

ואידך¹ הגנב לכדרכי חייא בר אבא –

רחב"א maintains that **הגנב** is for the ruling of **א**

OVERVIEW

The גמרא explains that according to one ברייתא (which states that אם ימצא is discussing a גנב עצמו) we derive the exclusion from כפל of a טוען טענת אבד, and according to the other ברייתא (which derives the exclusion of a טוען טענת גנב from the duplicity) the word הגנב teaches us to include the payment of ד' וה' by a טוען טענת גנב. Our תוספות remarks regarding this seeming contradiction of how to expound the word הגנב; to exclude or to include.

responds to an apparent difficulty:²

אף על גב דהאי דריש לריבוי והאי למיעוט אין לחוש דהכל לפי סברת³ הדרש:

Even though that this ברייתא expounds הגנב to include ד' וה', and this other ברייתא expounds הגנב to exclude טוען טענת גנב, one should not be concerned about this apparent contradiction, for it all depends on the logic behind the exposition.

SUMMARY

One may use the same word either to include or to exclude depending on the context.

THINKING IT OVER

According to the explanation in footnote # 3, why was it necessary for the previous משמעות of טוען טענת אבד because of the מגנב, to explain that we exclude טוען טענת אבד, the explanation is simple since very דרשה teaches us the opposite of what we assumed, therefore it teaches us to exclude אבד טוען טענת אבד?⁴

¹ The הגהות הב"ח amends this to read: ואידך גנב הגנב.

² See 'Overview'.

³ A דרשה teaches us something which otherwise we would have assumed the opposite. Therefore regarding טוען טענת אבד, where we would have assumed that he should be חייב (for why is it any different than טוען טענת גנב), therefore the דרשה teaches us the opposite, to exclude טוען טענת אבד. Regarding payment of ד' וה', logic tells us that a טוען טענת גנב is exempt from ד' וה' (for we have no source that he should pay, and we cannot derive it from a regular גנב for there it is באיסורא בא לידו and here it is בהיתירא בא לידו), therefore the דרשה teaches us the opposite that he is חייב בד'. See נחלת משה. See 'Thinking it over'.

⁴ See # 43 אוצר מפרשי התלמוד