

חֲבִי בַר נָנַאי וְנָנַאי – Havaï bar Nanai and Nanai bar Havaï – In a case where there are two people with identical names, and one of them produces a promissory note indicating that someone owes him money, the purported borrower may not say: I do not owe you, as the money is owed to your colleague of the same name. It is presumed that anyone who in possession of a promissory note is the owner of that bill. The *halakha* is in accordance with the action of Rava bar Avuh (Rambam *Sefer Mishpatim, Hilkhot Malve VeLoveh* 24:8; *Shulhan Arukh, Hoshen Mishpat* 49:7).

אָמַר רַבָּא: מִנָּא אָמֵינָא לָהּ – דְּהִנְהוּ תֵרִי שְׁטֵרֵי דְנִפְקִי בְּמַחֲזָא, וְכַתִּיב בְּהוּ: חֲבִי בַר נָנַאי וְנָנַאי בְּרַחֲמֵי בְּהוּ רַבָּא בְּרַחֲמֵי זְוִי. וְהָא חֲבִי בַר נָנַאי וְנָנַאי בְּרַחֲמֵי בְּמַחֲזָא שְׂכִיחֵי טוּבָא. וְאַבְי.

Rava said: From where do I say my reasoning that we are not concerned about two people with identical names? As there were two promissory notes produced in Mehoza, and these names of the creditors were written on them: Havaï bar Nanai and Nanai bar Havaï, and Rava bar Avuh collected dinars for them with these promissory notes, without concerning himself with the possibility that they might be referring to other people. And the names Havaï bar Nanai and Nanai bar Havaï^H are very common in Mehoza, i.e., there are certainly other people with these names, and yet he was not worried about this matter. The Gemara asks: And Abaye, how does he answer this proof?

Perek XV

Daf 116 Amud a

NOTES

And witnesses came and said...he was with us, etc. – *Tosefot Had Mikamma'ei* cites an opinion that is not found among the other early commentaries: These witnesses testify that the second Anan who was in Neharde'a also wrote a bill of divorce for his wife. In other words, there are grounds for concern that the bill of divorce belongs to this other Anan.

לְמַאי נִיחוּשׁ לָהּ? אִי לְנִפְלֵה – מְזַהֵר זְהִיר בֵּיהּ, אִי לְפִקְדוֹן – כִּיּוֹן דְּשִׁמְיָה כְּשִׁמְיָה לָא מְפָקִיד גְּבִייהּ.

With regard to what should we be concerned in the case of the promissory note? If we are concerned about the possibility of falling, i.e., that the promissory note might have dropped from this person's hand and the other one found it, the former is certainly careful with it so as not to lose it, as he knows there is someone else in the city with the same name. If we are concerned about the possibility that it was given as a deposit for safekeeping, i.e., that the actual owner might have given it to the one in possession of it, since his name is the same as the name of the bailee, the owner would not deposit his contract with him without some insurance.

מֵאִי אָמַרְתָּ: דְּלִמָּא מָסַר לֵיהּ – אוֹתוֹת נִקְנֹת בְּמַסְרָהּ.

If you say that perhaps the actual owner passed, i.e., transferred the promissory note to this person whose name is the same as his own, i.e., he gave or sold it to him so he may collect it for himself, in that case the one in possession is entitled to collect the money, as letters of credit are acquired through passing.^H There is no need for an additional act of acquisition here, which means that the promissory note belongs to the one in possession of it, despite the fact that it was not originally written for him. Consequently, no proof can be brought from this case with regard to whether or not one should be concerned about two people with identical names.

הָהוּא גִיטָא דְּאִשְׁתַּכַּח בְּסוּרָא וְכַתִּיב בֵּיהּ הָכִי: בְּסוּרָא מְתָא, אָנָּא עָנָן בְּרַחֲמֵי נְהַרְדְּעָא פְּטָרִית וְהַרְבִּית פְּלוּגִית אֲנִתְנִי. וּבְדִקּוֹ רַבְּנָן מְסוּרָא וְעַד נְהַרְדְּעָא וְלֹא הָוָה עָנָן בְּרַחֲמֵי אַחֲרִינָא לְבַר מַעְנָן בְּרַחֲמֵי מַחְגְּרָא, דְּהָוָה בְּנְהַרְדְּעָא. וְאַתּוּ סְהִרֵי וְאַמּוֹר דְּהָהוּא יוֹמָא כִּי אִיכְתַּב הָהוּא גִיטָא – עָנָן בְּרַחֲמֵי מַחְגְּרָא גְּבִין הָוָה.

