

## הא משום דממילא כולי – This one, is because it occurred on its own, etc.

### OVERVIEW

The גמרא cited three sources (from three different אמוראים) for the rule of בעלים מטפלים בנבילה a) by an אדם המזיק, b) by a ש"ש, and c) by a והמת יהיה לו. The גמרא first explains why we cannot derive a from b, nor b from a. The גמרא continues that we cannot derive c from a and b because one (a) is לא שכיח and the other (b) is ממילא. It is not clear whether the גמרא means we cannot derive c from a and b individually or collectively. תוספות will explain the intention of the גמרא.

-----  
**כלומר<sup>1</sup> מחד מינייהו לא אתיא אבל מתרוייהו אתיא במה הצד ולא חש להאריך ולדקדק בזה:**  
**The meaning** of these refutations (הא משום דממילא and הא משום דלא שכיח) is that **we could not derive** the ruling of שור שנגח **from one of these** אדם [ישלמנה] **individually.**<sup>2</sup> **However from both of them** together (אדם [ישלמנה] and [הטרפה לא ישלם] **it can be derived through a מה הצד (a common factor),**<sup>3</sup> **however** the גמרא **was not concerned to carry on and be that particular in this issue.**<sup>4</sup>

### SUMMARY

When the גמרא states that שור cannot be derived from אדם and ש"ש it means individually; however it could be derived collectively.

### THINKING IT OVER

Does תוספות mean to say that we can derive שור from אדם וש"ש with a מה הצד; or that any of them can be derived from the other two with a מה הצד; and if so can the מה הצד be refuted?<sup>5</sup>

<sup>1</sup> The term כלומר is (usually) used to negate an alternate (and more obvious) interpretation. It would seem that the גמרא intends to tell us that שור cannot be derived from אדם and ש"ש collectively.

<sup>2</sup> It cannot be derived from בהמה נפש מכה for there it is לא שכיח, and not from הטרפה לא ישלם, for there it is ממילא; as opposed to שור where it is שכיח and not ממילא.

<sup>3</sup> If we would say that it cannot be derived from אדם where it is לא שכיח we will say ש"ש יוכיח (where it is שכיח). If we would say that ש"ש is ממילא we would answer אדם יוכיח and לא ראי זה וכו'. The השוה צד is that both are מזיקים and בעלים. The same is true by שור. See overview to (דף ב,א). מטפלים בנבילה.

<sup>4</sup> The commentaries explain that truthfully the מה הצד could be refuted as well (see end of this footnote), however the גמרא did not feel it necessary to be so particular since each of the אמוראים felt that the rule of מטפלים בנבילה could be derived only from their פסוק (and not from the others). It was sufficient for the גמרא to make a general צריכות in order להגדיל תורה. The פירכא of this מה הצד is that both אדם המזיק and אונס by a ש"ש are לא שכיח relative to שור שנגח. See אמ"ה. See 'Thinking it over'.

<sup>5</sup> See סוכת דוד אות נב.