

**זרק כלי מראש הגג כולי –**

**He threw down a vessel from the top of a roof, etc.**

## **OVERVIEW**

רבה ruled that if someone threw down a vessel from the roof, and another came and broke it while it was falling, the second person is פטור, since he broke a vessel which was 'already' broken. The גמרא resolved from this that רבה maintains בתר רבה. <sup>1</sup> (רבה) מעיקרא אזלינן (regarding the query of רבה). limits this ruling of רבה.

נראה דאם זרק אבן או חץ על הכלי ובא אחר וקדם ושברו דפשיטא דחייב -

**It is the view of תוספות that if someone threw a stone or shot an arrow on a כלי, and another person preceded to break the vessel before the stone or arrow hit it, that it is obvious that the second person who actually broke the vessel is liable -**

**ולא שייך כאן מנא תבירא תבר -**

**And the reasoning of מנא תבירא תבר (he broke a broken vessel) is not applicable in this case –**

תוספות proves the distinction between throwing down the vessel and throwing a stone at it:

**דאי אזלינן נמי הכא בתר מעיקרא לא משכחת בצרורות חצי נזק<sup>2</sup> -**

**For if here too we would follow the initial throwing and claim that the vessel is broken from the moment the stone is thrown at it, we will not be able to find a case where צרורות pays a ח"נ –**

תוספות addresses the difference between זרק אבן (where we go מעיקרא) and זרק כלי (where we do not go מעיקרא) -

**וסברא פשוטה היא לחלק בין זורק אבן לזורק כלי עצמו<sup>3</sup>:**

<sup>1</sup> If a בהמה tramples an object and it rolls away and breaks elsewhere; he will be חייב a שלם נזק according to רבה, since גמרא assumes) that as soon as the בהמה trod on the כלי it is considered broken by the בהמה as of that moment (so it is as if she broke it directly), even though in reality it did not break until later.

<sup>2</sup> If we assume that as soon as the stone is thrown at the כלי, the כלי is considered broken as of that moment through the action of the thrower (i.e. the thrower broke it right then and there), the same should apply when the בהמה scatters pebbles and it ultimately breaks something, it should be considered as if the בהמה broke it directly when it scattered the pebbles, and he should be חייב a נ"ש (just as we said previously [see footnote # 1] that the בהמה is חייב a נ"ש even though the item rolled away and broke later). See "Thinking it over" # 1.

<sup>3</sup> does not explain to us the פשוטה. See תוס' רבינו פרץ regarding זרק אבן וכו' that it is not considered as if the כלי is already broken, ועיין במפרשים וכו', since מנא תבירא תבר, where one is merely throwing an object at the כלי, where it is not considered as if the כלי is already broken, and where one is throwing a stone at the כלי, where it is considered as if the כלי is already broken.

**for it is simple logic to differentiate between throwing a stone** (at a כלי, where we do not say מנא תבירא תבר) **and throwing the כלי itself** (where רבה rules that מנא (תבירא תבר).

## **SUMMARY**

By זרק אבן על הכלי it is considered a מנא תבירא תבר, but not if זרק כלי.

## **THINKING IT OVER**

1. writes that if by זרק אבן על הכלי it will be considered a מנא תבירא, we cannot find a case of ח"נ צרורות.<sup>4</sup> However why cannot we say that even though that by זרק אבן it is considered מנא תבירא תבר (because בתר מעיקרא אזלינן), nevertheless there is a הלכה למשה מסיני (of a בהמה) you pay only a ח"נ?<sup>5</sup>

2. We find in our סוגיא (and in this תוספות) two expressions בתר מעיקרא (concerning the query of רבא) and מנא תבירא תבר (regarding the ruling of רבה). Similarly our תוספות begins by saying מנא תבירא תבר (ולא שייך כאן) and concludes דאי אזלינן הכא (בארמית). We can either assume that a כלי which will inevitably break is considered a מנא תבירא and therefore we go בתר מעיקרא, or we can assume that since the action which causes the כלי to break is (not its final resting place, but rather) the initial trampling (בארמית) of the בהמה, therefore it is considered as a מנא תבירא. How does it appear from our תוספות; is מנא תבירא the cause and as a result we say בתר מעיקרא אזלינן, or does בתר מעיקרא cause us to assume that מנא תבירא תבר?<sup>6</sup>

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<sup>4</sup> See footnote # 2.

<sup>5</sup> See נח"מ, קצה"ח סי' ש"צ סק"א.

<sup>6</sup> See חדושי רבי נחום אות יב.