The Gemara relates: There was a certain bill of divorce that was found in the city of Sura^H and the following was written in it: In the city of Sura, I, Anan bar Hiyya of Neharde'a, excused and sent away and divorced my wife, so-and-so. And the Sages examined the area from Sura to Neharde'a, throughout almost all of Babylonia, and there was no other Anan bar Hiyya than the one they knew, apart from an Anan bar Hiyya of Hagra who was in Neharde'a. And yet witnesses came and said that on that day, when that bill of divorce was written: Anan bar Hiyya of Hagra was with us^N in Neharde'a, not in Sura.

HALAKHA

How letters are acquired – כִּיצַד אוֹתוֹת נִקְנֹת – Promissory notes are acquired only through writing and passing. In other words, one who sells a promissory note to another must write to him: Acquire for yourself this note and any indebtedness that it includes. If he did not write this, the note is not acquired, not even the paper upon which it was written, and it must be returned. The *halakha* is in accordance with the opinion of Rava, rather than Abaye (*Shulhan Arukh, Hoshen Mishpat* 66:1).

who drops it in a city where there are caravans, or a place where there are no caravans but there were two men with identical names in that place, if he does not have distinguishing marks for the bill of divorce and a bill of divorce with this name is found, there is a concern that this might not be the bill of divorce that the messenger dropped. This is the case even if witnesses testified that the other man with the same name was out of the city when the bill of divorce was written. The *halakha* is in accordance with the opinion of Rava, as the *halakha* invariably follows him rather than Abaye (Rambam *Sefer Nashim, Hilkhot Geirushin* 3:10; *Shulhan Arukh, Even HaEzer* 132:4).

A certain bill of divorce that was found in Sura – הָהוּא גִיטָא – דְּאִשְׁתַּכַּח בְּסוּרָא: In a case of a messenger bearing a bill of divorce

Flying camel – גמלא פרחא – Each breed of camel has certain characteristics that affect how they are deployed. Most camels are used to haul loads and are rather slow. However, there are also breeds of racing camels which can move at speeds on par with galloping horses for limited distances. The two breeds which are most commonly used for this even today are Annafi and Bishari.



Racing camels

Shili and Hini – שילי והיני – Shili and Hini were two adjacent towns, located less than 1 km from each other, both of which were under the jurisdiction of the city of Sura. Rav Huna is emphasizing the importance of writing the precise name of each town on the document, notwithstanding their proximity to each other.

HALAKHA

כי איתנבו – When you are in Shili, write it in Shili, etc. – בְּשִׁילִי כְּתוּבוּ בְּשִׁילִי וְכוּ: In a case where someone gave testimony in one place and the scribes wrote the document elsewhere, the scribes should not state in the contract the place where the testimony was given to them. Instead, they should write the place where the contract was written, in accordance with the opinions of Rav and Rav Huna (Rambam *Sefer Nashim, Hilkhot Geirushin* 1:25; *Shulhan Arukh, Even HaEzer* 128:1 and *Hoshen Mishpat* 43:20).

A woman who says to her husband, you divorced me – האשה שאומרת לבעלה גרשתני: If a wife says to her husband: You divorced me, she is deemed credible, as it may be presumed that she would not dare lie in the presence of her husband. The *halakha* is in accordance with the opinion of Rav Hammuna (Rambam *Sefer Nashim, Hilkhot Geirushin* 12:4; *Shulhan Arukh, Even HaEzer* 17:2).

אמר אביי: אף לדידי דאמינא חיישנין – הכא לא חיישנין, דהא קאמרי סהדי דבנהרדעא הוה. מאי בעא בסורא?

Abaye said: Even according to my opinion, by which I say that generally we are concerned about the possibility of someone else with the same name, here we are not concerned. The reason is that the witnesses say the other Anan bar Hiyya was in Neharde'a; what, then, is he doing in Sura? Consequently, there is no concern that the bill of divorce was written by the Anan bar Hiyya of Hagra.

