

וּפּוֹסֵק עִמָּהֶן כְּשַׁעַר הַזּוּל - And he contracts with them at the lower rate

Overview¹

The **ברייתא** states that when he is **מפריש תרו"מ** on the account of the loan, he deducts the price of the **מ"מ** according to the lower market rate.² **תוספות** clarifies what is meant with **כשער הזול**.

כדמפרש³ דאף על גב דלא פסק כמי שפסק דמי -

As the **גמרא** **explains** shortly **that even though he was not פסק**, it is considered as if he was **פסק** and he deducts it **כשער הזול**.

ואין⁴ בו משום רבית⁵ אפילו פוסק הרבה פחות משער הזול:

And there is no prohibition to do this on account of **רבית**, even though he is **פוסק** much less than the **שער הזול**.

Summary

The **מלוה** may contract for a very low price even less than the **שער הזול**.

Thinking it over

1. Why was it necessary for **תוספות** to write that **כמי שפסק דמי** when the **גמרא** explicitly states so (as **תוספות** himself indicates)?!

2. When **תוספות** writes **רבית** **משום רבית**, **ואין בו משום רבית**, is it referring only to the case where he is **אע"ג דלא פסק כמי**, or is this needed even for the case of **פוסק הרבה פחות משער הזול** that nevertheless it is not **רבית** (or there is no need to tell us that it is not **רבית** since it is **כשער הזול**)?⁶

¹ See 'Overview to **תוס' ד"ה במכרי** #1.

² Let assume that a bushel of wheat normally sells for ten dollars. However the **שער הזול** is eight dollars. If he is **מפריש** a bushel of **תרימה** he deducts only eight dollars from the loan not ten. The **מלוה** is gaining.

³ See 'Thinking it over' # 1.

⁴ It seems that **תוספות** is teaching us two **הלכות**; if he is not **פוסק** at all he can still deduct it **כשער הזול** (this is what the **גמרא** teaches), and if he is **פוסק** he can deduct even less than the **שער הזול**.

⁵ See 'Thinking it over' # 2.

⁶ See **רש"י ד"ה ואין, מהר"ם שי"ף, פני יהושע**.