

בס"ד. שבת ד, א<sup>1</sup> תוד"ה אבל למעלה מי' ד"ה פטור

**But if he threw the object (from a higher than 10 טפחים רה"ר to a רה"י passing through a רה"ר everyone פטור agrees that he is רבי עקיבא).**

### Overview

One of the תולדות of מלאכת הוצאה is מושיט. מושיט is the act of passing an object from one רה"י to an adjacent רה"י, when both רה"י are on the same side of a רה"ר, and the space between the two רה"י is a רה"ר. For example two adjacent porches - that are not touching each other - that protrude over the street, and the space between them is over a רה"ר.

The תודלה מושיט<sup>2</sup> was in the משכן. There were four wagons that were used to transport the קרשים of the משכן. These four wagons, when they were to be loaded by the לויים, were in the רה"ר in a specific manner. The wagons faced the flow of traffic, two wagons on the left side of the street one in front of the other in the direction of traffic, and the other two parallel to them on their right also facing the direction of traffic one in front of the other. Like two double parked cars.

The לויים picked up the קרשים from the רה"ר, were they were lying behind the wagons, and placed them first on the rear wagon(s), the one(s) closest to them. (This is where we find the הכנסה in the משכן, the לויים picking up the קרשים from the רה"ר and placing them on the wagons, which is a רה"י. Each wagon was 10 טפחים high and more than ד' על ד' in area, which renders it a רה"י.)

Once the rear wagon was loaded, the לויים loaded the front wagon from the rear wagon, passing the קרשים from the rear wagon to the wagon in front of it. The קרשים were never passed to the wagon parallel to it, only to the one in front. The קרשים were always passed hand to hand from one wagon to the next, never thrown.<sup>3</sup> Each wagon as mentioned was a רה"י, and when the לוי passed the board from one wagon to the one in front he passed it from a רה"י to a רה"י over a רה"ר, which is the small area between the wagons.

The גמרא discusses whether throwing לרה"י דרך רה"ר is also חייב, because we learn it out from מושיט<sup>4</sup>, or it is פטור, because in the משכן there was only מושיט and not זורק, and לא ילפינן זורק ממושיט.

<sup>1</sup> There is a gloss (from a commentary) that this תוספות belongs on ב' די עמוד.

<sup>2</sup> See פשט that by מלאכת הוצאה even the תולדות have to be in the משכן.

<sup>3</sup> Either not to break them זורק דב"ה, or because they were too heavy שכן, etc.

<sup>4</sup> See תוס' ד, א ד"ה דרבי עקיבא

Our תוספות will discuss what is the דין if the act of מושיט over the רה"ר occurred at a height of less than 10 טפחים high from the street level<sup>5</sup>. In the משכן the act of מושיט was above 10 טפחים high, because the wagons themselves were 10 טפחים high. The question is, do we learn out a מושיט that is less than 10 טפחים high, from the משכן where it was above 10 טפחים high, and he is חייב, or do we say, that we do not learn it out and he is פטור.

גמרא attempts to resolve this question, by analyzing the words of the גמרא in the inquiry of רבא as to the nature of the מחלוקת between ר"ע and the חכמים, when one is באמצע ורה"ר באמצע. According to the first version ר"ע and the חכמים argue only מי, למטה מי, but the גמרא concludes that דברי הכל פטור ודכ"ע לא ילפינן זורק ממושיט.

תוספות says that seemingly the גמרא could have just as well concluded that מושיט, למעלה מי, דברי הכל חייב דילפינן זורק ממושיט, so we must say that the reason why the גמרא concludes that ילפינן דלא זורק ממושיט, is<sup>6</sup> because if כ"ע ילפינן זורק למטה מי, למטה מי פטור, why then do the חכמים hold that זורק ממושיט should be חייב just as מושיט מי is חייב למטה מי. Therefore we must say that כ"ע זורק פטור, and therefore סברי דלא ילפינן זורק ממושיט.

This explanation of the conclusion of the גמרא is valid only if we hold מושיט מי, however if we hold that מושיט פטור למטה מי, then the question still remains why didn't the גמרא conclude מושיט זורק ילפינן דכ"ע, since then there would be no problem why the חכמים don't learn out למטה מי, because מושיט פטור למטה מי.

תוספות rebuts this reasoning, saying there is a reason why the גמרא, concludes פטור or חייב is מושיט, אבל למטה מי ד"ה פטור, which has nothing to do whether מושיט is פטור למעלה, namely that there is a משנה that states clearly that זורק is למטה מי, so therefore it is obvious, why the גמרא cannot conclude that למעלה מי, *everyone* holds that זורק חייב, in contradiction to the משנה.