אמר רבא: אף לדידי דלא חיישנין – הכא חיישנין, דלמא בגמלא פרחא אזל, אי נמי בקפיצה, אי נמי מילי מסר.

Rava said: Even according to my opinion, in which I say that we are not concerned in general, here, when it is established that there definitely is another man by the same name, we are concerned. As for the apparently contradictory testimony, perhaps he went by a flying camel,^{BN} an extremely fast means of transportation, and was able to travel from Neharde'a to Sura in one day. Alternatively, he might have arrived by a miraculous shortcut.^N Alternatively, he might have given verbal instructions beforehand for them to write the bill of divorce in a place where he was not physically located.

בדאמר להו רב לספרי, וכן אמר להו רב הונא לספרי: כי איתנבו בשילי – כתובו בשילי, אף על גב דמימסרן מילי בהיני. וכי איתנבו בהיני – כתובו בהיני, אף על גב דמימסרן מילי בשילי.

This last answer is as Rav said to the court scribes, and likewise Rav Huna said to the scribes: When you are in a place called Shili, write that the contract was written in Shili,^H even when the instructions are given to you in a different place called Hini.^B And likewise, when you are in Hini, write that it was written in Hini, even when the instructions are given to you in Shili.

מאי הוה עלייהו דשומשמי? רב יימר אמר: לא חיישנין, רבינא אמר: חיישנין. והלכתא: חיישנין.

The Gemara returns to the original question: What was the conclusion that was reached about this case involving sesame plants? Do they belong to the one who deposited them, or is the claim of the bailee accepted, that he returned them and placed other sesame plants in the same barrel? Rav Yeimar said: We are not concerned that they are different plants, and Ravina said: We are concerned. The Gemara concludes: And the *halakha* is that we are concerned about the possibility that the bailee replaced them with others, and we do not rely on the distinguishing marks provided by the claimant in this case.

”קטטה בינו לבינה” וכו'. היכי דמי קטטה בינו לבינה? אמר רב יהודה אמר שמואל: באומרת לבעלה ”גרשיני”. בולהו נמי אמרו הכי! אלא באומרת לבעלה ”גרשתני”.

S The mishna taught: If there was a quarrel between him and her, her testimony that her husband died is not accepted. The Gemara asks: What are the circumstances of a quarrel^N between him and her? Rav Yehuda said that Shmuel said: This is a case where people heard her say to her husband: Divorce me.^N The Gemara asks: Is this proof? All women likewise say this when they are angry; this does not prove that there was an unresolved quarrel left between them. Rather, a quarrel is when she says to her husband: You divorced me,^H i.e., she claims that she was actually divorced.

NOTES

דלמא בגמלא פרחא – Perhaps he went by a flying camel, etc. – The early commentaries write that these two answers, the flying camel and the miraculous shortcut, are mentioned only as additional options, as the most likely concern is the third one, the simple possibility that he issued verbal instructions and the witnesses wrote the document in another place. This explains the apparent contradiction between this Gemara and the discussion in tractate *Makkot*, where the possibility of a flying camel is rejected (see *Tosafot*; see Ramban, citing *Tosefot Rid* and *Ra'avad*).

By shortcut – בקפיצה: Most commentaries explain that this shortcut is performed miraculously, by means of a sacred name of God, an amulet, or something similar. However, some explain that this man was a very fast runner and succeeded in arriving more quickly than one would imagine (Meiri; see also *Arukh*).

היכי דמי קטטה – What are the circumstances of a quarrel – This certainly cannot be referring to an ordinary fight between a husband and wife, which occurs between almost every married couple. The mishna must be speaking of such a severe quarrel that one suspects that the wife might lie or not be exacting in her investigations into his death due to their fight (*Tosefot Rid*).

אומרת לבעלה – Heard her say to her husband, divorce me – גרשיני: The Jerusalem Talmud also inquires into the nature of this quarrel, and two answers are suggested. According to one opinion, she says that her husband divorced her but did not pay her the marriage contract payment. According to the second opinion, this is referring to any wife who demands a divorce from her husband. These two opinions are not in accordance with the Gemara here.

