

He threw a baby from the top, etc.

זרק תינוק מראש כולי –

OVERVIEW

רבה stated if one threw down a baby from the roof and another person caught the baby on the tip of his sword, killing the baby, the ruling is dependent on the argument between ר' יהודה בן בתירה (who holds the swordsman liable) and the רבנן (who exempt both of them). תוספות contrasts this case with a (seemingly) similar case

לא דמי להרג טריפה¹ דפטור לכולי עלמא באלו הן הנשרפין (סנהדרין דף עח,ב):

This case is **not comparable to** a case **where one killed a diseased person where all agree that he is פטור** as stated in הנשרפין. פרק אלו הן הנשרפין does not explain the difference.²

SUMMARY

The child falling from the roof is not considered dead as a טריפה is.

THINKING IT OVER

Seemingly the immediacy and inevitability of the child dying is greater than that of the טריפה dying; why should there be a difference?!³

¹ A טריפה is a person (or animal) who has an illness or was damaged where he cannot live for another twelve months.

² By a טריפה the body of the טריפה is sick to the extent that he will die, therefore when killing a טריפה it is like killing a dead person; however this תינוק was completely healthy when he was thrown from the roof (and could possibly even be saved)

³ Why is this different than the previous rule where זרק כלי מראש הגג ובא אחר ושברו במקל that he is פטור?!