

## מאי איריא אלמנה אפילו כולי עלמא נמי –

**Why mention אלמנה; it applies also even to everyone else**

### OVERVIEW

The previous תוספות taught<sup>1</sup> that there is a greater חידוש in that a regular creditor (who is not owed בי"ד בתנאי) has to swear in order to collect from יתומים, than there is by אלמנה since she is owed בי"ד (even though there is a חידוש [also] by אלמנה for it is a case of זמנו וכו'). This explains the question מאי איריא אלמנה וכו'.

anticipates a possible answer to the גמרא's question and rejects it:

ואי משום דבעי למיתני סיפא דנמנעו מלהשביע<sup>2</sup> –

**And if you will answer that he mentions אלמנה specifically, instead of making a general statement because since he wanted to teach in the סיפא that בי"ד refrained from administering an oath to אלמנה, therefore he mentions אלמנה also in the רישא; this is not a sufficient explanation for -**

הוה ליה למיתני אין נפרעין מנכסי יתומים אלא בשבועה ונמנעו מלהשביע את אלמנה<sup>3</sup> –

**The משנה should have taught בשבועה אלא בשבועה יתומים in a general sense, and conclude that בי"ד refrained from making the אלמנה swear.**

continues to explain the גמרא's answer:<sup>4</sup>

ומשני אלמנה איצטריכא ליה והוי חידוש באלמנה טפי מבבעל חוב –

**And the גמרא answered; it was necessary to mention אלמנה, for there is a greater novelty by an אלמנה, than there is by a creditor -**

<sup>1</sup> ד"ה אין.

<sup>2</sup> The proposed answer is that even though אלמנה may be a lesser חידוש than בע"ה, nevertheless since אלמנה is mentioned in the סיפא that should compensate to allow us to mention אלמנה specifically in the רישא (even though it is a lesser חידוש).

<sup>3</sup> The fact that the משנה mentions אלמנה in the סיפא is not sufficient cause to mention the particular case of אלמנה in the רישא (since it is the lesser חידוש) instead of the more general rule that no one collects יתומים without a שבועה. In addition אלמנה would anyways be mentioned (specifically) by the משנה stating את אלמנה מלהשביע, indicating that initially an אלמנה was required to swear.

<sup>4</sup> אלמנה perhaps assumed initially that the answer of the גמרא merely means that there is also a חידוש by אלמנה (regarding חוב). This would not be a sufficient answer; for there is a (great) חידוש by בע"ה as well (see 'Overview'), why therefore should we write אלמנה instead of בע"ה since it seems they are equal (a חידוש by each one). In addition, the משנה is mentioning (the חידוש of) אלמנה by stating in the סיפא that (את האלמנה) מלהשביע. Why is it that necessary to mention it (again) specifically in the רישא? Therefore תוספות responds that when the גמרא answers ליה אלמנה איצטריכא it means that the חידוש by אלמנה (and חוב together) is greater than the חידוש of בע"ה (that it is not a בתנאי). This greater חידוש warrants that it should be mentioned (again [this may be the meaning of נמי]) specifically in the רישא. See the מהרש"א (for a different explanation), and (the comment of) the מהר"ם ש"ף.

ולכך נקט רישא נמי<sup>5</sup> באלמנה:

And therefore the משנה mentions אַלמנָה also in the רישא.<sup>6</sup>

### SUMMARY

The חידוש of אַלמנָה is sufficiently greater than בע"ח, which warrants that it be mentioned specifically also in the רישא (and not just merely סיפא).

### THINKING IT OVER

1. If the משנה would not have mentioned אַלמנָה (in the רישא), would we have assumed that (initially) an אַלמנָה is not required to swear in order to collect מנכסי יתומים? If so, would that be because of חנינא or because of זמנו תוך זמנו?

2. The גמרא answers that the משנה mentions אַלמנָה (in the רישא) because of חנינא; seemingly indicating that if the משנה would not write אַלמנָה in the רישא, we may have assumed that אַלמנָה does not swear. However since the משנה could have written מלהשביע את אַלמנָה, this would assure us that initially the אַלמנָה was obligated to swear. Why is it necessary to write אַלמנָה specifically in the רישא instead of making a general statement?<sup>7</sup>

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<sup>5</sup> See previous footnote # 4 (in the bracketed parenthesis).

<sup>6</sup> See 'Thinking it over' # 2.

<sup>7</sup> See יד דוד.