

This is also logical

הכי נמי מסתברא –

OVERVIEW

In our גמרא up to 'הכי נמי מסתברא', there were two questions and two answers. The first מקשן asked how is it that our משנה disagrees with ר"ג (and does not even mention him).¹ The גמרא replied that ר"ג concurs with our משנה since it is a case of ברי וברי. The second מקשן asked, what was the question of the first מקשן originally; is it not obvious that there is a difference between ברי וברי and ברי ושמא?! The גמרא replied that our משנה is similar to a case of ברי ושמא (that is why there was a question initially). After this discussion the גמרא concludes that ה"נ"מ; logic dictates that this answer is not merely a deflection, but rather that this explanation is necessary in order to understand the משנה properly. It is not clear to which answer the גמרא is referring to, when it states that ה"נ"מ. Is it concerning the first answer, that ר"ג is מודה that by ברי וברי the woman is not נאמן? Or it the ה"נ"מ coming to confirm the second answer, that our משנה is similar to a ברי ושמא. This is the basis of the ensuing מחלוקת between רש"י and תוספות.

פירש בקונטרס² הכי נמי מסתברא דמתניתין אתיא כרבן גמליאל -

It is explained in רש"י that the גמרא means, **it is indeed also logical that our משנה concurs** with the view of ר"ג, who maintains that usually the woman is believed (but only in cases of ברי ושמא), however we can reconcile ר"ג with our משנה –

כדמשנינן דבברי וברי מודה מדקתני ומודה רבי יהושע כולי -

as the גמרא answers, that in a case of ברי וברי, as in our משנה, then ר"ג **admits** that the woman requires עדים to be believed; otherwise she cannot be טענת ברי³ on the basis of her claim alone, since she is opposed by a ברי. The גמרא offers proof that this is indeed so **since the משנה teaches us that ר"ג admits, etc.** רש"י explains this as follows: The case in which ר"י is מודה, namely 'שדה זו כו', has no real relevance here in מסכת כתובות. The question arises, why mention it here at all. Its relevance here is understandable however, if we maintain that in the רישא of the משנה (the case of שנתארמלה) ר"ג admits that the woman is not believed. It then follows, that once the משנה teaches us a situation wherein ר"ג is מודה, ר"י, the משנה also

¹ ר"ג argues with ר"י in the first פרק concerning various disputes between the husband and wife. ר"ג maintains that the woman is believed while ר"י maintains that her testimony is not accepted.

² בד"ה והכי.

³ According to רש"י the ה"נ"מ confirms that ר"ג admits by a ברי וברי.

teaches us another instance where ר"ג is מודה to ר"י (in the case of זו). However, if there is no מודה in the רישא (if ר"ג disagrees even by ברי וברי),⁴ then why mention the case of רישא (שדה זו) which has no relevance to our משנה. The הנ"מ proves that the רישא of the משנה concurs with the opinion of ר"ג; that even though generally the woman is believed by a ב"ש, however since our case is a ברי וברי, therefore ר"ג admits that she is not believed. This is the interpretation of the גמרא according to רש"י.

has a difficulty with this interpretation; specifically the proof that רש"י offers concerning that ר"ג is ברי וברי:

וקשה לפירושו דכי לא איירי רבן גמליאל במודה אתי שפיר ומודה דרבי יהושע -

And there is a difficulty with his interpretation; that the גמרא intends to proof that ר"ג is ברי וברי, **for even if ר"ג was not involved in admitting; the 'ומודה' of ר"י would be properly** cited in the משנה; even if we do not assume that ר"ג is ברי וברי, מודה בברי וברי, but rather that he may argue on the רישא of the משנה, and maintain that even ברי וברי the woman is נאמנת,⁵ nevertheless the citing of ר"י ומודה would be well understood –

כלומר אף על גב דברישא פליגנא עלך בסיפא מדינא לך -

it would mean to say, that even though that in the רישא of האשה שנתארמלה **I (ר"י) disagree with you (ר"ג);** for ר"י maintains, as the משנה states that she requires עדים to be believed,⁶ while ר"ג maintains (as we are wont to assume now) that she is believed (even by ברי וברי), nevertheless **in the סיפא of** שדה **I admit to you** that the מיגו is effective and the buyer is מוציא the field from the son of the קמא –

anticipates the obvious question (which is the basis of רש"י's proof):

אף על גב דרישא וסיפא אינן מענין אחד -

Even though the רישא (concerning האשה שנתארמלה **where ר"ג ור"י argue by** (מגו by ר"ג by ר"י admits to שדה זו, where ר"י) **and the סיפא (concerning** ברי וברי **are not the same topic** (one is ברי וברי and the other is מגו); how can we justify that the משנה cite an issue (שדה זו כו') which is seemingly irrelevant. This in fact is the basis of the גמרא's proof according to רש"י. Nevertheless, תוספות claims that this irrelevance should not pose a difficulty –

כי היכי דאתיה ליה שפיר ומודה רבי יהושע אי איירי רבן גמליאל במודה -

Just as ר"ג is if משנה **ומודה ר"י** **deems proper the citing of רש"י**

⁴ This is what the first מקשן assumed (because he considered it a ב"ש, as the second תרצן suggested).