HALAKHA

A quarrel between him and her – קְטָטָה בֵּינוּ וּבֵינָה: In a case where there was a quarrel between a husband and wife, e.g., if a wife said to her husband: You divorced me in the presence of so-and-so, and she is discovered to be a liar, if they later traveled and she came back and said her husband died, she is not deemed credible, even if it was not a time of war. The *halakha* is in accordance with the opinion of Rav Hanina that there is a concern she may be lying (Rambam *Sefer Nashim, Hilkhot Geirushin* 13:1 and see *Kesef Mishne* there; *Shulhan Arukh, Even HaEzer* 17:48).

NOTES

Because she lies – משום דמ שקרא: Rashi explains that due to her hatred of her husband she does not hesitate to lie so as to be rid of him. Others write that since she has been established by witnesses to be a liar, as she said in their presence that she was divorced when she was not in fact divorced, her statements are no longer reliable (Meiri).

וְלִיהִמְנָה מִדְּרַב הַמְּנוּנָא, דְּאָמַר רַב הַמְּנוּנָא: אִשָּׁה שֶׁאָמְרָה לְבַעְלָהּ "גִּירְשָׁתִּי" – נֶאֱמַרְתָּ, חֲזָקָה אֵין אִשָּׁה מְעִיזָה פָּנֶיהָ בְּפָנֵי בַעְלָהּ!

בְּאוֹמְרָת "גִּירְשָׁתִּי בְּפָנֵי פְּלוֹנִי וּפְלוֹנִי", וְשֶׁאֵילָנָא וְאָמְרוּ: "לֹא הָיוּ דְּבָרִים מֵעוֹלָם."

מֵאֵי טַעְמָא דְּקָטָטָה? רַב חֲנִינָא אָמַר: מִשּׁוּם דְּמִשְׁקָרָא. רַב שִׁמִּי בַר אֲשִׁי אָמַר: מִשּׁוּם דְּאָמְרָה בְּדַדְמִי. מֵאֵי בִּינְיָהוּ?

The Gemara asks: If she said to her husband that he divorced her, let us believe her claim, in accordance with the statement of Rav Hammuna. As Rav Hammuna said: A woman who said to her husband: You divorced me, is deemed credible. Why? There is a presumption that a woman would not dare to lie in the presence of her husband about a matter which he knows to be untrue. If so, why isn't her claim that she was divorced accepted? This would mean that there is no need for any testimony concerning his death, as the ties between them have already been severed.

The Gemara answers: In fact, a couple is considered to be quarreling when she says: You divorced me in the presence of two witnesses, so-and-so and so-and-so; and the court asked those men and they said: This matter never happened. In this case it is obvious that there was a terrible quarrel between them, but her claim that she was divorced is not accepted. Consequently, her later claim that her husband is dead is not accepted.^h

§ The Gemara analyzes the ruling of the mishna itself. What is the reason that in the case of a quarrel between them the court does not accept her testimony? Rav Hanina said: Because she lies,ⁿ i.e., due to their quarrel she is likely to testify falsely that her husband died. Rav Shimi bar Ashi said: Because she says what she imagines to be the case. When there is peace between them, she examines the matter thoroughly to discover whether he actually died, but if there is a quarrel between them she is not so exacting, as she is pleased to be rid of him. The Gemara asks: What is the difference between these two explanations?

Perek XV
Daf 116 Amud b

HALAKHA

One witness in a quarrel – יַעַד אֶחָד בְּקָטָטָה: If there was a quarrel between a couple and one witness comes and testifies that the husband died, his wife may not marry based upon his testimony, due to the concern that she may have hired him to give false testimony (Rambam; see *Kesef Mishne*). If she did marry, she does not have to leave her new husband, as in any case she does have a witness. Some commentaries maintain that if she herself did not bring the witness, but the witness came forward on his own, the court should rule leniently even *ab initio* (*Beit Shmuel*). In general, however, as the problem was left unresolved in the Gemara, one should be stringent *ab initio* (Rambam *Sefer Nashim, Hilkhot Geirushin* 13:1, and *Kesef Mishne* there; *Shulhan Arukh, Even HaEzer* 17:48).

אֵיכָא בִּינְיָהוּ דְּאֶרְגִּיל הוּא קְטָטָה.

