

## מכלל דתנא קמא לא שני ליה –

**It can be inferred that the *Tana Kamoh* does not differentiate**

### **Overview**

The גמרא cited a ברייתא challenging שמואל. The ת"ק there did not differentiate whether it is בדרך הליכה or not, only רשב"א differentiated. This poses a difficulty for שמואל, who does differentiate between דרך הליכה or not. תוספות explains why is there a question on שמואל if רשב"א agrees with him.

**ותנא קמא עדיף דהוי רבים<sup>1</sup> לגבי יחיד:**

**The view of the ת"ק is preferable for they are a majority against one individual.**

### **Summary**

We (generally) follow the view of the majority (especially) against an individual.

### **Thinking it over**

How can we be sure that the ת"ק here is a רבים,<sup>2</sup> perhaps it is the view of a יחיד, which the ברייתא chose to quote anonymously?!<sup>3</sup>

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<sup>1</sup> See 'Thinking it over'.

<sup>2</sup> See footnote # 1.

<sup>3</sup> See מגן אברהם (שו"ע או"ח) סי' קפח ס"ק ה'.