



OVERVIEW of the Daf

1) Contradiction is the beginning of הזמה (cont.)

Abaye cites a Baraisa that supports his interpretation of the Baraisa.

R' Acha the son of R' Ika questioned where in the earlier Baraisa Rava thought he could demonstrate that contradiction is the beginning of הזמה.

R' Ashi identifies the source of Rava's inference from the Baraisa that contradiction is the beginning of הזמה and explains the proof in detail.

Abaye's response to this proof is recorded.

The Gemara digresses to discuss the assumption that when a slave owner knocks out two limbs the slave goes free and collects the value of the second limb.

Abaye identifies the source for this assumption.

R' Idi bar Avin cites a Mishnah that supports Rava's view that contradiction is the beginning of הזמה.

The proof is rejected.

It is noted that the dispute between Abaye and Rava whether contradiction is the beginning of הזמה is also a dispute between R' Yochanan and R' Elazar.

The Gemara succeeds at determining R' Elazar's position on the matter.

Abaye presents a circumstance where the contradicted witnesses would receive lashes.

2) **MISHNAH:** Different circumstances where a thief does not pay 'ה' 'ד' are presented. The Mishnah concludes with a dispute whether 'ה' 'ד' is paid for sacred animals.

3) Witnesses after admitting to a fine

The Gemara infers from the Mishnah's case involving one witness that if witnesses come after a person admits to a fine

(Continued on page 2)

Distinctive INSIGHT

Blinding an eye and knocking out a tooth of a servant

סימא את עינו והפיל את שינו ניפוק בעינו ובשינו, אמר אביי עליך אמר קרא תחת עינו ולא תחת שינו ולא תחת שינו ועינו

Ramban explains that the case of R' Zeira is regarding a master who blinds his servant's eye, but before the case came to court to release the servant, the master also knocked out the servant's tooth. The Gemara rules that the penalty of releasing a servant due to injuring him is only a result of a formal ruling of the court. Therefore, when the servant is finally released, it is determined at once based upon both injuries, not just one. Accordingly, although the master must release the servant, no compensation needs to be paid for either injury. Abaye argues and says that when the case is finally judged the servant "earns" his freedom retroactively to the moment of the first injury. It is that one incident alone which determines his freedom, and not a combination of both injuries. Therefore, Abaye would say that the servant became free based upon the loss of his eye, and he is deserving of compensation for the injury to his tooth.

Ramban adds that it is clear that it is not the intent of Abaye to say that the verse proves conclusively that the freedom of the servant is due to the one injury alone, but that Abaye brought the verse to reinforce that it seems obvious that this is the case. Tosafos (earlier 33a) however, understands that Abaye cites the verse as the source for his contention, as without the verse we would not necessarily know that the penalty of freeing the servant applies retroactively.

Rambam rules (Chovel u'Mazik 4:11) that if a master knocks out the tooth of his servant, and he then blinds his eye, the servant is freed due to the injury to the tooth, but he cannot collect compensation for his eye. However, if the newly-freed servant grabs the money to pay for the injury to his eye from the master, we cannot take this money away from him. Yet, Rambam in Hilchos Avadim (5:14) rules that in this same case that once the servant is free due to the injury to his tooth, he is a free man and the master must therefore pay for the injury to his eye. Ra'aved immediately questions this ruling of Rambam, which is inconsistent with his conclusion in Hilchos Chovel u'Mazik. Kesef Mishne explains that the ruling that the master pays for the injury to the servant's eye is only dealing with a case where the master was taken to court in the meantime, immediately after knocking out the tooth. Here, the servant is certainly free at this point, and the subsequent injury to the eye must be paid. Or, Rambam's statement that payment is provided for the eye is referring to a case where the servant took the money, in which case he keeps it, as Rambam himself ruled in Hilchos Chovel. ■

REVIEW and Remember

1. How did Rava prove that contradiction is the beginning of הזמה?
2. What is the punishment for a slave owner destroying two limbs of his slave?
3. Does one pay 'ה' 'ד' if he stole and slaughtered an animal on Shabbos?
4. Why was R' Gamliel excited that he blinded his slave's eye?

