

נימא תנן סתמא דלא כרבי מאיר –

Shall we say; we have learnt an anonymous *Mishnah* not like ר"מ.

OVERVIEW

The גמרא stated that all craftsmen (אומנין) are considered like שומרי שכר. The גמרא asked; 'shall we assume that our משנה is not like ר"מ, who maintains that a שוכר (a renter) is like a שומר חנם' (not like a ש"ש). Our תוספות explains the comparison of an אומן to a שוכר.¹

מדמי ליה אומן לשוכר דכי היכי דאומן הוי שומר שכר -

The גמרא compares an אומן to a שוכר; for just as an אומן is a ש"ש -

אף על פי שאינו נוטל שכר על השמירה אלא שכר טורח² -

Even though he is not receiving payment for watching the item, but rather he is receiving payment for his toil in doing his job -

הכי נמי שוכר הוי כשומר שכר אף על פי שאינו נוטל שכר שמירה -

Similarly here too the שוכר should be considered as a ש"ש, even though he is not receiving payment for guarding the rented item -

אלא כיון שנהנה ממנה בשכר³ שנותן:

Rather since he is deriving benefit from the item through the rent which he pays, he should be considered a ש"ש (for the derived benefit).

SUMMARY

A mutually beneficial exchange renders one a שומר שכר.

THINKING IT OVER

According to ר"מ that a שוכר is like a ש"ח, what should an אומן be considered? Why?⁴

¹ We must say that our גמרא assumes that the אומן and שוכר are the same, for otherwise what is the גמרא's question; the משנה states that an אומן (not a שוכר) is a ש"ש, and ר"מ states that a שוכר (not an אומן) is a ש"ח. The difficulty with this comparison is that an אומן does not pay anything to the owner, but he receives payment, therefore he is comparable to a ש"ש who also does not pay anything to the owner, but receives payment. However a שוכר pays the owner and does not receive any payment in return, which is the exact opposite of the ש"ש.

² The cleaner, for instance, is not getting paid for watching the laundry, but rather for his work cleaning the laundry, and nevertheless the משנה considers him a ש"ש; one who is getting paid for guarding the item, since there is an exchange of benefits. The אומן receives money and the owner has clean clothes; they both benefit.

³ The answer is that whenever there is an exchange between the owner and the אומן, שומר or שוכר, where both parties benefit from the arrangement, the אומן, שומר or שוכר are considered ש"ש. It is irrelevant whether the payment from the owner is for watching or not. [If the owner would not benefit, it would be שאילה (which is חייב באונסין), if only the owner benefits, it is a case of a שומר חנם (where he is חייב only for פשיעה).]

⁴ See יהושע.