

We derive from this two rulings

שמע מינה תרתי –

OVERVIEW

The גמרא said since the תורה could have written פצע בפצע (from which we would know that one is liable for נזק שלא במקום נזק) and instead it wrote תחת פצע, this teaches us (a second rule) that he is חייב on a שוגג like a מזיד. תוספות discusses the possible ramification of the combination of these two rulings from the same פסוק.

תוספות asks:

ואם תאמר לעיל¹ אמרינן סימא עינו של חברו בשוגג או באונס נזק אין ד' דברים² לא -
And if you will say; previously the גמרא stated, if he blinded the eye of his friend erroneously or accidentally, he does not pay the four things; only נזק -
צער נמי ליחייב³ דבהווא קרא דמרבין נזק כתיב נמי צער -

The question is; he should be liable to pay for pain also, for in that same פסוק (of פצע תחת פצע) from where we include בשוגג, the liability for צער is also written in that same פסוק!

תוספות answers:

ויש לומר דכל מה דמצינן למיפטר שוגג פטרינן⁴ -
And one can say that as much as we are able to exempt a שוגג from paying, we exempt him -

ולכך מוקמינן דהאי קרא דמרבה שוגג דוקא בנזק דאיירי ביה עיקר קרא⁵ ולא בצער:
So therefore we establish this פסוק (of פצע תחת פצע) which includes שוגג, only by נזק, which is the main topic of discussion in the פסוק, but we do not establish the פסוק (which includes שוגג) regarding צער.

SUMMARY

The liability of any unusual rule (such as שוגג) is kept to a minimum.

¹ סוף ע"א.

² The צער, ריפוי, שבת, ובושת ד' דברים.

³ See 'Thinking it over'.

⁴ Since we need a ריבוי to include שוגג, this means that without the ריבוי we would exempt שוגג from paying anything, therefore even after the ריבוי, the liability of שוגג is to be kept at the most minimal payment.

⁵ The 'simple' reading of פצע תחת פצע is that he is liable for the monetary damage caused by the פצע. However since we already know from other פסוקים that one is liable for נזק, we derive from פצע תחת פצע the liability for צער (even though this is not the 'simple' reading of the פסוק). However when we include שוגג, we say that this חידוש that שוגג is liable, applies only to the simple reading of the פסוק, which refers to נזק (but not צער).

THINKING IT OVER

Why did תוספות ask only concerning צער;⁶ since תוספות taught us previously⁷ that שבת and ריפוי are derived from צער, so just as תוספות asks that שוגג should be liable for צער, he should have included שבת ובושת as well?!⁸

⁶ See footnote # 3.

⁷ ד"ה האי.

⁸ See בחלת משה.