

לפיכך¹ חלה הוא אינו מעלה לה מזונות –

Therefore, if he became sick, he does not pay for her food

OVERVIEW

In the initial version רב יוסף concluded that (just as if the marriage time occurred on a Sunday, he is not obligated to give her מזונות [since they are to be married on Wednesday], similarly) if he was sick by the wedding day, he is not required to give her מזונות. Our גמרא reconciles our גמרא with a seemingly contradictory גמרא.

תוספות asks:

קשה לרבינו יצחק דאמר בהחולץ (שם דף מא,ב ושם) עמד בדין וברח נזונת משל יבם² -

The ר"י has a difficulty; for the ברייתא states in מסכת יבמות in פרק החולץ, if the court ruled and the יבם ran away, she is fed from the estate of the יבם -

ומפרש בירושלמי³ ברח הוא הדין חלה והכא אמרינן דחלה אין מעלה לה מזונות -

And the ירושלמי explains that this same law of ברה applies if the יבם became ill; she is supported from his estate, so why is the ruling here that if he is ill he does not feed her?! What is the difference between a יבם and an ארוס?

תוספות answers:

ואומר רבינו יצחק דהתם חלה או ברח לאחר שעמד בדין שכבר נתחייב לה במזונות -

And the ר"י explained that there (by a יבמה), the יבם became sick or ran away after the court ruled, so that he was already obligated to feed her -

אבל הכא בחלה קודם הגעת זמן⁴ -

However here (by a wedding) he became sick before the time arrived for the wedding; therefore he was never obligated to feed her.

תוספות cites פרש"י and disagrees with it:

ובקונטרס פירש שם⁵ דוקא ברח אבל חלה לא ואין נראה כדמשמע בירושלמי -

¹ This גמרא should precede the previous גמרא on the 'עמוד א' and they are both referencing the גמרא.

² The ברייתא there states that for the first three months after her (childless) husband died, the widow (who is זקוקה) is fed from the estate of her husband, if after three months she took the יבם to ב"ד, saying either be מייבם me, or be חולץ (so I can remarry), and the יבם ran away, she is fed from the estate of the יבם.

³ (לד,ב, in our ירושלמי it is on פ"ה ה"ד).

⁴ It appears from תוספות that if the time arrived (and they did not marry) and then he became sick, the husband is obligated to feed her (even during his sickness), since he was already obligated.

⁵ It does not say so explicitly in our רש"י there. However one may infer it, for רש"י states that the יבם must pay, because we fine him (for running away); indicating that by חלה (where there is no cause for a fine), he would be פטור.

And רש"י explained there that she is יבם only if he ran away, but not if he became ill; however it does not seem that way, as indicated in the ירושלמי –

פרש"י responds to an anticipated difficulty on תוספות:

ולפירושו אין להקשות⁶ מאיכא דבעו לה מיבעיא אמאי לא פשיט לה מהתם -

And according to רש"י's explanation (that by חלה the יבם is not מזונות), **one cannot ask from those that posed this as a query** (whether or not he has to be מזונות לה, מעלה, if he was חלה); **why did they not resolve this query from the there**, that the יבם is required to feed her only if ברה not if חלה (even if he was בדין), and the same will apply here that by חלה he is not מזונות לה?!

תוספות responds:

דיש לומר דארוסתו אגידא ביה טפי מיבמתו⁷ כדאמרין ביבמות בכמה דוכתי:

For one can say that his betrothed is more attached to the groom, than the יבמה is attached to the יבם, as the גמרא states in יבמות in many places

SUMMARY

There is no obligation to be מעלה מזונות if the חלה happened before the זמן. An ארוסה is more attached to her ארוס, than a יבמה to her יבם.

THINKING IT OVER

פרש"י explains why there is no difficulty on תוספות;⁸ however the same answer is seemingly due on תוספות interpretation, for the גמרא there rules that if עמד בדין he has to be מעלה מזונות if חלה, indicating that if there was no העמדה בדין, he is פטור, thereby resolving the איבעיא, Why did not תוספות require the same explanation for his interpretation (as he did for רש"י)?!⁹

⁶ However according to תוספות there is no question (as previously explained), for there he was שעמד בדין, therefore he has to pay; however in our גמרא the query is in a case where he was חלה before the זמן. See (however) 'Thinking it over'.

⁷ The reasoning is that the ארוס was מקדש his wife with the intention of marrying her (and even now she is an אשת א"א); however by the יבם he may not intend to be מייבם her (and now she is merely a זקוקה ליבם, but not an א"א). Therefore even if the יבם is not מזונות לה מעלה if חלה, it is reasonable that the ארוס is מזונות לה מעלה.

⁸ See footnote # 6.

⁹ See מהרש"א (הארוך).