

רב חסדא maintains as רבא and – ורבא כרב חסדא

Overview¹

The גמרא explained that the reason רבא maintains that we cannot accept the **אכילה** since these **עדים** were already contradicted concerning רבא agrees with רב חסדא that **עדים** are **פסול** for all testimony. רבא finds this assumption to be in contradiction with another ruling of רבא.

asks a question:

And if you will say; if this is true; that רבא agrees with ר"ה that **עדים** who contradict each other are **פסול** for all **עדויות**, then –

– why does רבא consider –

– פרק מרובה in – במרובה (בבא קמא דף עב,ב ושם דיבור המתיל אין)

– פרק זה בורר and in בורר (פנהדרין דף כז,א ושם דיבור המתחיל אין)

an עד is a novelty. The novelty of עד is that you believe the **עדים** who are being מזים over the **עדים** who are being מזומם –

and therefore, since it is a חידוש, you cannot retain in this חידוש of believing the מזימין and discrediting the מזומים –

only from the time of its חידוש². The **עדים** become discredited from the time of the testimony of the מזימין and onwards. However any testimony they gave prior to becoming מזומם, even if it was given after the testimony for which they ultimately became מזומם, that testimony is valid. This is the basis for רבא's ruling (according to one opinion) that **עד** is **זומם** מכאן ולהבא הוא **נפסל**³. The question is; if רבא agrees with רב חסדא, what is the חידוש of **עדים** מזומם –

for is it not so, that the fact that the עד זומם becomes פסול, that is not a חידוש –

– for rightfully the ruling should be –

פסול; that they should both be פסול; the **עדים** המזימים and the **עדים** for they are contradicting each other. Therefore they are just –

like two groups of עדים who contradict each other. In that case both groups are **פסול**; this is the ruling of רב חסדא, to which רבא agrees. The same should apply to the **עדים** המזימים and the **עדים** מזומם.

therefore there is no חידוש in the **פסול** of the **עדים** מזומם. It is to be expected; for every הזמה is also implicitly a **חידוש** –

¹ See 'Overview' to ד"ה אמר ליה.

² Logically the עד should become פסול from the time of the original testimony. For it is at that time that he lied. We are not aware of it till the actual הזמה, but the פסול is on account of his lying. רבא agrees to this logic. However the fact that עד זומם חידוש הוא precludes us from acting on the logic. Rather we maintain אין לך בו אלא חידוש.

³ See previous ד"ה אמר ליה.

but rather the only חידוש is that the מזימים are כשרים – **אלא מה שהמזימים כשרים**; even though the מזימין עדים זוממין contradict the מזימין, nevertheless the מזימין are believed and are כשרים עדים. This should not affect the פסול of the עדים זוממין. Since there is no חידוש in their פסול they should be למפרע, from the time they gave the testimony which leads to their הזמה. Why therefore does רבא maintain that עד זומם מכאן ולהבא הוא חידוש, when in reality it is not a חידוש, since it is a חידוש, בפסל.

answers: תוספות

and the ר"י says – ואומר רבינו יצחק

that when the גמרא maintains that רבא said that עד זומם is a חידוש הוא – **חידוש is a חידוש** –

this applies only according to the conclusion of our גמרא – **לא הוא אלא לפי המסקנה**

רב הונא can rightfully agree with רבא – **דאיתי שפיר כרב הונא**, who maintains that the עדים כשרים שני כתי עדים המכחישים (except for באותה עדות, where they are פסול). If רבא agrees with רב הונא, then the fact that the עדים זוממין are פסול for all עדות, that is a חידוש, therefore משעת חידושו חידוש, and that is why עד זומם מכאן ולהבא הוא נפסל.

Summary

The idea that עד זומם חידוש הוא follows the ruling of רב הונא that by תרי ותרי the עדים remain כשרים עדים.

Thinking it over

From תוספות answer it seems that when the גמרא assumed that רבא כרב חסדא, then רבא could not maintain עד זומם חידוש הוא. However in a previous תוספות,⁴ it is clearly stated (according to one answer) that our entire סוגיא (including that עד זומם חידוש הוא) must follow the view of רבא כרב חסדא?⁵

⁴ דף לא, א ד"ה אמר ליה.

⁵ See מהרש"א.