

גבי חנוני נמי יהא מוּנח – יהא מוּנח By a חנוני also, it should be

OVERVIEW

The גמרא compares the cases of חנוני and מנה ג' and asks why by מנה ג' we rule יהא מונה and not by חנוני. In both there is a person who is holding money that belongs to one of two people. תוספות explains why this question does not apply to another case where someone owes money to one of many people.

לרבי עקיבא דאמר (יבמות דף ק"ח,ב) בלקח מחמשה ואינו יודע מאיזה מהם לקח –

According to ר"ע who maintains in a case where one bought an item from one of five people and the buyer does not know from whom he purchased it from, the ruling is -

נותן לכל אחד ואחד –

He pays each of the five people (who claim that he bought it from them); nevertheless the סמך -

לא פריד¹ אמאי נותן לכל אחד ואחד יהא מונח –

Does not ask that according to the ר' יוסי **why does he pay each one,** let the ruling **be יהא מוניה** as the גמרא asks here concerning חנוכי.

תוספות explains the reason the גמרא does not ask this question there is because -

דהתם הוה ליה למדכר ואיהו דאפסיד אנפשיה:

There the buyer **should have remembered** from whom he purchased the item, **and** since he does not remember, the buyer **caused his own loss**. However the cases of מנה ג' and חנוני are similar in the sense that whoever possesses the money is not [completely] negligent.²

SUMMARY

In a case where the payer is negligent, there is no concept of מונה; rather he must pay all the demanding parties (according to ר"ע).

THINKING IT OVER

Why is תוספות discussing this here; it seems that the גמרא discusses this very same issue later on א,לז?!³

¹ Perhaps תוספות initially assumed that the case of ר"ע is more similar to the case of מנה ג' than חנוני is.

² In the case of *ל' מנה* the *נפקד* is not at fault (why he did not remember who gave him two *מנות*) because they gave him the money in the presence of each other indicating that they trust each other (see *תוספות* ב"א ד"ה *הוא* footnote # 13). In the case of the *הנוני* the *בעה"ב* was not remiss in not remembering anything (he just did not take enough precaution as the *גמרא* eventually answers).

³ See there 'ורמי פקדון אפקדון'. See footnote # 1.