Today's Daf Digest is dedicated in memory of
עזרא קטאן, Ezra E. Cattan,
 by his grandson Judah Cattan

HALACHAH Highlight

Does reality refute testimony

בבא הרוג ברגליו

Where the alleged murder victim came on his own two feet

In the Gemara in Yevamos (88a) we are taught that if witnesses testify that a woman's husband died she is permitted to remarry and even if a second set of witnesses come later and testify that the husband is in fact still alive we would not force her to divorce the second husband. However, if the first husband appears, she must divorce the second husband. Tosafos¹ questions why the appearance of the first husband overturns the testimony of the first set of witnesses who testified that the first husband died. The halacha regarding witnesses is that two acceptable witnesses carry the same weight as one hundred witnesses, so that even if one hundred witnesses were to contradict the witnesses who said the first husband was dead their testimony would not be accepted. Accordingly, just because we see someone who looks like the first husband should not overturn the testimony of the first set of witnesses since even if one hundred people were to testify that this is the first husband, their testimony should not carry the weight to refute the accepted testimony of the first pair of witnesses. Tosafos answers that when something presents itself which is clear and evident to everyone, like the return of the first husband, all opinions would agree that she must divorce the second husband. Shach² explains that when the first husband appears it becomes clear

(Overview. Continued from page 1)

he is liable which is at odds with the ruling of R' Huna in the name of Rav that he is exempt.

R' Chisda challenged R' Huna's assertion that if witnesses come after a person admits to a fine he is exempt.

R' Huna defends his position. ■

to us that the first set of witnesses must have been lying. Accordingly, when our Gemara rules that when the alleged victim shows up alive the witnesses receive lashes it is because we now know with certainty that they were lying.

Noda B'Yehudah³ offers an alternative explanation for Tosafos. He maintains that even when the first husband appears, we, as Beis Din, cannot state with certainty that the first set of witnesses lied since their testimony is as reliable as the testimony of all the people who see the first husband standing before them. In this circumstance, however, R' Ashi would not allow the woman to remain married to her second husband because of the conflicting reports that could not be resolved. The reason in our Gemara the witnesses receive lashes is that we consider it as if the witnesses themselves admit that their testimony was false. Although normally when a person admits to a transgression he does not receive lashes, in this case the witnesses will receive lashes since the arrival of the first husband makes their lie so obvious that it is not considered as though their guilt is known as a result of their own admission. ■

1. תוס' יבמות שם ד"ה אתא

2. ש"ך חר"מ סי' מ"ו ס"ק ס"ו

3. שו"ת נודע ביהודה מהדור"ק אה"ע סע' ס"ה ■

STORIES Off the Daf

True freedom

סימא את עינו נפוק בעינו הפיל את שינו נפוק בשינו

We find on today's daf that a slave goes free if his master takes out his eye or tooth. Chazal learn from this a kal v'chomer: if one liberates himself from physical slavery through suffering, how much more is one redeemed from the spiritual suffering of the next world through experiencing pain in this one!¹

Rav Nisim Yagen, zt"l, once shared a true story to illustrate how one should relate to suffering. "A certain talmid chacham has a son who hates to get a bath. Every time he is taken to bathe is literally a battle. He kicks and screams

and is on the lookout for any opportunity to squirm out of his mother's hands and run away. He must be physically forced into the bath and washed with great force. Unfortunately, because the boy continuously squirms, the soap often gets into his eyes and exacerbates his already extreme discomfort.

"Even after the bath he keeps crying as if he had undergone a terrible emotional ordeal—which his antipathy for baths really does precipitate. Once, after a half hour of crying, the young man's father approached the now happily playing child and said to him, "Tell me the truth. Do you love your mother?"

"Of course," the boy immediately replied.

"But she forced you to bathe just now. She pained you and you cried. How can you still love her?"

Rav Yagen explained, "Although the child did not know how to answer, it was clear that he loved his mother still. The reason behind this is clear. The child knows in the depths of his heart that his mother truly loves him and that everything she does to him must be for his own good. He does not comprehend why but he knows that she forced him to bathe only because she loves him.

"This is how one who has a difficult time should feel towards Hashem. We must know so deeply that Hashem loves us that we truly feel that whatever we experience is for our good even when we cannot understand why. It is only one who feels absolutely certain that Hashem loves him who can experience yesurim with love!"² ■

1. מכילתא שמות כ"א כ"ו

2. נתיבי אור ע' ש"ס-שמ"א