תוספות then continues to bolster his refutation of this proof, based on the idea that מושיט is only חייב, when the two רה"ר are בדיוטא אחת, adjacent to one another on the same side of the רה"ר, and not when they are זו כנגד זו, on opposite sides of the street, thereby nullifying the proof, because even if אבל למעלה מי ד"ה חייב, the גמרא could still have concluded חייב מי, מושיט חייב למטה מי, דילפינן זורק ממושיט, in a case of דיוטא אחת and the מחלוקת between ר"ע and the חכמים is בזו כנגד זו.

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**יש להוכיח קצת מכאן – We can partially prove from this statement**

<sup>5</sup> See 'Thinking it over' #3 at the end of the תוספות.

<sup>6</sup> See 'Thinking it over' #2 at the end.

רה"י to a רה"י – דמושיט חייב נמי למטה מי' through a רה"ר, less than 10 טפחים high from the floor of the רה"ר, is חייב.

פטור, – דאם תמצא לומר פטור, for if you will say that he is

משכן, a because we do not find in the משכן, מושיט למטה מי' case of less than 10 טפחים מושיט,

Then there is a difficulty, namely,

פטור למטה מי' מושיט is חייב – דאם כן for if this is so that

the גמרא should have said here that לימא הכא אבל למעלה מי' דברי הכל חייב if however the object was thrown above 10 טפחים, everyone says that he is חייב,

because we learn the case of throwing an object דילפינן זורק ממושיט from a רה"ר to a רה"י through a רה"ר למעלה מי' מושיט, that just like מושיט is חייב higher than 10 טפחים, so is זורק, and what compels the גמרא to say that דברי הכל חייב למעלה מי' דברי הכל חייב, when it could have said דברי הכל חייב, and nothing would be affected. This is a good question if we would assume that מושיט is חייב למטה מי' פטור,

however if we are now willing to assume what תוספות is setting out to prove, namely that מושיט is חייב even למטה מי' חייב, we can well understand why the גמרא concludes ממושיט זורק דלא ילפינן פטור ד"ה פטור דלא ילפינן זורק ממושיט, because if מושיט is חייב למטה מי',

then it is well understood that the גמרא cannot say אז לא מצי למימר

that the גמרא higher than 10 טפחים, everyone says that the גמרא חייב, because we learn out זורק from מושיט,

for if the foregoing is true that we learn out זורק from מושיט in a case of higher than 10 טפחים, that he is חייב, what is the reason that the חכמים say that a רה"ר למטה מי' פטור, he should be חייב even if they do not hold of קלוטה, he should be חייב by מושיט למטה מי' because we learn it out from מושיט, just as we learn it out למעלה מי'. Therefore the גמרא must conclude ממושיט זורק דלא ילפינן פטור ד"ה פטור דלא ילפינן זורק ממושיט, so we understand why the חכמים say that זורק למטה מי' is פטור, even though מושיט is חייב למטה מי', because the חכמים (and ר"ע) hold that we do not learn out ממושיט זורק neither למטה מי' nor למעלה מי'.

continues to say and explain himself, why he said that we can (only) partially prove it, when now it seems like a conclusive proof.

however it is not a conclusive proof that מושיט is חייב למטה מי' ומיהו אינו הוכחה מי',

for the גמרא could not have said דלא מצי למימר דלכ"ע ינלפינן זורק ממושיט that everyone holds that we learn out זורק from מושיט,

This question, “why the גמרא did not actually say this”, formed the basis of תוספות proof, but there is another explanation why the גמרא chose not to say it,

for if the גמרא would say so, we would have another difficulty, from which learnt in a משנה in פרק הזורק,

“if both porches were in the same side” – “היו שתיהן בדיוטא אחת” of the רה"ר,

"one that throws it from one porch to the other" – "הזורק פטור והמושיט חייב" – "הזורק פטור is רה"ר, but the one who passes it from one porch to the other is חייב",

so we see that this משנה holds that we **do not learn out ממושיט זורק**, so if the גמרא here were to conclude חייב, then the question would arise

according to whom would the משנה in הזורק be correct, since we would have said here, that *everyone* agrees that we learn out ממושיט זורק, that would be in direct contradiction to the משנה in הזורק which holds clearly that we do not learn out ממושיט זורק.

In conclusion: the reason why the גמרא did not say חייב דילפינן זורק, is not because we are concerned why then do the חכמים hold that he is למטה מי' (זורק ממושיט זורק), since we are learning out ממושיט זורק, thereby proving the מושיט is למטה מי', for in reality we can hold that מושיט is למטה מי', and the reason the גמרא did not say חייב ד"ה חייב is because it would be in direct contradiction to the משנה in הזורק that holds ממושיט זורק.

