

Two people are holding a cloak

שנים אוהזין בטלית –

OVERVIEW

will cite גמרות that ask elsewhere why certain מסכתות follow their respective previous מסכת. The same question applies here; why does מסכת follow ב"מ. Our תוספות addresses this issue.¹

איידי דאייירי בהגוזל בתרא (בבא קמא דף קיט,א) מחלוקת נסורת נגר ובעל הבית –

Since the [last] משנה in בתרא is discussing the division of the sawdust between the carpenter and the owner of the wood -

דקתני במעצד² הרי אלו שלו ובכשיל³ הרי אלו של בעל הבית –

As the משנה there states if the cutting was done with a מעצד then the sawdust belongs to the carpenter; however if the cutting was done with a כשיל, it belongs to the owner, therefore since the last משנה in בבא קמא is discussing a division, that is why here in the first משנה of ב"מ -

תני הכא נמי דיני חלוקות⁴ –

The משנה here also teaches laws of division (as a continuation of the last משנה in בב"ק).

anticipates a question:

ואף על גב דבתרי מסכתא אין סדר למשנה⁵ -

And even though there is a rule that in two מסכתות there is no order in the משניות -

ואיכא מאן דאמר כולה נזיקין⁶ לאו חדא מסכתא הוא⁷ –

And there is someone who maintains that the entire order of נזיקין is not considered one מסכתא; therefore the reason mentioned above is not necessary⁸ to

¹ See (however) footnote # 4.

² A מעצד is an adze (a type of plane). The wooden shavings from an adze are meager and the owner does not mind that the carpenter should keep it.

³ A כשיל is an axe. The splinters from an axe are quite large and the owner wants them for his own use.

⁴ It would seem from the syntax in the beginning of this תוספות that (תוספות is not explaining why ב"מ follows ב"ק but rather that) תוספות is explaining why does ב"מ begin with שנים אוהזין, when it should have begun explaining the laws of מציאה; when one may keep it or how one is קונה a קונה. Therefore תוספות answers that this משנה is a continuation from the last משנה in בב"ק. (See "Thinking it over" # 2.) However many commentaries refute this interpretation and maintain that the question of תוספות is why does ב"מ follow ב"ק. See footnote # 8.

⁵ בב"ק קב,א.

⁶ See מהרש"א (ב"ב and בב"ק, ב"מ) that this refers (only) to the three בבות (of ב"מ, בב"ק, and בב"ב). See however חדא מסכתא (including שבעות ומכות) סדר נזיקין ד"ה תוס' ד"ה השותפין on בב"ב,א.

⁷ This is the view of רב הונא בב"ק קב,א.

⁸ See מהר"ם ש"ף, סוכ"ד. See for a different explanation of תוספות question. See מהר"ם.

explain why (this משנה in) ב"ק follows ב"מ, since there is seemingly no connection between ב"ק and ב"מ if we assume⁹ הוא מסכתא - כולה נזיקין לאו חדא מסכתא הוא

responds: תוספות

הני מילי לענין מחלוקת ואחר כך סתם¹⁰ –

Those words of ב"ק were stated **regarding the rule of** מסכתא אין סדר למשנה **ואה"כ סתם**, that if the מחלוקת is in one מסכתא and the סתם in another (later) מסכתא, it is (still) not considered סתם – מחלוקת ואה"כ סתם

לפי שרבי לא היה לומד כסדר אלא כמו שהיו חפצים התלמידים¹¹ –

Because רבי did not learn the מסכתות **in the order** that we have now, **but rather רבי would learn as the students requested**, therefore the rule of מחלוקת ואה"כ סתם does not pertain to two מסכתות –

אבל כשחברם על הסדר חברים –

However when רבי joined all the משניות **together** as one work [of the משנה], **he joined them together in a specific order.**

וצריך בכל מסכתא טעם למה נשנית אחר שלפניה –

And therefore it is necessary **to offer a reason by each מסכתא why it was taught after the previous** מסכתא.

תוספות proves his point that it is necessary to offer a reason for the order of the מסכתות:

כדדייק בריש מסכת שבועות (דף ב,א) מכדי תנא ממכות קסליק כולי וכן בסוטה (דף ב,א):

As the תנא just concluded **מכות**, etc., why does he continue with **שבועות**. **And similarly¹²** we find the same question in the beginning of **סוטה**; why does מסכת נזיר follow מסכת סוטה.

⁹ It is understood that a reason for the connection between ב"ק and ב"מ is necessary according to the מ"ד who maintains כולה נזיקין חדא מסכתא הוא; however תוספות is explaining that even according to the מ"ד who maintains כולה נזיקין לאו חדא מסכתא הוא, nevertheless a reason is still necessary.

¹⁰ The rule is if there are two successive משניות (in one מסכתא), where in the first משנה there is a מחלוקת תנאים concerning an issue and in the later משנה there is an anonymous ruling concerning this very issue (supporting the view of one of the תנאים in the first משנה), the הלכה is like the משנה סתם. The reason is because it is assumed that the משניות in one מסכתא were taught in the order we have them now. Therefore initially רבי taught the תלמידים that there is a dispute concerning this issue, and later (in the following סתם) ruled according to one opinion; the משנה סתם.

¹¹ Therefore if we find a מחלוקת in שבת מסכתא and a סתם in עירובין מסכתא, we cannot say that since (in our משניות) עירובין follows שבת, therefore it is considered סתם ואה"כ מחלוקת and the הלכה is the way it is taught in עירובין, for it is possible that רבי taught his תלמידים in the opposite order; first עירובין and then שבת. It would then be a מחלוקת ואה"כ סתם and the הלכה would not necessarily be like the סתם.

¹² If we assume that כולה נזיקין חדא מסכתא includes שבועות and מכות (see footnote # 6) then there is no conclusive proof from שבועות since it is a מסכתא חדא with מכות, therefore תוספות offers additional proof from סוטה.

SUMMARY

The rule of *משנה* is only concerning *סדר* *למשנה* is only concerning *סתם* *ואח"כ*, however there is order in the sequence of the *משניות*, which needs to be explained.

THINKING IT OVER

1. The connection between two *מסכתות* is in the content of the respective *משנה*, or in the connection between the last *משנה* and the first *משנה*?¹³

2. Why does our *משנה* begin with *שנים אוהזין*, when it could [should] have begun with *אלו מציאות*? There would be a continuation from the last *משנה* in *ב"ק* as well, for just as there sometimes it belongs to owner and sometimes to the worker, the same is true by *אלו מציאות שלו* and *ואלו חייב להכריז*! What do we gain by beginning with *שנים אוהזין*?¹⁴

¹³ See *סוטה ב,א* and *שבועות ג,א*.

¹⁴ See *שטה מקובצת*.