

ניפול הנמצא בתוך חמשים אמה כולי –

A chick which was found within fifty cubits, etc.

OVERVIEW

The גמרא challenged the ruling of ר' חנינא (that by רוב וקרוב הלך אחר הרוב) from our משנה, which states that if a baby chick is found within fifty אמות of a dovecote (שובך), we return it to the בעל השובך, even if there is a more distant שובך which has more birds. This indicates that we follow the קרוב rather than the רוב. Our תוספות will explain why the גמרא did not challenge the ברייתא of ט' חניות from our משנה.

anticipates a difficulty: תוספות

ואמתניתא דתשע חנויות לא מצי למיפרך¹ -

And the גמרא could not have asked that our משנה contradicts the ברייתא of ט' חניות –

responds: תוספות

דהכא הוי קורבא דמוכח² דהוי משובך זה דהוי תוך חמשים והנך דנפיש הוי חוץ לני' -
Because here (by ניפול) it is a קורבא דמוכח that this ניפול is from this שובך, which is within fifty אמות (from where the ניפול was found), for the other שובכים which are larger, are outside fifty אמות (of this ניפול) -

ולעיל³ אמרינן דכרסייהו בחמשים אמה⁴ מליין:

For previously אב"י stated that these birds fill up their stomachs with food within a distance of fifty אמות.

SUMMARY

¹ Our משנה of שובך rules that we follow the קרוב (see 'Overview'), while from the ברייתא of ט' חניות it is apparent that we follow the רוב (but not the קרוב). See previously רוב תוד"ה [TIE footnote # 3]. Why did not the גמרא state this contradiction?! See 'Thinking it over'.

² A קורבא דמוכח means that there is sufficient evidence from the closeness which indicates that it came from the קרוב. In the case of ט' חניות even if the meat was found closest to the store which sells נבילה בשר, that does not imply that it was bought from that store; it merely tells us that the owner of the meat lost it here when he was passing by.

³ On the עמוד א'. Therefore, if we see a bird within fifty אמות of one שובך, and more than fifty from another שובך, we assume that it came from the closer שובך, for since it has its fill within fifty אמות, why travel further. This is called a קורבא דמוכח (where we follow קרוב), as opposed to ט' חניות which is not a קורבא דמוכח (where we follow רוב). Therefore, the גמרא could not ask a question from our משנה to the ברייתא. However, the גמרא could ask on ר"ה according to the ט' ברייתא of ר"ה over the ט' [TIE footnote # 17 and 25] that the novelty of ר"ה in ויעוד נראה לר"י that the novelty of ר"ה over the ברייתא of ט' is that we follow the רוב even against a קורבא דמוכח. Therefore, there is a contradiction from our משנה!

⁴ It was necessary for תוספות to give this answer at this point, for as of yet we still do not know what בר חמא רב עוקבא בר חמא will shortly teach us that a bird cannot hop more than fifty אמות (which makes it a much greater certainty, even more than קורבא דמוכח).

The קורבא by שובך is a קורבא דמוכח (as opposed to ט' חניות).

THINKING IT OVER

תוספות asks why does the גמרא challenge (only) ר"ה from our משנה, it could have (also) challenged the ברייתא of ט' חניות.⁵ Seemingly תוספות question is not understood. ר"ה is an אמורא; he cannot argue with a משנה, therefore the גמרא asks that the משנה contradicts ר"ה. However what question can there be from a משנה on a ברייתא; they are both from תנאים, who may disagree with each other! What is תוספות asking?!

⁵ See footnote # 1.