אֵיבַעְיָא לָהּ: יַעַד אֶחָד בְּקָטָטָה מַהוּ? מֵאֵי טַעְמָא דְּעַד אֶחָד מֵהֵימֵן – מִשּׁוּם דְּמִלְתָּא דְּעִבְיָדָא לְאִגְלוּי לָא מְשַׁקֵּר, הָכָא נִמְי לָא מְשַׁקֵּר, אוּ דְּלִמָּא: טַעְמָא דְּעַד אֶחָד מֵהֵימֵן – מִשּׁוּם דְּהִיא דְּיִיקָא וּמִינְסָבָא, וְהָכָא, בֵּינָן דְּאֵית לִיהּ קְטָטָה לָא דְּיִיקָא וּמִינְסָבָא? תִּיקוּ.

The practical difference between them is in a case where he initiated the quarrel.ⁿ In this situation there is no concern that she might knowingly lie, as she loves him. However, due to the quarrel between them she might not be meticulous in her investigations.

§ A dilemma was raised before the Sages: If there was one witness who testified that the husband died, in a case that involved a quarrel^h between them, what is the *halakha*? The Gemara explains the different sides of this dilemma: What is the reason that one witness is deemed credible? Is it because it is a matter that is likely to be revealed, and one does not lie in a case of this kind? Here too, one witness would not lie. Or perhaps the reason that one witness is deemed credible is because she herself is exacting in her investigation before she marries again. And here, since there is a quarrel between them, she is not exacting in her investigation before she marries again, despite the testimony of the witness. The Gemara comments: The question shall stand unresolved.

NOTES

The difference between them is where he initiated the quarrel – אֵיכָא בִּינְיָהוּ דְּאֶרְגִּיל הוּא קְטָטָה – Some commentaries explain that if the concern is that she might be lying and that she hates him, even if he is the one who began the quarrel, her statements remain unreliable and she is not deemed credible at all (*Responsa of Ram*, cited by *Kesef Mishne*; see *Tosafot*). Others state that if he is the one who started the quarrel there is no concern that she is lying, as her anger has certainly passed (Meiri). Some commentaries claim that this issue of which party is responsible for the quarrel applies even when she did not contradict the testimony of witnesses (*Hazon Ish*).

There is another difference between the concern that she might be lying and the concern that her claim might be based on an assumption. This involves a case where she says: He died and I buried him. If she might be lying, the concern applies in this case as well, whereas she certainly did not rely on conjecture in this case (Rabbeinu Hananel). Some commentaries wonder

why the Gemara omits this distinction, which is mentioned by the Rambam (*Rashba; Tosafot HaRosh*). One answer is that the Gemara did not cite all the differences. Instead, it mentioned only one example, but this does not rule out the possibility that there are others (Ritva).

One witness in a quarrel – יַעַד אֶחָד בְּקָטָטָה: Some authorities rule that one witness is unreliable in this case, as the wife might have hired him to testify (Rambam). However, other early commentaries question this, as there are no grounds for suspecting other Jews of falsehood when only she is known to be a liar (Rashba). One answer is that once it has been discovered that she is lying and attempting to find strategies to rid herself of her husband, there is a genuine concern that she may have tempted and hired a witness. Consequently, the witness is deemed credible only if it is clear that his testimony is entirely independent of her (*Kesef Mishne*).

Unless she came crying – אֵלָא אִם כֵּן בִּוְכָה – Another reason for the ruling of the Rabbis is brought in the Jerusalem Talmud: It is possible that the woman is crying for a different reason, e.g., if her son died at the same time as her husband. Consequently, her behavior provides no proof at all.

The incident that occurred during the grain harvest, etc. – מַעֲשֵׂה שְׁהִיָּה בְּקִצְרוֹ וכו': It is stated in the Jerusalem Talmud that the grain harvest is a dangerous period, as people stand for a long time in the heat of the sun, and also snakes are found at that time. Beit Shammai claim that the period of the grain harvest is the entire year, as it occurs in different places and at different periods, and there is no season of the year when there is no grain or grape harvest somewhere.