⁵ This may be because he considers it similar to a ב"ש (as the second תרצן explains) or because she has a רוב נשים בתולות נישאות, etc.

⁶ She cannot be מוציא ממון (based on any of the reasons enumerated in the previous footnote # 5).

involved in 'admitting'; the citing of ר"י is then acceptable in our משנה –

אף על גב דמודה דרבן גמליאל אינו מענין ומודה דרבי יהושע -

Even though that the 'מודה' of ר"ג (concerning שנתארמלה) is not the same concept as the 'ומודה' of ר"י. The מודה of ר"ג is concerning ברי וברי; however the מודה of ר"י is concerning מגו (in addition to the difficulty that שדה זו is irrelevant to (כתובות). Nevertheless it is acceptable to רש"י, as long as there is some continuity; you are מודה to me, and I am מודה to you. The same can be said, even if ר"ג is not מודה; there is still is a semblance of continuity. ר"י is stating that even though we disagree here (by אשה), nevertheless we agree somewhere else (by שדה זו).⁷ The fact that שדה זו is irrelevant to our משנה should not pose a greater difficulty for this interpretation than it did according to the interpretation of רש"י, where the two statements of 'ומודה' are equally irrelevant to each other. תוספות argues that the basis of the proof according to רש"י, namely the irrelevance of מודה ר"י to our משנה, is not improved upon even if ר"ג is מודה. The two 'ומודה' of ר"ג ור"י are not on the same topic.

רש"י offers an answer to justify the interpretation of תוספות:

ויש ליישב דודאי כי איירי רבן גמליאל במודה שייך למיתני שפיר ומודה רבי יהושע -
And it is possible to answer this question on רש"י; that we cannot compare the irrelevance of שדה זו, if ר"ג is מודה, to a situation where he is not מודה; **for it is certain, that if ר"ג is involved in a 'ומודה', then it is feasible to cite properly that ר"י is also מודה –**

אף על גב דלא הוי מענין אחד כלומר -

Even though the two 'ומודה' are not of the same topic; meaning, that the continuity lies not in similarity of the concepts, but rather –

דאגב דתנא מילתא דמודה רבן גמליאל תני נמי מילתא דמודה בה רבי יהושע -

That since the תנא taught us something in which ר"ג is מודה, therefore it is appropriate that the תנא **also teach us something in which ר"י is מודה.** There isn't merely a semblance of continuity, but rather there is a connection and similarity between the two statements; they are both concerning 'ומודה' –

אבל אי לא איירי רבן גמליאל במודה לא שייך למיתני ומודה רבי יהושע -

However, if ר"ג is not involved in 'ומודה', then it is not appropriate for the משנה to teach us 'ומודה ר"י' –

לאשמועינן אף על גב דפליג ברישא מודה בסיפא כיון דרישא וסיפא אינם מענין אחד -
to let us know that even though ר"י argues in the רישא, nevertheless **he admits (to ר"ג) in the סיפא (שדה זו);** this is not appropriate **since the רישא and the סיפא are not of the same topic.** There is no connection and similarity at all

⁷ מודה to מודה as there is from מודה to מחלוקת is asserting that there is the same continuity from תוספות.

⁸ between the רישא and the סיפא, if there is no 'ומודה ר"ג' in the רישא.

After תוספות answered his (first) difficulty with רש"י, רש"י finds an additional problem:

אבל קשה דלא הוה ליה למימר אמגו קאי -

However there is another difficulty with רש"י for the גמרא should not have said, in its refutation of the מסתברא, that ר"י is referring to מגו. It was not necessary for the גמרא to inform us of this –

דעד השתא נמי לפירוש הקונטרס אמגו הוי קאי -

For even until now; before the refutation, ר"י was referring to מגו, **according to רש"י.** The ה"מ of ר"י in the ה"מ (even before the refutation) was that ר"י admits that the הפה שאסר מגו is effective. The refutation of the ה"מ, should state that ר"י is not referring to our פרק, but rather to the previous פרק. However concerning the idea of מיגו, there is no difference between the ה"מ and the מסקנא; all agree that the מודה of ר"י is that a מגו of הפה שאסר is effective. Why does the גמרא add that אמגו קאי; that was known even to the ה"מ?!

