

21.6.2; 77a (שבאת חבילה לידו) → 78a (אמר מר שמין להם את מה שעשו)

I Analysis of ברייתא (variation of תוספתא א:ז - first introduced above):

- a If: someone hires workers and they mislead בעה"ב or vice-versa – they only have תרעומת (no financial claim)
- i This only applies: when they didn't begin their work
- ii However: if they went and found no work to do – he must pay them in full
- 1 However: their work load isn't the same if they have nothing to do (i.e. they are paid כפועל בטל)
 - 2 This only applies: if they didn't begin their work
 - 3 However: if they began their work, their work is assessed and that's what they're paid
 - 4 Example: if they were given a job to do for 2 סלעים and did half of it, their work is assessed:
 - 5 Even if: the value is 6 סלעים (and he won't be able to find a worker for less to complete it) – they get 1 סלע
 - (a) Implication: this תנא holds that in every case, the worker has the "upper hand"
 - 6 Or: they may finish their work and collect 2 סלעים
 - (a) צריכא: in case labor fees appreciated; סד"א they could charge new, greater amount – קמ"ל
 - 7 And if: it is worth 1 סלע – they are paid 1 סלע
 - (a) צריכא: case where they were "overhired" (labor was cheap at the time) – סד"א they can argue that he agreed to more than the "going price" → pay more than a סלע, קמ"ל that he can argue that he only did so when they didn't accept his offer, but now that they did (at 1 סלע), they must accept that
 - 8 Dissent (ר' דוסא): we estimate what it will cost to finish; if it will cost 6, they are given שקל (1/2 סלע)
 - (a) Position: the laborer is at the disadvantage (יד פועל על התחונה)
 - 9 ר' דוסא continued: but if they complete the work, they get full pay (2 סלע)
 - (a) צריכא: case where labor costs when down and he fired them; they appealed him to take them back
 - (i) סד"א: he could argue that he did so on the premise of the lower wage
 - (ii) קמ"ל: they can argue that they agreed to come back for the old wage and do better work
 - 10 ר' דוסא continued: if it was a סלע, they complete it and receive a סלע
 - (a) Challenge: again – this is obvious
 - (b) צריכא: case where he hired them below cost and then standard fee went down –
 - (i) סד"א: he can say "you agreed to work at below market value"
 - (ii) קמ"ל: they can hold him to his original agreement (amount) of 1 סלע
 1. Ruling (רב): follows ר' דוסא
 2. Challenge: רב maintains that a worker can quit in midday (and be paid for what he did)
 - a. Suggestion: perhaps רב distinguishes between שכירות (allows) and קבלנות (דוסא ר' case)
 - b. Rejection: ברייתא, which must "belong" to ר' דוסא, which allows a שכיר to quit in midday for exigent reasons (must be ר' דוסא – if רבנו, no need for exigency) → שכיר: קבלן
 3. Answer (רנב"י): ברייתא is a case of time-bound/perishable work, even רבנו agree he can't quit
 - (c) Note: our משנה rules that כל החוזר... – doesn't this come to support דוסא ר' → for ר' דוסא, שכיר: קבלן, ר' דוסא ר'
 - (i) Answer: רב agrees with ר' דוסא ר' re: שכיר, but rejects the equation with קבלן
 - (ii) Alternatively: כל החוזר... may be referring to renegeing on a sale in mid-payment, as per ברייתא:
 1. If: someone sells a field at 1000, pays 200
 - a. If: the seller renegeed, the buyer is in "control" – can demand his money back or field
 - i. If buyer collects: עדית – רנב"י (עדות of the land in question; ר' אהא – ניזק – real עדית)
 - b. If: the buyer renegeed, seller is in "control" – can return money or give 200 worth of land
 - i. If the seller gives: it is from זיבורית
 2. גש"ג: we "force" them not to renege by having a שטר written with amount of down pymt and debt
 - a. Implication: without שטר, there is no קנין and obligation for the 800
 - b. Challenge: רשב"ג (in re: ערבון) rules that partial payment obligates the rest
 - c. Resolution: in case where seller keeps after buyer for money, not his without קנין
 - (d) Tangent (רבא): repayment of a loan, 1 זוז at a time is legitimate but the lender has תרעומת
 - (e) Case: man sold donkey(?) and 1 זוז was left on the balance, the seller kept requesting
 - (i) Question: does the buyer own it (as above)? – זוזי: זוז (→ doesn't own it yet)
 - (ii) But: רבא ruled that it is purchased – (a) when he sold his field due to need and just wants the last זוז
 - (f) Q: what if he wanted to sell field of 100 and could've found a buyer but didn't try and sold a larger for 200
 - (i) Is this: like selling רעתה מפני רעתה and his demands for money don't prevent קנין – תיקו

II Analysis of last clause of משנה – he may hire on the account of the delinquent workers – ר"ג – up to their fee (& pay them 0)

- a Challenge (רבא): ruling that he may add up to (only) 40 or 50 זוז
- i Answer: that is in the case where he is holding their tools