רַבִּי יְהוּדָה אוֹמֵר: לְעוֹלָם אֵינָהּ וכו'. תַּנְיָא, אָמְרוּ לוֹ לְרַבִּי יְהוּדָה: לְדַבְרֶיךָ, פְּקַחְתָּ – תַּנְשֵׂא, שׁוֹטָה – לֹא תַנְשֵׂא! אֵלָא, אַחַת זֹו וְאַחַת זֹו תַנְשֵׂא.

הִיא דְאֵתְיָא לְבֵי דִינָא דְרַבִּי יְהוּדָה, אָמְרוּ לָהּ: סְפְדֵי בְעַלְךָ, קַרְעֵי מְאִנְךָ, סַתְרֵי מְזִינְךָ. אֲלֹפוּהָ שִׁיקְרָא! אֵינָהּ כְּרַבְנָן סְבִירָא לָהּ, אָמְרוּ: תַעֲבִיד הָכִי כִי הִכִי דְלִישְׁרִיָּה.

מַתְנִי' בֵּית הַלֵּל אוֹמְרִים: לֹא שְׂמַעְנוּ אֵלָא בְּבָאָה מִן הַקִּצְרוֹ, וּבְאוֹתָהּ מִדִּינָהּ, וּכְמַעֲשֵׂה שְׁהִיָּה.

אָמְרוּ לָהֶם בֵּית שַׁמַּי: אַחַת הַבָּאָה מִן הַקִּצְרוֹ, וְאַחַת הַבָּאָה מִן הַזֵּיתִים, וְאַחַת הַבָּאָה מִן הַבְּצִיר, וְאַחַת הַבָּאָה מִמְדִּינָהּ לְמִדִּינָהּ, לֹא דְבָרוּ חֻקִּים בְּקִצְרוֹ אֵלָא בְּהוֹוָה. חֲזוּרֵי בֵּית הַלֵּל לְהוֹרוֹת כְּבֵית שַׁמַּי.

גַּמ' תַּנְיָא, אָמְרוּ לָהֶם בֵּית שַׁמַּי לְבֵית הַלֵּל: לְדַבְרֵיכֶם, אֵינִי לִי אֵלָא קִצְרוֹ חֻשִׁים, קִצְרוֹ שְׁעוֹרִים מִנֵּן? וְאֵינִי לִי אֵלָא קוֹצֵר, בּוֹצֵר, מוֹסֵק, גוֹדֵר, עוֹדֵר, מִנֵּן?

אֵלָא, מַעֲשֵׂה שְׁהִיָּה – בְּקִצְרוֹ, וְהוּא הַדִּין לְכוֹלָהּ, הַכָּא נְמִי, מַעֲשֵׂה שְׁהִיָּה – בְּאוֹתָהּ מִדִּינָהּ, וְהוּא הַדִּין לְכוֹלָהּ.

וּבֵית הַלֵּל: בְּאוֹתָהּ מִדִּינָהּ דְשְׂכִיחֵי אֵינְשֵׁי – מִיִּרְתָּתָא, מִמְדִּינָהּ לְמִדִּינָהּ אַחַת דְלֹא שְׂכִיחֵי אֵינְשֵׁי – לֹא מִיִּרְתָּתָא, וּבֵית שַׁמַּי: הַכָּא נְמִי שְׂכִיחֵי שְׂוִירָתָא.

§ The mishna taught that Rabbi Yehuda says that a wife is never deemed credible when she testifies that her husband died, unless she came crying and her clothing was torn,ⁿ while the Rabbis say she may remarry in any case. **It is taught in a baraita:** The Rabbis said to Rabbi Yehuda: **According to your statement, a crafty woman who knows how to deceive will come with torn clothes crying, and it will be permitted for her to marry.** However, a foolish woman who does not know how to deceive will not be permitted to marry. Is this a fair outcome? **Rather, both this woman and that woman may marry.**

The Gemara relates: There was a certain woman who came to the court of Rabbi Yehuda. The people sitting there said to her: **Lament your husband, tear your clothing, unbind your hair,** so that you have the appearance of a mourner, and the court will believe you. The Gemara asks: **Did they instruct her to lie?** The Gemara answers: **They thought, in accordance with the opinion of the Rabbis,** that it is permitted for her to marry in any case. However, they were concerned that Rabbi Yehuda would rule that she may not remarry if she did not display her grief, in accordance with his opinion. Therefore, **they said that she should do this, so that Rabbi Yehuda would also permit her to marry,** and she would avoid any complications.

