

## Assault, fine and seduction

## אונס קנס ופתוי –

### OVERVIEW

The **ברייתא** mentions three things, **אונס קנס ופתוי**, that **משמט** (if **לא זקפן**) is not **שביעית** (עליו במלוה). **תוספות** explains what **קנס** is referring to, for seemingly there is **קנס** by **אונס ומפתה** as well.<sup>1</sup>

קנס הוא מוציא שם רע<sup>2</sup> ומשום דלית ביה אלא קנס קרי ליה קנס –  
קנס refers to the case of a **מוציא שם רע**, and since he is only liable for **קנס** (there is no additional liability), therefore it is called **קנס** -

אבל באונס<sup>3</sup> יש בו בושת<sup>4</sup> ופגם<sup>5</sup>:

However by **אונס** there is the liability of **shame and depreciation**,<sup>6</sup> besides the **קנס**, therefore it is referred to merely as **אונס** (and not as **קנס**).

### SUMMARY

A **מוצש"ר** pays only **קנס**, while a **מאנס** pays **קנס** as well as **בושת ופגם**.

### THINKING IT OVER

1. Why did not the **ברייתא** state **מוציא שם רע** explicitly as it states **אונס ופתוי**?
2. Is **קנס** the same rule as **בושת ופגם** or does it have the same rule as the **קנס**?<sup>7</sup>

<sup>1</sup> If one is **מאנס** [or **מפתה**] a **נערה בתולה** he must pay a fine of **כסף חמישים**.

<sup>2</sup> A **מוצש"ר** is one who claims that his wife was not a **בתולה** at the time of **נישואין** (that she was **מזנה** while she was an **ארוסה**). If it turns out to be a false claim, then the husband is obligated to pay a **קנס** of **כסף מאה**. See **יג-כב**, **יג-כב**.

<sup>3</sup> By **פתוי** there is also **בושת ופגם** (see **משנה כתובות מא,ב**).

<sup>4</sup> He must pay for the **shame** the woman endured due to this **אונס**.

<sup>5</sup> A woman who is not a **בתולה** is worth less than a **בתולה**. The **מאנס** must pay the difference.

<sup>6</sup> **מוצש"ר** (of the **מפתה ומאנס**) or **מאה** (of the **מוצש"ר**), but rather it is assessed individually, therefore it is considered **ממון** and not **קנס**.

<sup>7</sup> See **תפא"י**.