

The day of his master; it goes to his master

יום של רבו לרבו –

OVERVIEW

The גמרא states that if an ox gored a חצי עבד on the day he is supposed to work for his master, the payment for the damage by the ox is paid to his master. Our הלכה discusses the practical application of this תוספות

היינו למשנה ראשונה¹ דלמשנה אחרונה² מעשה ידיו שלו³ -

This ruling that יום של רבו לרבו is only according to the first משנה, however according to the last משנה, the handiwork of the עבד belongs to him -

דבסמוך מדמי ליה למעוכב גט שחרור⁴ -

For shortly the גמרא compares a ח"ח to one who is held back from marrying a בת ישראל because he does not have a שטר שחרור –

responds to the anticipated difficulty:⁵

ומיהו נפקא מינה אף למשנה אחרונה כגון בשל יתומים קטנים⁶ דלאו בני כפייה נינהו -

However there is relevance to this rule of יום רבו לרבו even according to the משנה אחרונה in a case where for instance the עבד חצי belonged to minor orphans, who cannot be coerced to free their עבד -

או בחציה שפחה וחציה בת חורין⁷ ולא נהגו בה מנהג הפקר -

Or in a case of a חורין בת חורין where they were not acting with her in a promiscuous manner –

¹ The משנה ראשונה is the original ruling of ח"ח that a ח"ח works one day for himself and one day for his master.

² The משנה אחרונה is where ח"ח rescinded and agreed to ח"ח that the master must free the ח"ח.

³ We force the master to free him and from that point on the מעשה ידיו of the עבד belong to the עבד and not the master, so the payment of damages from the ox, also goes to the עבד and not to the master.

⁴ See רש"י on the מעוכב ב' ד"ה מעוכב. These are various עבדים (including a ח"ח) who are not obligated to work for their master anymore. They however, cannot marry a בת ישראל until they receive a גט שחרור from their master.

⁵ The rule of יום של רבו לרבו seems to have relevance only according to the משנה ראשונה, so why cite this ruling here since now we follow the משנה אחרונה, so there is no יום של רבו, since he does not work for his master anymore?!

⁶ Two people owned a slave in partnership, one of them died and his minor heirs became his half owner (see footnote # 9). The remaining partner freed his half of the slave so now the יתומים own a חצי עבד (who is also a חצי ח"ח). However ח"ח cannot force the קטנים to free their עבד חצי (for generally we do not force קטנים), therefore the חצי עבד continues to work for them half the time. The whole reason a חצי עבד generally does not work for the master for this is a means of coercion to hasten the master to free him, however since we do not force the יתומים קטנים to free him therefore he continues to work for them

⁷ We coerce the master of a ח"ח to free the עבד in order to enable him to be מקיים מצוה of פריה ורביה, however a שפחה (or a woman in general) is not מחוייב פו"ר, therefore we do not force the master of a שפחה to free her, unless they were מנהג הפקר. In these two case of יתומים ח"ח and ח"ח where מנהג הפקר, לא נהגו בה מנהג הפקר, the slaves keep on working for their master, therefore the rule of יום של רבו לרבו is relevant in these two cases.

asks: תוספות

וקצת תימה כיון דלפי משנה אחרונה מעשה ידיו שלו -

And it is slightly puzzling; since according to the משנה אחרונה the מעשה ידיו of a
belong to the עבד, but not to the master, so –

מה הרויח לעיל⁸ שהוא גברא דאקני לבנו קטן -

Previously, regarding that person who was מקנה his עבד to his minor son;
what did he gain by it -

והא מכי משחרריה חבריה לפלגיה מיד זכה העבד בעצמו והוה ליה מעוכב גט שחרור⁹ -

For as soon as his partner freed his half, the עבד immediately acquired
ownership for himself that he is not required to work anymore for the remaining
partner, and he became a שחרור גט מעוכב -

ואין יכול להקנות לבנו אלא מה שיש לעצמו בו אבל טפי לא -

And the remaining partner can be מקנה to his son, only whatever rights he owns
in this עבד, but no more, so since he has no rights in the מעשה ידיו of the עבד, what did he
gain by transferring ownership to his son; the עבד no longer works for them!

answers: תוספות

ושמא הקנה לבנו קודם ששחררו חבירו¹⁰ לפי שהיה יודע שחברו היה רוצה לשחרר חלקו:

And perhaps he was מקנה the עבד to his son before his partner freed the עבד, for
he realized that his partner wants to free his share of the עבד.

SUMMARY

Once an עבד is freed halfway, he no longer works for his remaining master.

THINKING IT OVER

תוספות taught previously (בד"ה בעבד) that if one owns the גוף without the פירות, one cannot sell this asset. Why then did not תוספות ask how was it at all possible for the father to be מקנה the עבד to his son, since after his partner was מפקיר his half the father only retains a קנין הגוף in this עבד (he has no פירות since the עבד no longer works for him), and by קנין הגוף only, one cannot transfer his ownership?!¹¹

⁸ מ"א. The case there is where one of the partners owning an עבד died and the remaining partner, being concerned that ב"ד will force him to free him, transferred the ownership of this עבד to his minor son, so ב"ד cannot force his son to free him.

⁹ See footnote # 4. This question of תוספות explains why the case of עבד של יתומים was explained in this manner in footnote # 6

¹⁰ In this scenario the slave must work for the son because at the time of the transfer, the slave was beholden to the father. After the other partner freed his half, the slave would still be obligated to serve the son, since we do not force the קטן to free the slave, as mentioned earlier.

¹¹ See נחלת משה.