

That he unloaded his cargo into it

דפרקיה¹ לטועניה בגויה –

OVERVIEW

The גמרא explained that when the ברייתא stated, 'ופרקיה לו בחצי הדרך' it does not mean that the שוכר unloaded his merchandise and left the ship, but rather 'דפרקיה לטועניה בגויה'.² There is a dispute between רש"י and תוס' as to what this means.

פירש בקונטרס³ שהוסיף המשא בחצי הדרך –

explained רש"י that the שוכר added cargo for the second half of the journey –

פרש"י has a difficulty with תוספות:

וקשה דהוה ליה למימר פריק לה⁴ כיון שממקום אחר היה פורק לספינה –

And there is a difficulty with פרש"י, for the גמרא should have stated פריק לה (פרקיה לטועניה), since he was unloading his merchandise from elsewhere unto the ship –

פרש"י has an additional question on תוספות:

ועוד דקאמר ושינוי דעתא⁵ מה מפסיד דכל שכן טוב לו שמרויח יותר –

And additionally, the גמרא explains the reason why the משכיר has תערומות on the שוכר is because of changing his mind, why is that a reason for תערומות, what is the losing, for it is certainly better for the משכיר, since he profits more from the additional cargo.

דפרקיה לטועניה בגויה offers an alternate explanation of תוספות:

ורבינו חננאל פירש דפרקיה לטועניה שמוכר סחורה שבספינה לאחר⁶ –

And the ר"ה explained that פרקיה לטועניה means that he sold his merchandise in

¹ In our text (both in the גמרא and רש"י) it reads דפרקה (not דפרקיה).

² The ruling of the ברייתא is that the שוכר pays חצי הדרך and the משכיר can have תערומות on the שוכר. The גמרא initially did not understand the ruling of the ברייתא.

³ בד"ה דפרקה.

⁴ The word פרק (certainly) means to unload. The meaning of פרקיה לטועניה בגויה is that (at the half way mark) the שוכר unloaded his merchandise, which he had stored on land there, and loaded it onto the ship. Therefore the wording should be that he unloaded it (from elsewhere) 'onto' the ship. The word 'onto' requires that we say 'לה' פריק, unloaded it 'onto' the ship. See רש"ש.

⁵ See רש"י ד"ה משום שינוי דעתא who writes; הייתי סבור ללכת מהר ולחזור מהר. However תוספות maintains that a ship owner is more interested in making more profit even if he is delayed (slightly), than returning home earlier with less profit.

⁶ פר"ח could mean (according to ר"ח) that he removed the cargo from his container, which he took off the ship, and the new buyer put the cargo into his own container. See footnote # 9.

the ship to another person (there was no cargo added or removed), this action -

היינו שינוי דעת כי שמא זה אדם הקונה הוא אדם קשה⁷ -

Is considered דעת שינוי and is a valid cause for תערומות, **for perhaps this person who bought** the merchandise from the initial שוכר **is a difficult person** to deal with –

פר"ח explains the other reason for תערומות cited in the גמרא, according to:

אי נמי לאשלא יתירא⁸ שצריך חבלים להוציא כלים⁹ של ראשונים ולהכניס של אחרונים -

‘Or you may also say, for the extra rope’; meaning that the ship owner needs new rope to remove the utensils of the first renters, and bring in the utensils of the latter renters.

תוספות asks:

ואם תאמר ואמאי מוקי לה הכי לימא לעולם דשכיח לאוגורי -

And if you will say; but why was it necessary to establish the ברייתא **in this manner** that פרקיה לטועניה בגויה, **let us say** as we assumed initially that the שוכר left midway, and **really it is possible to find other renters -**

וכי תימא מאי תרעומת איכא¹⁰ **משום שינוי דעתא**¹¹ -

And if you will ask; what תרעומת is there, we can answer, there is תרעומת **because of דעתא שינוי**, the new שוכר may be more difficult than the original שוכר, just as we are saying now!

תוספות answers:

ויש לומר כיון דמסיק טעמא דרפסא דספינה תו לא מצי למימר הכי דטענתא מעלייתא הוא -

And one can say that since the גמרא **concluded** previously that the (presumed) **reason** for תרעומות in a case where other renters can be found is because of the **deterioration of the ship**, therefore the גמרא **can no longer give this answer, for** the גמרא **concluded that רפסא דספינה is a valid monetary claim** for which the משכיר is entitled to payment, not only תרעומות.

⁷ See footnote # 13.

⁸ According to רש"י it is understood that more rope is required in order to fasten the new merchandise, תוספות explains that new rope is needed even according to פר"ח.

