

And they are arguing regarding this

ובהא קמיפלגי –

OVERVIEW

The גמרא, after citing a ברייתא which indicates that צרורות pays a נ"ש, and a statement by רב בי רב that צרורות pays a ח"נ, assumed that both cases are by צרורות of a תוספות, so we see there is a dispute whether there is a העדאה לצרורות. Our comments on the proof and the dispute.

asks: תוספות

תנימה מנליה דפליגי דלמא רמי בר יחזקאל בדאייעד ואמרי בי רב בדלא אייעד¹ –

It is astounding! How did the גמרא know that they argue?! Perhaps רמי בר יחזקאל (who cited the ברייתא which requires a נ"ש payment) is discussing a case **when** the תרגול **was a מועד** (therefore he pays a נ"ש [for we maintain יש העדאה according to everyone]) **and the אמרי בי רב** (who rule that he pays a ח"נ) is discussing a case **where** the horse, etc. **was not a מועד** (therefore he pays a ח"נ like regular צרורות)! However all agree that צרורות יש העדאה.

answers: תוספות

ויש לומר דאם כן מאי קא משמע לן אמרי בי רב² –

And one can say; that if this is indeed so what is the אמרי בי רב teaching us when they rule that he is only ח"נ a חייב; why we would we think otherwise. It is (either) צרורות (or קרן for it is משונה as the גמרא asks shortly).

anticipates a difficulty: תוספות

ואין לתמוה³ היכי פליג אברייתא⁴ –

And one should not be astounded; how is it possible that the אמרי בי רב argue with the ברייתא –

responds: תוספות

דסתם אמרי בי רב משמיה דרב ורב תנא ופליג⁵ –

¹ See 'Thinking it over' # 1..

² Even though that according to the conclusion of the גמרא (that they are arguing in the מחלוקת of סומכוס and רבנן) they are both discussing איעד; nevertheless according to the מסקנא that the ברייתא of רבי follows the ruling of סומכוס, there is reason for the אמרי דבי רב to refute this ברייתא and follow the view of the רבנן; however now that we assume that both the ברייתא and the אמרי דבי רב are following the view of the רבנן (for it is only according to the רבנן that there could be an issue whether יש העדאה לצרורות or not), then obviously if לא איעד there is only a ח"נ payment due. See מהרש"א [הארוך].

³ See 'Thinking it over' # 2.

⁴ דתני רמי בר יחזקאל גמרא states; the ברייתא cited רמי בר יחזקאל. An אמורא cannot argue with a ברייתא.

For generally when it states ‘**the academy of רב stated**’, it means the academy stated this ruling **in the name of רב**,⁶ and רב has the status of a **תנא**, and he can **argue** (even) on a ברייתא.

תוספות offers an alternate solution:⁷

אי נמי משום דלא מיתני⁸ בי רבי חייא ורבי אושעיא⁹ לא מותבין מנייה תיובתא:
Or you may **also** say; **since** this ברייתא, cited by רמי בר יחזקאל **was not taught in** the academies of ר"ה ור"א, **we cannot cite it as a refutation** to a differing opinion of (even) an אמורא.

SUMMARY

The גמרא assumed that the רב אמרי בי רב must be discussing a case of אייעד; otherwise what is the novelty of his ruling. We cannot refute the רב אמרי בי רב from the ברייתא either because רב תנא ופליג, or this ברייתא was not taught ור"א חייא בי ר'.

THINKING IT OVER

1. תוספות asks that how does the גמרא know they are both discussing אייעד; perhaps only the ברייתא is discussing אייעד.¹⁰ Seemingly if only the ברייתא is discussing אייעד, there is an even greater resolution to the query;¹¹ for there is the ברייתא from which we can infer that יש העדאה לצרורות (and no one argues).¹²

2. What is the connection between the first question and answer of תוספות and the second¹³ question and answer?

⁵ See עירובין נ, ב וש"נ.

⁶ See רב המנונא תלמידיה דרב that ב"ק ק, א, and see רב המנונא רב אמרי בי רב, that סנהדרין יז, ב.

⁷ This will justify the dispute even if this was not said in the name of רב. [Alternately see ר' יוחנן תוס' כתובות ה, א, that יוחנן did not consider רב to be a תנא.]

⁸ It is possible that תוספות knew that it was not ור"א חייא, or since the רב אמרי דבי רב (which may not be רב [see footnote # 7]) argue with it, this indicates that it was not ור"א חייא.

⁹ See חולין קמא, א, (at the very bottom). Only the ברייתות, which were taught in the academies of ר"ה ור"א were considered authentic statements of the תנאים. The authenticity of other ברייתות was somewhat questionable.

¹⁰ See footnote # 1.

¹¹ Perhaps the גמרא meant to say that there is at least one opinion who clearly maintains לצרורות.

¹² See 11. # אמ"ה and פני יהושע.

¹³ See footnote # 3.