

שאינו יוצא בראשי אברים כעבד –

That he does not leave with the tips of his limbs like a slave

Overview

The גמרא cites a ברייתא, which expounds the פסוק of יצא בגפו יבא בגפו¹, to mean that בגופו יבא בגפו, and רבא explained that to mean that an עבד עברי is not freed if his master destroyed his אברים². Our תוספות explains why we would have assumed that an ע"ע is יוצא בראשי אברים, so that we need a פסוק to exclude it.

דסלקא דעתין דלא גרע מעבד כנעני שאינו יוצא בשש³ ויובל⁴ ובגרעון כסף⁵ ועובד את הבת⁶ -
For it would have entered our minds that an ע"ע should certainly be freed through ראשי אברים, since the ע"ע is not worse than an ע"כ, who is not freed through יובל, שש, or גרעון כסף, and he serves the daughter of his master -

ואפילו הכי יוצא בראשי אברים:

And nevertheless is freed through ראשי אברים, so an ע"ע who is יוצא בשש ויובל ובגרעון⁷, ראשי אברים, should certainly be freed through כסף and does not serve the daughter of his master should certainly be freed through יוצא בראשי אברים, therefore the פסוק of בגפו יבא וגו' teaches us that the ע"ע is not יוצא בראשי אברים.

Summary

Without the פסוק we would assume that an ע"ע is יוצא בראשי אברים, through a ק"ו from ע"ע who is not ע"כ as an ע"ע is.

Thinking it over

Previously (טז, א) the גמרא derived from לא תצא כצאת העבדים (mentioned shortly in our גמרא here) that an יוצאת בראשי אברים is not אמה העבריה. Why did not תוספות explain there why would we think that she is יוצאת בראשי אברים?⁸

¹ שמות (משפטים) כא, ג.

² The rule by an עבד כנעני is that if his master blinds him or knocks out his tooth (or any other of the אברים), the slave is freed (כא-כו); however by an ע"ע, the master has to pay the עבד for the damage done, but he still remains an ע"ע.

³ An ע"ע serves his master for six years and then he is freed, however an ע"כ is required to work forever.

⁴ If יובל occurs before six years of servitude the ע"ע is freed, however the ע"כ must continue to serve even after יובל.

⁵ An ע"ע can redeem himself by paying back the master (pro rate) the money which he paid for the ע"ע (even if the master disagrees), however an ע"כ cannot be redeemed by giving the master money if the master refuses.

⁶ An ע"ע must serve the master's son (if the master died during the six years), but he need not serve the master's daughter, however an ע"כ must serve (not only the son but even) the daughter.

⁷ An ע"ע is more easily freed than an ע"כ, therefore we should assume that whatever frees an ע"כ should certainly free an ע"ע.

⁸ See מהרש"א.