

באומר עדות שקר העדתי – When he said; ‘I presented false testimony’

OVERVIEW

רבא said that we can establish the ruling of רב (that an עד pays proportionately) in a case where one witness recants and states, ‘I testified falsely’ (when I stated that someone owes money). In such a case the ruling of רב applies that an עד will have to pay his share for the loss he caused by his false testimony. It is not clear (which עד has to pay, and) whether the explanation of רבא is in a case where the עד\עדים were הוזמו after this admission or not.

ושוב הוזם¹ -

And then he (this עד who recanted) **was discredited** by the המזה process.

גמרא presents (and rejects) a different interpretation of the תוספות:

לכאורה משמע² דכי³ אמר הכי משלם חלקו⁴ דאם כן בקש להפסיד ממון חבירו בעדותו -
Seemingly it would appear that if the recanting witness **stated this** (that he testified falsely) **he would pay his share** (even without הזמה), **for if indeed** it is true that he testified falsely, **so he attempted, through his false testimony, to cause a loss to his friend’s money.** This is how it appears (superficially) from רבא’s statement.

רבא (however) rejects this interpretation of:

ולא נראה דהא ליתא⁵ מאן דמשלם ממון אלא אם כן⁶ הוזם במקום פלוני עמנו הייתם⁷ -
But this does not appear to be correct, for there is no one who maintains **that an עד pays money** (for recanting); **unless he** (and the other עד) **was הוזם** by עדים who testify that **‘you were with us in that (other) place** so you were not able to see the

¹ See the marginal notes. Others delete these two words ושוב הוזם. Others amend it to הוזמו (instead of הוזם). This (ושוב הוזם) reflects the conclusion of תוספות as will be explained later in this תוספות. See footnote # 7.

² The following is the פירוש of the רמב"ן וריטב"א (and perhaps פרש"י [see ד"ה כל]).

³ The הגהות הב"ח amends this to read, דכי אמר הכי דכיון דאמר הכי [וכו'] אם כן בקש, (instead of דא"כ [וכו']).

⁴ (merely) said that the ruling of רב applies if the witness recants and states עדות שקר העדתי. There is no mention of הזמה. This means that if the עד stated עדות שקר העדתי (when I testified that ראובן owes a hundred זוז), this עד must pay fifty זוז (his share) as if there was a הזמה. Just like by הזמה since we know that this עד wanted to cause a loss, so he needs to pay, similarly here when we know (through his admission) that the עד wanted to cause a loss to ראובן, he must pay (his share) as if there was an actual הזמה.

⁵ The הגהות הב"ח amends this to read, דליתא מאן דמשלם, (instead of דליתא מאן דאמר דמשלם).

⁶ The הגהות הב"ח amends this to read, כן שניהם הוזמו במקום, (instead of כן הוזם במקום).

⁷ There is never an obligation for an עד to pay because he admits to lying and tried to make the accused pay, unless there was a proper הזמה.

therefore both עדים become זוממין and both pay the money. This cannot therefore be the case of עד זומם משלם לפי חלקו, since they both pay.

SUMMARY

ועשיתם לו assumed that if the עד recanted he can no longer be liable for the כאשר זמם. However, the גמרא concluded that his recanting is meaningless and כאשר applies to him as well. The גמרא did not (ever) mean that the עד should pay (without הזמה) because he recanted.

THINKING IT OVER

1. assumed that since this one עד recanted he is not בתורה הזמה.¹⁵ On the other hand תוספות maintains that both עדות have to be הוזם.¹⁶ If however one of the עדים (the one who recanted) is not בתורת הזמה, why should the other עד (who was הוזם) pay; since there was no תורת הזמה by both עדים?¹⁷

2. According to רבא's thinking that by saying שקר העדתי he is סותר עדותו;¹⁸ the rule of עדות שבתלה מקצה בטלה כולה should apply and the testimony of the second עד is also בטלה, and there can be no הזמה!¹⁹

¹⁵ See footnote # 12.

¹⁶ See footnote # 9.

¹⁷ See # 71. אוצר מפרשי התלמוד and פני יהושע.

¹⁸ See footnote # 11.

¹⁹ See # 76-78. אוצר מפרשי התלמוד.