ה"מ offers a different interpretation of the תוספות:

ונראה לרבינו יצחק דהכי פירושו הכי נמי מסתברא דכברי ושמא דמי -

And it appears to the ר"י that this is the interpretation of the ה"מ; the logic also indicates that our משנה is similar to a **ברי ושמא.** Even though the husband claims ברי that אלמנה נשאתיך, nevertheless since נישאות, he is considered a שמא; his claim is weakened.

תוספות anticipates a possible misconception of his interpretation of the ה"מ and proceeds to forestall it. It was necessary to claim that our משנה is כברי ושמא דמי, in order to explain the original question of כ"ג. ¹⁰ The assertion that our משנה is כ"ג, lends credence to the assumption that ר"ג disagrees with our משנה. When תוספות states that the ה"מ intends to support the contention that our משנה is כ"ג, it may be understood that the ה"מ simultaneously supports the accompanying claim that ר"ג argues with the משנה. It is this misconception that תוספות will now clarify.

ולא בא לומר דפליג רבן גמליאל ברישא -

And the ה"מ is not coming to assert that ר"ג is arguing in the רישא; that

⁸ The continuity from a מחלוקת to a מודה is justified only if the מחלוקת may lead one to think that the מחלוקת extends to the case of 'ומודה'. In our situation, however, the fact that ר"י argues on ר"ג in the רישא concerning הפה שאסר, does not lead us to think that he should not agree with ר"ג, concerning הפה שאסר. There is no need for 'ומודה'. In contrast, the continuity from ומודה and ומודה is always self-justified in any case.

⁹ The גמרא refutes the ה"מ saying; קאי אמגו קאי ואפירקין קמא קאי. Our תוספות maintains that the words אמגו קאי are superfluous according to פירש"י.

¹⁰ If our משנה would be considered כ"ג, then obviously there is no reason to assume that ר"ג, who believes the woman in cases of כ"ג, should argue with our משנה, which requires עדים by ברי וברי.

since we consider it בו"ש, therefore ר"ג would believe the woman without עדים. This is not so –

אלא אף על גב דכברי ושמא דמי מודה רבן גמליאל משום דלאו שמא ממש הוא -

But rather the משנה is coming to prove, that **even though that** our משנה is **like** a case of בו"ש, nevertheless ר"ג **admits** that the woman is not believed¹¹ **because it is not an actual שמא**; the husband is claiming ברי that אלמנה. נשאתיך. The רוב cannot render his טענה into an actual שמא. The גמרא continues to prove this assertion (according to תוספות), that ר"ג is מודה even though it is similar to (but not actually) a בו"ש –

מדקאמר ומודה רבי יהושע -

Since the משנה states: **ומודה ר"י**; this proves that ר"ג is מודה by a (quasi) בו"ש, as the גמרא continues –

אי אמרת בשלמא איירי רבן גמליאל במודה -

It is well understood why the משנה states **ומודה ר"י** **if you assume** that ר"ג is **involved in a 'מודה'** situation; he is admitting to something –

כלומר¹² אף על גב דכברי ושמא דמי מודה רבן גמליאל דבעל נאמן -

This ‘admitting’ means to say that **even though** the רישא of the משנה is **similar to a בו"ש** situation (on account of the רוב נשים בתולות כו'), nevertheless ר"ג **admits that the husband is believed** (even though he is similar to a שמא). If we are to assume this 'מודה', then –

היינו דקתני ומודה רבי יהושע דבהאי ברי נאמן -

This is what the משנה teaches us by stating **ומודה ר"י**, namely that even though ר"י generally does not accept the ברי over the שמא, nevertheless **by this ברי** (of שדה זו), the ברי is **believed** to retain the field.

anticipates the need to interject a clarification at this point. Seemingly the reason תוספות says that ר"י is מודה by שדה זו is not because of שמא ברי, but rather on account of מגו. Why is תוספות saying that ר"י is מודה on account of בו"ש?! תוספות explains:

דסלקא דעתין דטעמא דרבי יהושע משום ברי ושמא דזה אינו תובעו כדפירש בקונטרס -

For it entered our minds at this point that the reason that ר"י is מודה is because of שמא ברי since the son is not demanding the field¹³ as רש"י

¹¹ The משנה is asserting that it is necessary to consider our משנה like a שמא ברי case, not only to justify the question of the first מקשן; but rather (more importantly) to explain the continuity of the משנה.

¹² The 'כלומר' is asserting that we are not merely interested that ר"ג is מודה in the רישא (since it is a ברי); but rather that he is מודה despite that it is similar to a בו"ש situation.

