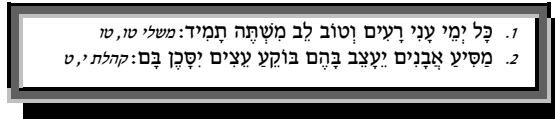


22.9.6

144b (משנה 2ד) → 146a (מעפר כרמו לכרמים)

Note: our סוגיא deals with שושבינות, which is a gift brought by celebrants at a wedding and is considered a real debt, collectible in ב"ד



I 2ד משנה: paying back שושבינות or other types of wedding gifts

- a שושבינות – if it was sent by the family during father's lifetime, when it is paid back – paid to estate
 - i Reason: שושבינות is a debt that can be collected in ב"ד
 - ii But: other types of gifts brought to a חתן, if paid back, are not collectible in ב"ד
 - iii Challenge: ברייתא ruling the opposite – שושבינות is returned to that brother who brought it
 - 1 But: if שושבינות was sent to a brother (during father's lifetime), it is returned from estate
 - 2 Resolution1 (ר' אסי בשם ר"י): our משנה should be inverted to read like ברייתא
 - 3 Resoluion2 (ר' אסי): our משנה is referring to a שושבינות sent without explicit association with one son
 - (a) ברייתא: when it was sent with explicit association with one son (supporting ברייתא)
 - 4 Resolution3 (שמואל): our case is in re: a יבם (i.e. son who brought gift died and his יבם is claiming it)
 - (a) Reason: a יבם does not collect אחר מיתה
 - (i) Challenge: why should the other have to pay anyone (i.e. the estate, as per משנה)
 - (ii) As per: law of returning קידושין if one of the affianced dies before marriage – based on local custom
 - 1. שמואל: only if she died; if he died, she could argue "give me my husband and I'll marry him"
 - 2. Similarly: in our case, sender can claim – "if he were alive, I'd send to him"
 - 3. defense (ר' יוסף): in this case, the donor rejoiced with חתן all 7 days (→liable for שושבינות) and then he died before the donor paid it → to estate
 - (b) Suggestion: the argument that one is exempt based on עמו ואשמה עמו is a מח' תנאים
 - (i) ברייתא ר' נתן and ר' יוחנן - returning קידושין is dependent on custom (there must be point of dispute)
 - 1. Point of dispute: ר' יוחנן holds that if custom is not to return, even if he dies – no return and she can't claim בעלי תנו...
 - 2. Rejection: dispute is in case she dies – whether קידושין לטיבעוין ניתנו (can be claimed)
 - 3. Challenge: wording of ברייתא is מקום שנהגו
 - a. Explanation: that is in re: סבלנות (gifts sent by ארוס to ארוסה and her family)
 - 4. And: this dispute replicates ר"מ vs. ר' יהודה (with ר' יוסי in doubt) re: קידושין לטיבעוין ניתנו
- (c) Note: ר"נ points out that only נהרדעא was a place where the custom was מחזירין; everywhere else, they return the כתובה but not the קידושין
 - (i) ד"פ: final ruling – if he changes his mind (or dies), כתובה is paid, קידושין not returned
 - 1. If: she changes her mind, even קידושין are returned
 - a. אמימר: no return of קידושין; people will think that he may marry her sister (no קידושין at all)
 - b. ר' אשי: her גט will correct that misimpression
 - i. Rejection: some may have seen one and not the other

II Rules of שושבינות

- a 5 parameters:
 - i Collected by ב"ד (if need be) – as it is like a מלוה
 - ii It is paid back in its time – meaning, when the donor (of the first gift) himself gets married
 - iii No restrictions of רבית – as he didn't give the original gift with that in mind
 - iv לא יגוש שמיתה doesn't cancel it – as it isn't being collected (no circumstance of יגוש)
 - v ראוי is פי שנים doesn't get בכור
- b ר' כהנא: general rules
 - i If: he was in town (where the wedding of his שושבין was taking place) – he should have come – חייב
 - ii If: he heard the announcement (of the wedding) – should have come
 - iii If: he didn't hear the announcement, he has a claim against the חתן (for not inviting him) but is still חייב
 - 1 Yet: in that case, he lowers the payment (didn't eat at the wedding) – אביי reports on scale
- c ברייתא: שושבין may claim he will only repay if conditions are the same (public, 2nd wife, etc.)

III Tangent: אגדות relating to metaphoric descriptions of various types of students vv. 1-2