

And a person should be liable for ransom

ויהא אדם חייב בכופר –

OVERVIEW

The גמרא asks that we should derive through a ק"ו from שור that a person who kills someone should be liable to pay כופר.¹ Our תוספות explains why we cannot refute this attempted ק"ו from various פסוקים (that a person does not pay כופר).

תוספות responds to an anticipated question:

מלא תקחו כופר לנפש רוצח² לא נפקא -

We cannot derive from the פסוק of, 'do not take כופר for a murderous soul', that a person does not pay כופר -

דההיא (אמר) דאיצטריך³ דלא תשקול מיניה ממונא למפטריה -

For that פסוק is necessary to teach us that you should not take money from the to exonerate him from the death penalty -

כדאמרינן בפרק אלו נערות (כתובות דף לז, ב) -

As the גמרא states in נערות - פרק אלו נערות -

והכא איירי שיהרג וישלם כופר⁴ כמו השור⁵ -

However here we are discussing that the רוצח should be killed and in addition, to also pay כופר, just like the ox, who is killed and additionally his master pays כופר –

כופר rejects a different source to exempt the killer from paying תוספות:

ומדתנא דבי חזקיה⁶ (שם דף לה, א) לא נפקא אלא לפטור בשוגג בלא מתכוין⁷ כמו במזיד במתכוין⁸ -

And from חזקיה, we only derive to exempt an inadvertent killing

¹ כופר (or ransom) is the money the owner of a שור המועד has to pay to the heirs of the one who was killed by the ox. The תורה refers to this payment (in כא, ל, as [משפטים] שמות) כופר (money to ransom his soul). There is a dispute whether the amount of this כופר payment is the value of the owner of the ox or the deceased.

² במדבר (מסעי) לה, לא. It seemingly states clearly in this פסוק that a רוצח (a murderer) does not pay כופר.

³ Others suggest amending this to איצטריך (instead of איצטריך).

⁴ See (however) רש"י ד"ה ויהא אדם (who disagrees with 'תוס').

⁵ See 'Thinking it over'.

⁶ The חזקיה derives from the פסוק (ויקרא [אמור] כד, כא, in) which states ומכה אדם ומכה בהמה וישלמה ומכה אדם יומת, that just as by one who damages an animal he is always liable to pay and we do not differentiate whether he hit her בשוגג or במזיד, similarly regarding one who kills a person (where there is the rule of מנייה בדרבה מיניה, קים ליה בדרכה מיניה, that he cannot be killed and be made to pay), the rule of מ"מ קלב"מ applies in all cases and we do not differentiate whether he killed the person בשוגג or במזיד, in all cases he does not have to pay. Seemingly it states clearly that there can be no payment when one kills, so obviously there can be no כופר payment. תוספות rejects this proof.

⁷ See נחלת משה and מהרש"א הארוך.

⁸ The ruling of מ"מ קלב"מ is regarding that if one committed a capital crime (killing someone), and at the same time caused monetary damage, he is exempt from paying the monetary damage since he is liable for a capital crime. The חזקיה extends this exemption that even if he will not receive capital punishment (for he is a שוגג for instance) nevertheless he is still exempt from payment.

without intent (from paying money) **just as a premeditated intentional** killing is exempt from payment, meaning -

שזה כזה⁹ -

That this one (שוגג) **is like this one** (מזיד);

אבל כופר באדם כל זמן שלא אשכחן דפטור¹⁰ **בשום מקום לא מצינן למילף מיניה כלל:**

However regarding **כופר by a person**, as long as we do not find any source that **he is exempt** from paying **כופר**, **we cannot derive anything from** the תנא דבי חזקיה which would exempt a רוצח from paying **כופר** (whether he killed בשוגג or במזיד).

SUMMARY

The מיתת בי"ד of **כופר** לא תקחו **כופר** teaches us that we cannot accept **כופר** in lieu of **כופר**. The תנא דבי חזקיה here wants to derive that he should be killed and pay **כופר**. The תנא דבי חזקיה merely compares שוגג to מזיד, but does not rule whether there is a liability of **כופר** or not.

THINKING IT OVER

According to תוספות that the question of **כופר** חייב בכופר means that he should pay **כופר** in addition to being killed,¹¹ why does the פסוק need to write **כופר** ולא תקחו **כופר**; since even when he is killed he still is required to pay **כופר**, so obviously we will not accept **כופר** to set him free?!¹²

⁹ So if we would know with certainty that a רוצח במזיד does not pay **כופר** (when he is killed for his murder) we would also know that a רוצח בשוגג does not pay **כופר**.

¹⁰ See footnote # 8 that קלב"מ teaches us only that there is no liability for the monetary damage that he caused at the time of the killing, but there is no source (as of yet) that there is no **כופר** payment for the killing.

¹¹ See footnote # 5.

¹² See # 59 אוצר מפרשי התלמוד.