כגון[1] פפא בר אבא – For instance פפא בר אבא

Overview

The rule is הכשרתי במקצת נזקו וכו' כהכשר כל נזקו. The גמרא is searching for [alternate] examples of this ruling. רב פפא suggested the ברייתא concerning five people who were sitting on a bench and then another person came and broke it, the ruling is that the last one is obligated to pay (the entire damage). Seemingly this is case of הכשרתי במקצת נזקו; the last person did not do the entire damage (he was assisted by the former five) and nevertheless he is liable for the entire damage, since he was the final cause. In citing this ברייתא (as an example) the גמרא also cited the interpretation of רב פפא of this ברייתא; that the last person was very heavy like פפא בר אבא. It is not clear why the last person needs to be like פפא בר אבא. It would seem to make no difference what type of person he is; the ruling should be the same. If he is the final cause he should be חייב regardless if he is heavy or not! תוספות will offer two interpretations.

מפרש רבינו שמואל בן מאיר דנקט פפא בר אבא –

The רשב"ם explains that the reason רב פפא **mentions פפא בר אבא**[2] specifically is -

לפי שלסתם בני אדם הוא שאול לכל הבא מאיליו לישב עליה –

Because as far as **ordinary people** are concerned this bench **is on loan to anyone who wishes to sit on it -**

כי סתם ספסל עשוי לכך והוי כמתה מחמת מלאכה –

For ordinarily a bench is made for this purpose of sitting on it. A person who owns a bench (generally) allows people to sit on it (he [implicitly] lends it to them, and they borrow it for this specific use of sitting on it). **And** therefore if the bench breaks while (and because) the people are sitting on it, **it is considered as if it died on account of the work.** The rule by a borrower is if the item broke (or the borrowed animal died) on account of the work for which it was lent, the borrower is פטור. Similarly here the people are borrowing his bench (with the owner's implicit permission) for the usage of sitting on it. If it breaks on account of their sitting they are פטור. This is true for regular people who have implicit permission to sit on the bench.

אבל פפא בר אבא שהוא משונה וכבד משאר בני אדם סתמא אין שאול לו –

However פפא בר אבא who was unusual, and heavier than the rest of the people, presumably it was not lent to him; the owner does not want people like פפא בר אבא to sit on the bench. פפא בר אבא has no right to use the bench, therefore he is חייב. If פפא בר אבא would have the right to use the bench, then why is there a חיוב at all to

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[1] This תוספות is referring to the גמרא on עמוד ב'.

[2] See 'Overview'.

pay for the bench; it was מתה מחמת מלאכה?! It is now understood why רב פפא said that the last person was כגון פפא בר אבא, for only in such a case is the last person חייב. This concludes the פירוש הרשב"ם.

תוספות comments:

ולפירושו צריך לומר כגון פפא בר אבא אכולהו קאי –

And according to the explanation of the רשב"ם, **it is necessary to assume** that the phrase '**for instance פפא בר אבא' is referring to all** the people who were (previously) sitting on the bench[3]; not only to the last person who sat down and broke the bench.

תוספות will prove this last point:

מדקאמר בסמוך דאמרי ליה אי לאו את הוה יתבינן פורתא וקיימין –

Since the גמרא **shortly states; that they** (the original five) **will say to him** (the sixth) **if not for you we would have sat for a short while and would have stood up'** (and the bench would not be broken) -

משמע דאם היה נשבר היו חייבין –

Indicating that if it was broken (when only the original five were sitting on it) **they** (the five) **would be liable.**[4] This proves that the five were like פפא בר אבא, for if they are regular people, why should they be חייב if the bench broke while they were sitting on it?! According to the רשב"ם they are considered borrowers, and a borrower is פטור if it was מתה מחמת מלאכה. Therefore we must assume they were all the size of פפא בר אבא, and the bench was not lent to them by the owner, therefore if they broke it they would be liable. That is why they say to the sixth person, we were about to stand up to prevent the bench from being broken, when you sat down and broke it.

It would seem now[5] that all six people were like פפא בר אבא and would be liable for the broken bench, since none had permission to sit on it, and it was their combined weight that broke the bench.

ומיהו לפי המסקנא דמשני דבהדי דקסמך עלייהו –

However according to the conclusion of the גמרא **that** the גמרא **answered that** it broke **while he was leaning on them -**

אין צריך לפרש דחייב אלא אחרון בלבד –

It is not necessary to assume that all six are liable (as originally assumed) **but rather only the last one** is חייב.[6]

ומתוך כך פטר ארבעה בני אדם שישבו על ספסל אחד של אלמנה ושברוהו –

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[3] The simple reading of the גמרא would indicate that only the last (sixth) person was heavy like פפא בר אבא, but not the original five; however according to the רשב"ם it must be referring to all the (six) people.

[4] See 'Thinking it over # 1.

[5] The גמרא states that the sixth one can say to the five 'if you were not sitting with me it would not be broken'.

[6] See מהרש"א who explains that according to the מסקנא of the גמרא it is not necessary to assume that the ברייתא is discussing a case where the original five were like פפא בר אבא (which is very unusual); but rather we can assume that only the last person who broke the bench was like פפא בר אבא. Therefore only he is חייב. The others are not חייב, since they have (implicit) permission to sit on the bench. See 'Thinking it over' # 2.

And on account of this interpretation of the ברייתא,[7] the רשב"ם **exempted** from payment, **four people who sat on a widow's bench and broke it.** They were regular sized people, who (according to the רשב"ם) have implicit permission to sit on her bench, and the breaking is considered מתה מחמת מלאכה, for which a שואל is פטור.

