 2 **Answer (ל"ש)**: if they *didn't* set a value, then if it goes down etc.

- IV ט **prohibition of בטאה**: משנה ט
- a *Prohibited*: to lend a כור (e.g.) of wheat in order to pay it back at harvest time
- i *Reason*: price of wheat may go up → רבית
- b *Permitted*: to borrow it if the borrower has wheat but doesn't currently have access
- i *ד' הונא*: may only borrow per the amount he currently has
- ii *ד' יצחק*: as long as he has any wheat, may borrow a lot of wheat
- 1 *Support*: ruling that if he doesn't have a drop of wine, may not borrow wine
- (a) *Implication*: if he has even a drop, may borrow a lot
- c הלל prohibits (ר"ג – הלכה – but גמרא rejects this position)
- i *Per*: הלל rules that a woman may not borrow
- ii *שמואל*: we rule against הלל and allow unspecified borrowing (e.g. without measure)
- iii *שמואל*: a group that eats together on שבת and is מקפיד to have exact divisions violates מנין משקל, מדה, מדה, שבת on שבת
- 1 *And*: violation of lending and borrowing (שבת כג:) on יום טוב
- 2 *And*: per הלל, they violate רבית
- iv *שמואל* (!) ברבית ת"ח are allowed to lend each other
- 1 *Reason*: they all know that רבית is prohibited and are מוחל the difference
- 2 *Story*: of שמואל borrowing 100 peppers for 120 and confirming that it was ok
- v *דב* permitted for a man to lend his household members ברבית to let them see what it feels like
- 1 *Rejection*: they may end up doing so later in life
- V י **various laws regarding רבית**: משנה י
- a *Permitted*: to "swap" jobs – I'll plow with you today and you plow with me tomorrow
- i *However*: prohibited if jobs are different (e.g. plowing and sowing)
- ii *And*: prohibited to do same jobs during different seasons
- 1 *However*: all days of one season are considered the same
- b *Extension of דבית*: to pre-loan and post-loan, both prohibited
- i *דשב"ג*: pre-loan – borrower sends gifts explicitly made to encourage lender to lend
- 1 *Post-loan*: borrower sends gift, expressly stating that this is for the fact that he held the other's money
- ii *ד"ש*: "verbal" רבית – such as giving מלוה information in which he has a known interest
- 1 *ד"ש*: *ברייתא* – per v. 5 – even "verbal" רבית, such as an unaccustomed greeting to מלוה – considered רבית
- VI יא **range of violaters and violations involved**: משנה יא
- a *Violaters*: include lender, borrower, cosigner, witnesses (per חכמים - even scribe) are all in violation of:
- b *Violations*: לא תתן (v1), אל תקח (v2), לא תהיה לו כנושה (v3), לא תשימון עליו נשך (v3) and לפני עור (v4)
- i *לנשך*: lender violates all; borrower violates vv. 4, 5, 6; *עדים* and *ערב* violate v3
- c *ד"ש*: *ברייתא* – usurers lose more than they gain:
- i *Furthermore*: they imply that מרע"ה and his תורה were foolish, that had he known how much could be made with interest he never would have forbade it
- d *ד' דימי*: if someone is owed money and he knows that his debtor doesn't have it, prohibited to pass before him per v3
- e *ד' אמי ור' אסי*: it is as if he punished him in fire and water (per v7)
- f *דב*: lending without *עדים* is a violation of v4 (he may consider denying the debt)
- i *ד"ל*: also violation of v8
- ii *Story*: *ד' רבינא* wouldn't lend *ר' אשי* money, even when time was of the essence, without *ועדים*
- g *ברייתא*: there are 3 whose complaints are ignored by the court:
- i *מלוה*: someone who has money and lends without *עדים*
- ii *קונה אדון לעצמו*: someone who keeps his money under the name of a non-Jew
- 1 *Or*: someone who writes over his property to his children while he is still alive (they "own" him)
- 2 *Or*: someone who has a bad fortune in his own town and doesn't move
- iii *אשתו מושלת עליו*: someone whose wife controls him (financially)