

## We also learnt this in a *Braisoh*

## תניא נמי הכי וכולי –

### OVERVIEW

רזב"ט (seemingly) teaches us two things that is עדות מיוחדת, and we derive it from the פסוק of <sup>1</sup>לא יומת על פי עד אחד. The גמרא cites a ברייתא in support of רזב"ט which cites the same פסוק and derives from it that is עדות מיוחדת. Our תוספות discusses what the ברייתא needs to prove; the ruling or its source.

מיייתי תניא נמי הכי דמלא יומת על פי עד אחד נפקא -

The גמרא cites the תנ"ה (only) to prove that we derive the פסול of עדות מיוחדת from the פסוק of ע"פ ע"א -

דאילו עיקרא דמילתא שמענו ממתניתין -

For the main statement of רזב"ט אמר רב (namely that עדות מיוחדת פסולה) we know it from our משנה; תוספות clarifies -

דנהי דמתניתין לא איירי באחד מחלון זה -

For granted that our משנה is not discussing a case of 'one from this window', etc. but rather a case of two from this window (so how can we derive the ruling of רזב"ט אמר רב from our משנה? תוספות responds -

מכל מקום מדאשמעינן בשתי כתות דחשבינן שתי עדיות כשאין רואין אלו את אלו -

Nevertheless, since our משנה teaches us regarding two sets of (two) עדים, that they are considered as two separate testimonies when they do not see each other -

מינה שמעינן דהוא הדין בכת אחת<sup>2</sup> -

From this we can derive that the same ruling applies by one set that if they do not see each other, they cannot combine and the עדות is פסולה.

תוספות offers a different interpretation:

מכל מקום נראה יותר לפרש דעיקר מילתא מיייתי<sup>3</sup> -

Notwithstanding the above, it is preferable to explain that the גמרא cites the תנ"ה to prove the main statement of רזב"ט אמר רב that עדות מיוחדת פסולה.

<sup>4</sup> תוספות responds to the apparent difficulty:

דאי ממתניתין הוה אמינא דוקא בשתי כתות דכל חדא חשיב עדות באפי נפשה -

For if we wish to derive מילתא of עיקר רזב"ט from our משנה, it can be refuted, for we can say, only by two sets of עדות where each set is considered a distinct עדות by itself, do we say that if אין רואין אלו את אלו they are not combined -

אבל בכת אחת מצטרפי שפיר -

<sup>1</sup> דברים (שופטים) יז,י.

<sup>2</sup> Therefore the תנ"ה is not cited to support the ruling, for this we can derive from our משנה (so why mention a ברייתא), but rather it is only coming to prove that we derive it from the פסוק of לא יומת וגו' as רזב"ט אמר רב stated.

<sup>3</sup> The reason why it (seemingly) cannot be referring only to the פסוק will be explained shortly (see footnote # 6.).

<sup>4</sup> תוספות just told us that the מילתא of עיקר can be derived from our משנה, why the need for a ברייתא?!

**However by one set of עדות perhaps indeed they do combine<sup>5</sup>** (since each עד is not a separate and distinct entity).<sup>6</sup>

תוספות offers (additional) support for the latter view:

**וכן נראה<sup>7</sup> דיותר דוחק לומר דלא מייתי תניא נמי הכי רק<sup>8</sup> הפסוק -**

**And it seems so** (that the תנ"ה is cited to prove מילתא of עיקר רזב"ט) **for it is too awkward to say that he is citing the תנ"ה, only regarding the פסוק -**

**כיון דליכא מאן<sup>9</sup> דפליג עליה.<sup>10</sup> כן נראה למשי"ח (למורי שיחיה):**

**Since there is no one who argues** (with [the source of] this ruling, so why do we need a proof). **So it appears to משי"ח (my teacher, may he live).**

### **SUMMARY**

The תנ"ה may be only for the פסוק (since the ruling can be derived from the משנה), or preferably it is for the ruling (which cannot be derived from the משנה) for there is no need to prove the פסוק (since there is no argument).

### **THINKING IT OVER**

When תוס' writes כיון דליכא מאן דפליג עליה<sup>11</sup>, does it mean that no one argues with the ruling, therefore there is no need to being a proof to the source of the ruling,<sup>12</sup> or does תוספות mean that no one argues with the source of the ruling so therefore there is no need to prove the source.<sup>13</sup>

---

<sup>5</sup> Therefore we cite the ברייתא to prove מילתא of עיקר רזב"ט that even one עד in each window are not מצטרף if they are not רואין אלו את אלו.

<sup>6</sup> By two sets of two עדים, since each set which saw the act is a complete entity (they can convict on their basis alone) therefore in order to combine them we need something additional; that they see each other. However when there is only one עד in each set and they both saw the act, this alone would seem sufficient to combine them even if they do not see each other. [This distinction is debatable.]

<sup>7</sup> See footnote # 3.

<sup>8</sup> The הגהות הב"ח amends this to read רק אפסוק (instead of הפסוק).

<sup>9</sup> We need support for a ruling of an אמורא either if it is not mentioned in a משנה or if another אמורא argues with him. We do not need to support a source for a ruling unless another אמורא offers a different source.

<sup>10</sup> See 'Thinking it over'.

<sup>11</sup> See footnote # 8.

<sup>12</sup> The difficulty with this explanation is, why is it then necessary even to prove the ruling since no one argues with it.

<sup>13</sup> Would this mean that someone is arguing with the ruling; otherwise why is there a need to prove it.