MISHNA Beit Hillel say: We heard that one may accept the testimony of a woman concerning the death of her husband **only when she comes from the grain harvest, and when she testified in the same country where he died, and in circumstances similar to the incident that occurred,**ⁿ in which a lenient ruling was issued, as will be explained.

Beit Shammai said to Beit Hillel: The same *halakha* applies to a wife who comes from the grain harvest, and one who comes from the olive harvest, and also one who comes from the grape harvest, and even one who comes from one country to another country. Although the incident in question took place during the grain harvest, the Sages spoke of the grain harvest only because it was the present occurrence, i.e., that is what happened in practice, but this is no proof that she is deemed credible only when she arrived specifically from the grain harvest. The mishna comments: **Beit Hillel retracted their opinion, and decided to teach in accordance with the opinion of Beit Shammai on this issue.**

GEMARA It is taught in a *baraita* that Beit Shammai said to Beit Hillel: **According to your statement** that this *halakha* applies solely in circumstances similar to the incident that occurred, if so, **I have derived only that it applies in the wheat harvest. From where do I derive that the same applies in the barley harvest? And I have derived only that it applies to one who reaps grain. From where do I derive that this *halakha* includes someone who harvests grapes, or harvests olives, or harvests dates, or harvests figs?**

Rather, that incident which occurred during the grain harvest, and the same is true of all these other circumstances. Here too, concerning a woman who comes from another country, and other, similar cases, **the incident that occurred took place in that country, but the same is true of all these other cases.**

And Beit Hillel, how did they respond to this argument? **In that same country, where people are commonly found moving from place to place, she is scared to lie, lest her account be contradicted. However, between one country and another country, where people are not commonly found moving back and forth, she is not scared, and therefore she might be lying when she says he died. And Beit Shammai reason: Here too caravans are found, and if he was alive the truth would eventually be revealed.**

LANGUAGE

At the end [shilfei] – שילפי: Since shilfei means uprooting, some scholars claim that the end of the harvest is called shilfei due to the practice of uprooting the remaining sheaves of the plants in the field after the scythe has been used. This is done either for the sheaves themselves or to prepare the field for plowing. In a broader sense, the word is used in reference to the end of a period of time.

NOTES

They sent messengers who discovered in accordance with her statement – שלחו ומצאו כדבריה: The commentaries ask: Just because the woman was deemed credible in one case, should this be permitted in every instance (Gilyonei HaShas)? They explain that in fact the Sages maintained that in general one may rely upon the testimony of a wife, but they did not want to establish this as the halakha until the matter was clarified in practice. Furthermore, that same case proves another important point, as those people who were present during the grain harvest at that time did not come of their own accord to testify in court. This shows that there is reason to be concerned that the woman might be left a deserted wife if the court does not rely on her testimony, because they are likely to have difficulty finding other witnesses.

The dispute between Beit Shammai and Beit Hillel, etc. – פלוגתא דבית שמאי ובית הלל וכו': Beit Hillel's comment: Similar to the incident that occurred, indicates that the point of dispute between them does not concern any feature of this particular case, as they dispute the general issue of whether it is possible to apply a halakhic ruling given in a specific circumstance to other cases. Ultimately there is a difference between this case and that of the one involving the Jordan River. In that case, in contrast to the testimony of a wife, there was no logical reason to apply the decree specifically to a boat. Instead, the Sages decided to issue a general decree due to that incident. Likewise, in several places, the Sages decreed a prohibition on account of a certain incident.

HALAKHA

The waters of purification and the ashes of purification on the Jordan and in a boat – מי חטאת ואפר חטאת בירדן – ובספינה: One may not transport waters of purification or ashes of purification on a river in a boat. Likewise, one may not float them on the surface of the water, nor stand on one side of the river and throw them to the other side. The halakha is in accordance with the opinion of the Rabbis, who applied this decree to all bodies of water due to an incident that occurred. However, it is permitted to cross the water by foot with the waters of purification and ashes of purification in one's hand (Rambam Sefer Tahara, Hilkhot Para Aduma 10:2).

