

אלא מיתת בעל מנא לן –

How do we derive, however; the death of the husband

OVERVIEW

The גמרא asked from where we derive that a woman is free to remarry after her husband's death. The implication of this question is that the presumption (without a specific לימוד) should be that an איסור חתנות that is caused through marriage should persist even after the marriage no longer exists.¹ תוספות presents a contradiction to this presumption and resolves it.

תוספות asks:

– תימה דבפרק ד' מיתות (סנהדרין דף נז,א) מצריכין קרא באשת אב ובשאר עריות –
It is astounding! For in מיתות ד' פרק the גמרא requires a פסוק concerning a father's wife and other עריות –

– שאסורות בין מחיים בין לאחר מיתה² –
That they are forbidden whether he (the father or other relative) is alive or whether he is dead –

– ובפרק הבא על יבמתו (יבמות דף נה,א) מצריך קרא ביבמה שיש לה בנים –
And in הבא על יבמתו the גמרא requires a פסוק for a sister-in-law who has children –

– דאסורה לאחר מיתת הבעל³ –
That she is forbidden to her brother in law even after her husband dies –
– והכא מצריך קרא להתיר אשת איש לאחר מיתת בעלה⁴ –

And here we require a פסוק to permit a married woman to have relations with others after her husband died!

תוספות answers:

– ויש לומר דאחרי שראינו שהתיר הכתוב אשת איש לאחר מיתת בעלה –
And one can say; that after we saw (here in our גמרא) that the תורה permitted an א"א to remarry after her husband's death –

¹ Otherwise, if the presumption is that any איסור generated through marriage is dissolved when the marriage is over, then obviously if the husband dies there is no longer an איסור of אשת איש.

² A son is forbidden from having relations with his father's wife (who is not his mother) whether the father is alive or deceased.

³ This indicates that if not for these פסוקים which extend the prohibition after death, we would assume that these women would be permitted to those relatives for whom they were formerly prohibited. Why therefore do we need a פסוק to teach us that by an א"א she is permitted after her husband's death?!

⁴ We should assume, as we assume by the other עריות, that if there is no פסוק, the איסור ceases at the time of death.

כדדרשין בשמעתין איצטריך קראי דהתם לאסור עריות לאחר מיתה –

As we derived from פסוקים in this גמרא, it was necessary to cite פסוקים there to prohibit עריות even after the death of their spouses, in order –

דלא נילף מאשת איש שהתיר הכתוב:

That we should not derive from א"א where the תורה permitted her to others after the death of her spouse. In order that we should not assume the same by other עריות such as יבמתו or אשת אביו, it was necessary to derive the איסור from the פסוקים mentioned there.

SUMMARY

After the תורה teachers us by א"א that death dissolves any איסור which was caused by marriage, it is necessary for the תורה to teach us that by certain עריות (caused by marriage), the איסור continues even after the marriage ceases.

THINKING IT OVER

א"א resolves the contradiction by saying that once the תורה writes by א"א that she is מותרת after מיתת הבעל it became necessary to have a פסוק by עריות that she remains אסורה even after מיתת הבעל. Seemingly תוספות could have said the opposite; once there are פסוקים by עריות that the איסור continues after מיתת הבעל it becomes necessary to have a פסוק teach us that by א"א she is מותרת after מיתת הבעל.⁵ Why did תוספות choose one way over the other?!

⁵ There is seemingly an advantage to this latter interpretation for it seems to be corroborated from the question of the גמרא that we cannot say והוא אסרה והוא שרתה, since by עריות we do not say this; indicating that the necessity for a פסוק by א"א stems from the איסור by עריות.

⁶ See מהרש"א הארוך and אמ"ה # 190-193.