

22.9.7

146a (משנה ה') → 147a (ל' קמ"ל) (צעריה הוא דקא מדכר קמ"ל)

- I 'משנה ה': claims on סבלונות (gifts sent by fiancé to betrothed's family)
- a If: he sent gifts – even a large amount – and ate a סעודת חתן there (even worth a דינר), can't be recovered
- i רבא: only if it was a דינר (not less)
- 1 Question: what if he drank there? What if he sent a שליח to eat there? What if father-in-law sent him food (i.e. he didn't eat "there")?
 - (a) Attempted solution from ruling at אושא: man sent great gifts, came to his חמיו's house and they sent him a hot drink, which he drank outside – and then died
 - (i) Ruling: סבלונות which typically wear may not be reclaimed, those which don't may be reclaimed
 - (b) Inference: even drinking is enough to lose the claim
 - (c) Inference: even less than a דינר
 - (i) Rejection: perhaps this was a very fancy drink
 - (d) Inference: even if they sent him food –
 - (i) Rejection: perhaps outside of the door is considered at חמיו's house
 - 2 Question: if he did eat a small amount, do they pro-rate the gifts when returning them?
 - 3 Question: does appreciation of the (now lost) סבלונות go to him (if marriage cancelled) or her?
 - (a) Lemma1: if the סבלונות were here, he'd collect them "as is" → שבה belongs to him OR
 - (b) Lemma2: she has to repay if they're lost – they belong to her → שבה is hers – תיקו
 - 4 Question: what of סבלונות that typically get used up – but weren't used up?
 - (a) Answer: from ruling at אושא – העשוין ליבלות – סבלונות
 - (i) Implication: even if they didn't get worn
 - (ii) rejection: meaning is actually – only if they got worn out
 - (b) answer: ruling – minimal סבלונות which she used while in father's house cannot be reclaimed
 - (i) rejection: that's in reference to very cheap clothes which he certainly forgives

b But: if he didn't eat there at all, can be recovered (if wedding is cancelled)

c If: he sent large gifts, for her to bring back to his home (after marriage)- may be reclaimed

d But if: the gifts were small and for use while she was still in her father's house – may not be reclaimed

i רבין סבא: whether he or she dies or he reneges on the wedding, the סבלונות are returned, but food isn't returned

 - 1 But: if she reneged, even food (which she ate) is returned
 - (a) ד' הונא בריה דר"י: estimated as per cheap meat – up to 1/3 less than the חתן paid for it

II Various stories:

a דב. a man once sent new wine and oil and flax garments to his father-in-law for שבועות

i Teaching: the agricultural power of א"י (such fruits ready that early) OR

 - 1 If: someone makes such a claim, it is realistic

b דב. a man was told that his fiancée had no sense of smell, he followed her into a ruined building to check this out, saying "I smell radishes" but she let on (wittily) that she smelled dates in his hands – and then the building collapsed and she died

i Ruling: since he went there to check her out, he doesn't inherit her

III מתנה שכ"מ: reclaiming a משנה וו

a If: he left some land for himself and got better, the gift is unrevocable

b But if: he didn't leave anything for himself and got better, he may recover all of it

i Author: maintains that we follow אומדנא (an estimation of the donor's intent)

 - 1 ר"נ: must be רשב"מ in re: giving away his property when he hears that his son died and later he learns that his son was alive
 - 2 ר"ש שזורי ד"ש, who expanded allowance for people about to die to order a גט for their wives if they said כתבו
 - (a) ר"נ: that case is different – he said כתבו
 - (b) ד"ש: that estimation is too obvious to apply to our case

ii Question: who is the author of the ברייתא that if he was on his deathbed and, when asked to whom to give his estate, he mentioned that he thought he had a son or his wife was pregnant and now that he learned that not to be the case, he gave it to פלוני – but it turned out that he was wrong – the gift is revoked

 - 1 Suggestion: must be רשב"מ who follows אומדנא
 - 2 Rejection: even רבנן agree here, since he said "I thought"
 - (a) Justification: סד"א he was just mentioning his own pain (about his son or childless wife) – קמ"ל