There, there certainly is a swindler — התם ודאי איכא רמאי

Overview

The גמרא explains that our משנה can follow the view of ר' יוסי who maintains that by מנה שלישי we rule יהא מונח for all three מנות. The difference is that by מנה שלישי there is a ודאי רמאי, however in our משנה there is no certainty of a רמאי since we can presume that they picked it up together. תוספות will explain both cases (מנה ג'[1] and טלית[2])

תוספות explains that since by מנה שלישי there is a ודאי רמאי -

לכך קניס ליה[3] גם במה שהוא שלו בודאי[4] —

Therefore we punish him and disallow him **even** from **something which is certainly his.** That explain why ר' יוסי rules יהא מונח on everything -

אבל הכא אימר תרוייהו בהדי הדדי אגבהוה דליכא רמאי —

However here in our משנה **we may assume** the possibility **that they both picked it up simultaneously so** therefore **there is no רמאי** --

דכל חד סבור שהוא הגביה קודם:[5]

For each one assumes that he picked it up first. He is not lying maliciously as in the case of מנה שלישי; rather in his imagination he picked it up first. Therefore since there is no ודאי רמאי we can rule יחלוקו.

Summary

A ודאי רמאי is punished that he does not even receive what is due to him. If he is lying unknowingly, he is not considered a רמאי.

Thinking it over

תוספות explains than when there is a ודאי רמאי, we punish him that he does not receive even his due.[6] However seemingly here, by מנה ג', we are not merely punishing the רמאי, but we are also punishing the honest person. How can we justify this?!

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[1] It is seemingly not understood why ודאי רמאי should cause that (according to ר' יוסי) we should not return to each one the מנה that is certainly his.

[2] It is seemingly not understood why אימא תרוייהו בדי הדדי אגבהוה should make it not ודאי רמאי, when each one claims אני מצאתיה.

[3] See 'Thinking it over'.

[4] This resolves the question in footnote # 1.

[5] This resolves the question in footnote # 2.

[6] See footnote # 3.