

אמר ליה הרי העלם שבת בידו כולי –

He answered him; there is an unawareness of שבת by him, etc.

OVERVIEW

רב asked נחמן what is the ruling in a case where one was unaware that it is שבת (for which he would be חייב only one קרבן regardless of how many מלאכות he did) and was also unaware that the מלאכות are forbidden (for which he would [usually, if he knew it was שבת] be חייב many קרבנות). רב נחמן replied that since he is unaware that it is שבת, there is only one קרבן. Our Tosfos contrasts this query and response with similar queries and responses.

anticipates a difficulty:

בשבועות בפרק ב' (דף יט,א) בעא מיניה רבא מרב נחמן העלם זה וזה בידו מהו¹ –

In the second פרק of מסכת שבועות; asked רבא what is the ruling in a case where he was unaware that he is טמא and he was also unaware that he entered the המקדש –

אמר ליה הרי העלם טומאה בידו וחייב –

– קרבן a חייב he is, טומאה, since he is unaware of the רבא answered רב נחמן

והתם בפרק ג'² (דף כו,א) נמי השיבו הרי העלם שבועה בידו וחייב –

And also there in the third פרק of מסכת שבועות, we find that ר"נ replied to רבא, since there is שבועה he is חייב. The question is why by טומאה and שבועה the ruling was strict that he is חייב in a case of זה וזה, however by שבת, we see that ר"נ is lenient by זה וזה and rules that העלם שבת בידו and he is חייב only one קרבן and is not אחד ואחד אחד.

¹ A person who is unaware that he is טמא and entered the המקדש or ate קדשים (knowing that he is entering the מקדש or that he is eating קדשים) is obligated to bring a קרבן עולה ויורד (see והלאה ה, ב ויקרא). However if he was aware that he was טמא but was not aware that he entered the המקדש there is no חוב קרבן (this is העלם), for which he is (usually) חייב a קרבן, but he was also unaware that he is entering the המקדש (which is חוב קרבן), for which (usually) there is no חוב קרבן.

² We derive from the פסוק (in ד,ד ויקרא) which states that one is only liable for a קרבן עולה ויורד if he forgot that he swore (not to do something and he did it), however, not if one forgot the חפץ (the object he swore about), for instance he swore not to eat wheat bread, and he reached for barley bread, however he took wheat bread but he mistakenly assumed that it is barley bread (which he is permitted to eat). In this case (where he remembered the oath but was unaware of the חפץ) there is no חוב קרבן. Here too רבא asked רב נחמן what would be the ruling if he forgot the oath (not to eat wheat bread) for which one is (usually) חייב, and was unaware of the object (he thought he is eating barley bread) for which one is (usually) פטור.

responds:³ תוספות

התם שפיר דמהדר ליה לחומרא⁴ –

There (by טומאה and שבועה) it is properly understood, since he responded to him stringently that he is קרבן a חייב.

והא דמהדר ליה הכא לפוטרו –

And the reason why ר"נ responded here to acquit him from bringing many קרבנות, is -

משום דקסבר שגגת שבת עיקר⁵ דעיקר המצוה היא משום שבת:⁶

Because ר"נ maintains that unawareness of שבת is the main שוגג, since the main מצוה is on account of שבת.

SUMMARY

Generally (including זה וזה העלם) we rule לחומרא; however, by שבת since the שגגת שבת is שוגג the main שבת we are lenient by זה וזה העלם for the main שבת עיקר.

THINKING IT OVER

לחומרא ר"נ resolves it שפיר that by טומאה and שבועה it is שפיר writes that תוספות⁷. Can we interpret תוספות to mean that since it is a ספק in a תורה law, therefore we rule לחומרא for לחומרא דאורייתא?⁸

³ See תוספות שבועות יט,א ד"ה הרי וכו' וחייב where he writes:

וי"ל דלא למי דהכא (by טומאה) סברא הוא דליחייב כיון דאיכא נמי העלם טומאה אבל התם (by שבת) אין סברא לחייבו על כל אחת ואחת דכיון דבשגגת שבת וזדון מלאכות לא מיחייב אלא חדא השתא נמי דשגג במלאכה הרי יש כאן נמי שגגת שבת.

⁴ See חת"ס who explains that logically one should be חייב for מקדש (as well as for טומאה), however (העלם טומאה) the העלם מקדש is פטור. However the לימוד cannot remove the חיוב of העלם טומאה. Regarding the reverse is true; there is no reason to assume מלאכות חיוב; it is a חידוש that is derived from a לימוד that applies only by שבת and not by זדון שבת.

⁵ Similarly by טומאה and שבועה the main חיוב is for טומאה (respectively). [However תוספות has no need to mention it, because to rule לחומרא it is not necessary to posit that this is the main שוגג, because (even if it weren't) we rule לחומרא by ספק. By שבת however, where we are ruling לקולא it is necessary to mention that the שוגג (and not the מלאכות) is שבת. See (however) 'Thinking it over'.]

⁶ See תוה"ר who adds דכתיב בקרא משום דשבת הוא דכתיב בקרא; meaning (perhaps) that the תורה tells us about שבת, but (generally) does not specify the מלאכות which are אסורות (see footnote # 4).

⁷ See footnote # 5.

⁸ See מהרש"א.