תוספות cites a dissenting opinion:

– והרב רבי עזריאל חייב לשלם

However ר' עזריאל obligated them **to pay** for the broken bench.[8]

תוספות offers an alternate interpretation:

– ורבינו תם מפרש דנקט פפא בר אבא משום דקאמר במסקנא דכחו כגופו דמי

And the ר"ת explains that רב פפא **mentioned פפא בר אבא because in the conclusion** of this discussion the גמרא **states 'that his force is like his body'.** The reason the last person is חייב is because he leaned on them and forced them to remain seated, thereby breaking the bench. This ruling is applicable -

– ודוקא פפא בר אבא שהוא אדם כבד ומתוך כבדו מונען לעמוד

Only if he was like **פפא בר אבא who was a heavy person and account of his heaviness he prevented them from getting up -**

– אבל שאר בני אדם שאין כבידין כל כך ואין סמיכתן מעכב מלעמוד

However all other people who are not so heavy and their leaning does not prevent those that are seated **from rising -**

– אינהו נמי פשעו שלא עמדו וכולן חייבין

They too are negligent for they did not stand up, and in that case **all will be liable.**

תוספות anticipates a difficulty and resolves it:

ולפי זה צריך לומר דרב פפא עצמו בא לתרץ מה שהקשה ותו ליכא:

And according to this interpretation[9] of the [10]ר"ת, **it is necessary to say that רב פפא himself came to answer his question**[11] of **'ותו ליכא'.**[12]

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[7] The רשב"ם maintains that only פפא בר אבא will be חייב for breaking the bench; however regular people (whom we assume have implicit permission to use the bench) will not be חייב.

[8] It would seem that ר' עזריאל maintains that there is no implicit permission to sit on a private bench. Anyone who does so is at risk to pay if he breaks it. It is not clear, however, according to ר' עזריאל why the גמרא mentioned כגון פפא בר אבא. The ruling would seemingly apply to anyone who broke the bench. We will have to assume that ר' עזריאל agrees with the forthcoming interpretation of the ר"ת. See מהר"ם. Alternately, ר"ע may also agree that the owner allows them to sit on it; nevertheless only to the extent that they are not considered גזלנים for using his bench, however if they break it they are חייב. Only a שואל מדעת is פטור by מתה מחמת מלאכה. See אמ"ה.

[9] See the following two footnotes # 11 & 12 concerning the difficulty with פירוש ר"ת. According to the רשב"ם, however it is understood why the גמרא cited immediately the statement of רב פפא that we are discussing פפא בר אבא, for otherwise they would be פטור for breaking the bench.

[10] רב פפא states כגון פפא בר אבא in order to explain that if he leaned on them only the last one is חייב.

[11] When we establish the ברייתא in a case where he leans on them, then this ברייתא is not an example of הכשרתי במקצת נזקו for the last person did all the damage. It is necessary to assume that when רב פפא cited this ברייתא as an example of הכשרתי במקצת נזקו, we were not discussing a case where he leaned on them, but rather a case where he sat next to them. This is an example of הכשרתי במקצת נזקו. However, in this latter

<u>Summary</u>

According to the רשב"ם the גמרא mentions כגון פפא בר אבא to explain why they are חייב; for if regular people break a bench while sitting on it they are פטור since it is considered מתה מחמת מלאכה. ר' עזריאל and the ר"ת disagree with this ruling and maintain that פפא בר אבא is mentioned to explain that the others are פטור when he leaned on them, since they could not stand up.

<u>Thinking it over</u>

1. תוספות proves that they were all like פפא בר אבא from the fact that they claimed 'that we would have shortly stood up'[13]. Maybe they were saying this only in order to make the last one חייב[14]; however they themselves would be פטור regardless, since it is מתה מחמת מלאכה! How is this proof?![15]

2. תוספות states (according to the רשב"ם) that according to the מסקנא it is only necessary to assume that the last one is חייב[16]. Seemingly this is obvious the ברייתא clearly states האחרון חייב! What is תוספות teaching us?!

3. According to the רשב"ם why is it necessary in the מסקנא to assume that the last one was like פב"א; seemingly if he did not let the others rise he is חייב, regardless if he is like פב"א or not?![17]

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case there is no need (according to the ר"ת) to assume that the last person was like פפא בר אבא. [The ר"ת states clearly that פפא בר אבא was needed (only) for the מסקנא.] It seems strange, therefore, that the גמרא cites the statement of רב פפא (that the last person was like פפא בר אבא) as soon as we cite the ברייתא as an example for הכשרתי במקצת נזקו, when in fact in that case he need not be like פפא בר אבא! This is what is difficult on the פירוש ר"ת. See following footnote for תוספות resolution to this question.

[12] The גמרא should be read as follows: רב פפא asked ותו ליכא and cited the ברייתא as an example of הכשרתי במקצת נזקו (assuming as the גמרא will later explain that he sat next to them). Then רב פפא himself immediately refuted this example by stating that the ברייתא is discussing פפא בר אבא leaning on them and so it is not הכשרתי במקצת נזקו. However all this was stated very subtly; the גמרא then goes on to elaborate and explain why initially רב פפא thought the ברייתא is a good example (for we are discussing a normal sixth person sitting; not פפא בר אבא leaning) and how eventually רב פפא explained that the ברייתא is not an example since we are discussing פפא בר אבא leaning on them.

[13] See footnote # 4.

[14] If they would have remained seated and the bench would have been broken (even) without the last person, then why should the last one be חייב; it would have been broken anyway?!

[15] See אמ"ה (פיסקא ב' בד"ה זה).

[16] See footnote # 6.

[17] See גח"מ.