I will prove it to you so **you will know** that the reason the גמרא did not say חייב, has nothing to do whether מושיט is למטה מי' or not,

**for even if we would say that מושיט is חייב למטה מי',**

the גמרא still **could have said that everyone agrees that we learn out ממושיט זורק**, and there would be no problem why the חכמים hold that מושיט is למטה מי', since we learn out ממושיט זורק, he should be חייב, this is no question because in truth -

and were the מחלוקת to be talking about the two רה"ר being **on the same side** of the רה"ר, then the דין would be (even) according to the חכמים

**whether it passed over the רה"ר below 10 טפחים or above 10 טפחים**, in either case

**everyone would agree that he is חייב**, because we are learning out ממושיט זורק, so why do the חכמים argue and say that he is פטור?

and they argue **below 10 טפחים** in a case where the two רה"ר were not adjacent to each other, **but one opposite the other**, in such a case we can not say to learn out ממושיט זורק, because מושיט itself is only חייב בדיוטא and not חייב באחת.

**That one master – רבי עקיבא – holds that we say קלוטה כמי שהונחה דמי and he is חייב because of מרה"ר**, לרה"ר,

and the other masters – חכמים – **hold that we do not say** קלוטה כמי שהונחה דמי, and therefore he is פטור,

We see that even if we hold that מושיט is למטה מי', we still would have been able to say חייב דילפינן זורק ממושיט זורק, and there would be no problem for the מחלוקת would be in a case of מושיט זורק, where מושיט itself is פטור, and therefore the חכמים can hold that זורק

מושיט וזורק and קלוטה is פטור because the do not hold of מרה"י לרה"י דרך רה"ר  
זו כנגד זו in a case of פטור למטה מי'.

If so, why then did the גמרא have to say זורק ממושיט דלא ילפינן זורק ממושיט when  
we could have said just as well that ד"ה הכל דילפינן זורק ממושיט,

**but the גמרא could not have said that everyone agrees that we learn out זורק ממושיט** because even  
though we would not have the problem of זורק למטה מי' as explained above, nevertheless  
he does not say זורק ממושיט ילפינן זורק ממושיט,

**because of the משנה in הזורק** that states clearly that זורק  
is פטור מרה"י לרה"י דרך רה"ר, so how can we say here that *everybody agrees* that זורק is  
פטור, דילפינן זורק ממושיט.

**and according to what we will shortly explain<sup>7</sup>**

**there is also another good reason that the גמרא does not say it in this manner**, i.e. that חייב דילפינן זורק ממושיט  
למעלה מי' ד"ה חייב דילפינן זורק ממושיט.

### Summary

גמרא began to prove that מושיט חייב למטה מי' from the fact that the גמרא  
concluded זורק ממושיט דלא ילפינן זורק ממושיט, instead of saying אבל למעלה מי' ד"ה פטור דלא ילפינן זורק ממושיט  
because if we would say the latter we would have the problem why the חכמים say פטור.

גמרא concludes that in reality we would have no problem if we would say  
זורק ממושיט דלא ילפינן זורק ממושיט, because the מחלוקת is בזו כנגד זו, and therefore the real  
reason why the גמרא does not say חייב ד"ה חייב דילפינן זורק ממושיט, is not to contradict the  
משנה in הזורק, that states clearly that פטור.

From the חיוב of לשון הרמב"ם (הל' שבת פ"ג הי"ח) when he is discussing the חיוב  
לשון שו"ע, ואפילו הושיט למעלה מאויר רה"ר, and from the חיוב of לשון שו"ע, ואפילו הושיט למעלה מאויר רה"ר, where he says  
אדמה"ז (סי' שמז סעיף י) that מושיט חיוב of חיוב, where he states concerning the חיוב of חיוב, where he states concerning the חיוב of חיוב,  
it seems that they hold מושיט חיוב למטה מי'.

### Thinking it Over

1. מושיט חייב למטה מי' begins by saying, we can partially prove that מושיט חייב למטה מי',  
later תוספות refutes his proof. What was תוס' thinking in the beginning; if he  
knew of the refutation, then there is no proof at all, and if not, why is it only  
a partial proof?

2. תוס' bases his proof on the issue why the גמרא said פטור למטה מי', when it  
could have said חייב למטה מי'; granted the גמרא could have said either one,  
but it chose one, so what is the 'Proof'?

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<sup>7</sup> תוד"ה דאמרינן

3. 'תוס' is discussing whether מושיט למטה מי' is חייב or פטור. How is it possible to be a מושיט למטה מי', since you are in a רה"י which by definition has walls or a height of 10 טפחים (like the wagons in the משכן), so when you extend your hand from the רה"י, you are automatically למעלה מי'?

4. In 'תוס' refutation of the proof there are two parts: one begins ומיהו אינה זו (because of the משנה in הזורק) and later 'תוס' says תדע, (because of זו כנגד זו). How does one distinguish between these two aspects of 'תוס' refutation?