

## How do we say it to them

## היכי אמרינן להו –

### OVERVIEW

According to רבי an עד פסול invalidates the entire עדות, only if he intended to testify, however if he merely saw the act, but did not intend to testify, he does not invalidate the other עדים. The גמרא asks how we verify what his intention was; whether to testify or not. תוספות qualifies this question.

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#### קאי אדיני ממונות<sup>1</sup> -

The s'גמרא question (היכי אמרינן להו) **is referring to monetary cases**; it is there where it is necessary for בי"ד to verify the intent of the עד פסול -

בשלמא אדיני נפשות לא קשה היכי אמרינן כולי -

**For regarding capital cases it is understood that there is no question how to verify, etc. -**

דניחזי אנן אם התרו בו הקרוב ופסול אם לאו<sup>2</sup> -

**For we can see whether the קרוב ופסול warned the perpetrator** (which indicates that his intent is to testify) **or he did not warn him** (in which case the קרוב או פסול did not intend to testify), so there is no need for further verification -

**אלא פריך בדיני ממונות דליכא התראה:**

**Rather the גמרא asks regarding monetary cases where there is no warning** needed and we need to verify whether this עד פסול, when he saw this case, did he intend to testify or not.

### SUMMARY

The question of how to verify is regarding ממונות דיני, for by נפשות דיני we can know his intent, if he warned him or not.

### THINKING IT OVER

It appears from תוספות that if the קרוב או פסול did not warn the perpetrator (by דיני נפשות); we assume that he had no intention to testify. This seems puzzling for (seemingly) it is not necessary for [all] the עדים who testify in a capital case to warn him, as long as anyone (even the victim) warned him. Why does תוספות assume that the question does not apply to נפשות דיני?<sup>3</sup>

<sup>1</sup> This includes testifying regarding a loan, damages inflicted, stealing, giving a deposit, etc.

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

<sup>3</sup> See # 230-31 אוצר מפרשי התלמוד and מהרש"א בתוס' ד"ה לאסהודי (בא"ד [בסופו]).