¹³ It will be necessary to interpret (according to this הו"א) that when the משנה states that הפה שאסר הוא הפה; this means that the שמא of the son is based on the admission of the ברי; that שדה זו של אביך וכו'; therefore ר"י agrees that ברי עדיף. However, in the שמא ברי cases of פרק ראשון, there is no הפה שאסר; it is known without the ברי of the אשה that ‘something’ occurred. Alternately see בית יעקב (סוכת דוד אות יט).

interpreted the משנה.¹⁴ If it is a case of הלה תובעו, then the most logical reason why **believes the ברי** is because the defendant is a שמא.¹⁵

והשתא הוה מודה דרבן גמליאל ומודה דברי יהושע בענין אחד -

And now that the מודה of ר"ג is that even though the רישא is similar to a ברי, nevertheless ר"ג is מודה that ברי עדיף; and the מודה of ר"י is that by we also say that ברי עדיף, then **the 'מודה' of ר"ג** (concerning ברי ושמא) **and the מודה of ר"י are in the same topic**; both are discussing ברי ושמא. The משנה then is justified in citing ר"י.

The גמרא continues with its proof:

אלא אי אמרת דרישא בברי וברי גמור הוא ולא איירי רבן גמליאל במודה -

However, if you will maintain not like the הנ"מ (that our משנה is דמי), but rather that **the רישא is an absolute ברי וברי** (since the husband is actually claiming ברי); the consequences of such an assumption is **that ר"ג is not involved in 'admission' -**

דפשיטא דכיון דברי וברי הוא דלא פליג רבן גמליאל מאי ומודה -

For it is obvious that the woman is not believed even according to ר"ג; **for since** (as we are now assuming) **that the רישא is a ברי וברי, then ר"ג would not argue**; it would be inappropriate to term this מודה. He is not admitting anything. ר"ג only discussed ברי, not ברי וברי. Obviously he maintains that by ברי וברי we require עדים. If that is the case **what is the 'ומודה ר"י'** doing in our משנה; it has no relevance here. This is the proof of the הנ"מ according to תוספות.

The גמרא continues and refutes the proof of the הנ"מ:

וקאמר מי סברת ארישא קאי וטעמא דרבי יהושע משום ברי ושמא -

And the גמרא says, who led you to think that ר"י is referring to the רישא; to the purported 'ומודה' of ר"ג, **and the reason of ר"י is because of ברי**; it is not so –

אמגו קאי דטעמא דרבי יהושע משום מגו ונאמן אפילו הלה תובעו ואפרקין קמא קאי:

He is referring to a מגו in his ומודה, for the reason of ר"י (by שדה זו) **is because he has a מגו**; not because the בן is a שמא,¹⁶ **and the buyer is believed even if the son demands the field back, nevertheless the מגו is**

¹⁴ See previous דף טז, ב ד"ה ומודה. In truth תוספות disagrees with רש"י, for the משנה is discussing even a case of הלה תובעו. However in this ה"א even תוספות agrees that the גמרא thought the case of שדה זו is only by טענת שמא a בן. See 'Thinking it over' # 2.

¹⁵ After the claimant states שדה זו שלא אביך וכו', the son claims that perhaps you never bought it.

¹⁶ See 'Thinking it over' # 3.

effective and ר"י is referring back to the first פרק. In the first פרק we find that ר"י does not give credence to a מגו; however in this מגו of שדה זו, even ר"י admits that it is an effective מגו.

SUMMARY

תוספות. מודה בברי וברי ר"ג is proving that הנ"מ is of the opinion that רש"י insists that the הנ"מ is proving that ר"ג is מודה in a case that is similar to ש"ב.

THINKING IT OVER

1. What is the (essential) difference between תוספות (first) question on רש"י, and the ויש ליישב?

2. תוספות maintains that the הנ"מ was of the opinion that ר"י is מודה and is discussing a case of תובעו הלה אין.¹⁷ Seemingly there is a difficulty with that assumption; how will the הנ"מ answer תוספות question¹⁸ that if it is הלה אין, תובעו, the משנה should have concluded that נאמן אינו נאמן, instead of ויש עדים כו' אינו נאמן!¹⁹

3. According to תוס' the הנ"מ assumed that ר"י is referencing a case of גמרא (thereby proving that the רישא is also ושמא). When the הנ"מ refuted the רישא, why was it necessary (even according to תוס') to say אמיגו (that the ר"י is not regarding ש"ב);²⁰ why is it not sufficient to say ש"ב? ²¹ where we are also discussing case of ש"ב.

¹⁷ See footnote # 14.

¹⁸ תוספות טז, ב ד"ה ומודה.

¹⁹ See מהרש"א וכו'.

²⁰ See footnote # 16.

²¹ See ש"ש.