⁹ The כלים here may be referring to the personal belongings of both שוכרים, or (see footnote # 6) it may be that the sale was only for the merchandise but not the containers of the merchandise; the containers need to be exchanged.

¹⁰ This was the גמרא's initial question, when we assumed that the שוכר left midway; the גמרא asked if the משכיר can find new renters, why does the ברייתא say that he can have תרעומות on the שוכר. There is seemingly no problem!

¹¹ This question is according to the פר"ח, where both in the הו"א and מסקנא (of ופרקה בחצי הדרך) there is going to be a new renter. However according to רש"י that the claim of דעתא שינוי is that he is hurrying home, this explanation is valid according to the מסקנא, where the שוכר is delaying the trip by adding new cargo, however in the הו"א, where the שוכר is shortening the trip and it is שכיח לאוגורי, it is up to the משכיר whether he wants to take on a new renter or not; he cannot complain to the שוכר either way.

דפרקיה לטועניה בגויה offers a final explanation of תוספות

ורבינו יצחק בן מאיר פירש דהכי קאמר לעולם דשכיח לאוגורי -

And the ריב"ם explained that this is what the גמרא meant when it answered really new renters can be found -

ולכא רפסא דספינה¹² דאיירי דפרקיה לטועניה בגויה -

But there will be no רפסא דספינה, for we are discussing a case where פרקיה literally -

כלומר שהתיר חבילה בתוך הספינה והוציא על יד על יד -

Meaning that the first שוכר untied the package containing his cargo, in the ship, and he took out his cargo little by little -

וכן אחרון שהכניס סחורה במעט מעט דלא רפסה ספינה -

And similarly the last (new) renter, he also brought in his merchandise little by little, so the ship did not suffer any wear -

ותרעומת הוי משום שינוי דעת שלא הורגל עם זה האחר ולא ידע להתנהג לפי דעתו¹³ -

But there is תרעומת because of the שינוי דעת, since the משכיר is not accustomed with this latter renter and does not know how to deal with him -

אי נמי לאשלא יתירא שאם ירבה זה במשא יצטרך לקנות כאן ביוקר חבלים חזקים -

The other reason the גמרא gives is for additional rope, so that if this new renter will increase the load, the משכיר will be required to buy here more strong ropes, at an expensive price -

כי אם היה יודע בביתו היה קונה שם בדמים מועטים -

For if the משכיר would have known in his house (the point of origin for this trip) that there would be another renter with a larger cargo, he would have bought the ropes there for a cheaper price -

ולכא אלא תרעומת דלאו טענה מעלייתא היא -

But nevertheless this claim entitles the משכיר only to have תרעומת, for it is not a valid monetary claim -

שכנגד זה מרויח שנוטל שכר יותר¹⁴ מחבילה מחמת גודלה:

Since he is offsetting the loss of the ropes, by profiting elsewhere, for he is receiving more payment for this package on account of its greater size.

¹² The claim of רפסא דספינה is the reason the גמרא rejected the case that there are new renters, for then the משכיר still has a valid monetary claim based on רפסא דספינה; however, not in the case of the ריב"ם.

¹³ This שינוי דעת of the ריב"ם seems to be different from the שינוי דעתא of ר"ח (footnote # 7) where he is concerned for an אדם קשה. See 'Thinking it over'.

¹⁴ Nonetheless he still has תרעומת, for if the שוכר would have told him originally that he may stop midway, where the boat owner will find other renters; he would have made sure to acquire extra rope for a potential larger cargo, so he would both profit on the cargo and not lose money on the ropes.

SUMMARY

means: a) according to רש"י that the שוכר added more cargo, b) according to the ר"ח that the שוכר sold the cargo, c) according to the ריב"ם that the שוכר quit and it is שכיח לאגורי, and the cargo is removed and loaded gently.

THINKING IT OVER

How can we explain the difference¹⁵ between the ר"ח and the ריב"ם, in the meaning of שינוי דעתא?

ריב"ם	ר"ח	רש"י	גמרא/פירוש
The שוכר quit midway	The שוכר quit midway	The שוכר quit midway	ופרקה בחצי הדרך
The שוכר quit, unloaded the cargo gently, and שכיח לאגורי	The שוכר sold the cargo	The שוכר added cargo	דפרקיה לטועניה בגויה
The משכיר is not used to the new buyer	The new buyer may be an אדם קשה	The משכיר does not want to be delayed	שינוי דעתא
May need more rope for more cargo more expensive here	Needs more rope to remove and load the utensils	More cargo more rope more expensive here	אשלא יתירא

¹⁵ See footnote # 13.