מאי מעשה שהיה? דאמר רב יהודה אמר שמואל: שילפי קציר חטין היו, והלכו עשרה בני אדם לקצור חטין. נשכו נחש לאחד מהן ומת, ובאת אשתו והודיעה לבית דין, ושלחו ומצאו כדבריה. באותה שעה אמרו: האשה שאמרה "מת בעלי" – תנשא: "מת בעלי" – תתייבם.

נימא רבי חנניא בן עקיבא ורבנן בפלוגתא דבית שמאי ובית הלל קמיפלגי: דתנאי: לא ישא אדם מי חטאת ואפר חטאת ויעבירם בירדן ובספינה.

ולא יעמוד בצד זה ויזרק לצד אחר, ולא ישיטם על פני המים, ולא ירכיבם לא על גבי בהמה ולא על גבי חבור, אלא אם כן היו רגליו נוגעות בקרקע, אבל מעבירם על הגשר, אחד ירדן ואחד שאר נהרות. רבי חנניא בן עקיבא אומר: לא אמרו אלא ירדן, ובספינה, וכמעשה שהיה.

לימא: רבנן דאמרי בבית שמאי, ורבי חנניא בן עקיבא דאמר בבית הלל?

אמרי לך רבנן: אנו דאמרינן אף בבית הלל, עד כאן לא קאמר בית הלל התם אלא משום דמירתת. במקום קרוב – מירתת, במקום רחוק – לא מירתת. הָכָא, מה לי ירדן מה לי שאר נהרות.

רבי חנניא בן עקיבא אמר לך: אָנָּא דאמרי אף לבית שמאי, עד כאן לא קאמרי בית שמאי התם – אלא משום דאיהי דייקא ומינסבא, מה לי מקום קרוב מה לי מקום רחוק. הָכָא, משום מעשה שהיה, בירדן ובספינה דהוה מעשה – גזור רבנן, בשאר נהרות דלא הוה מעשה – לא גזור רבנן.

The Gemara asks: What was this incident that occurred? As Rav Yehuda said that Shmuel said: It was at the end [shilfei]^L of the wheat harvest, and ten people went to harvest wheat. A snake bit one of them and he died, and his wife came and told the court that her husband died. And they sent messengers, who discovered that it happened in accordance with her statement.^N At that time they said: The woman who says: My husband died, may marry on the basis of this testimony. Furthermore, if she says: My husband died without children, and he has a brother, she enters into levirate marriage. This is the case to which Beit Hillel referred.

§ The Gemara analyzes this dispute. Let us say that Rabbi Hananya ben Akiva and the Rabbis, who argued in this case, disagree with regard to the issue that is the subject of the dispute between Beit Shammai and Beit Hillel.^N As it is taught in a baraita: A person may not carry the waters of purification, i.e., the water containing the ashes of the red heifer for the ritual purification of one who became impure through contact with a corpse, and the ashes of purification, of the red heifer, and transport them on the Jordan River. And one may not transfer them across the river in a boat.^H

And one may not stand on one side of the river and throw the ashes to the other side, nor float them upon the water as he crosses, nor ride with them across the river, neither on the back of an animal nor on the back of another person, as this is similar to a boat that passes over the water, unless the legs of the rider were touching the ground. However, one may transport them across the water over a bridge. This prohibition applies to both the Jordan River and all other rivers. Rabbi Hananya ben Akiva says: They said this prohibition only with regard to the Jordan, and transporting in a boat, and in circumstances similar to the incident that occurred, when ritual impurity was found in a boat on the Jordan River.

Let us say that the Rabbis say in accordance with the opinion of Beit Shammai, that when a decree is enacted due to a specific case that occurred, this halakha applies to all similar circumstances. And Rabbi Hananya ben Akiva says in accordance with the opinion of Beit Hillel, that the decree applies only in the exact circumstances as the precedent case.

The Gemara rejects this suggestion. The Rabbis could say to you: We stated our ruling even in accordance with the opinion of Beit Hillel, as there is a difference between the two cases. Beit Hillel state their opinion, that she is not deemed credible when she comes from one country to another, only in that case there, because she is scared. In a nearby place she is scared to give false testimony, as her lie can easily be discovered, whereas in a distant place she is not scared. However, here, concerning the ashes of the red heifer, what difference does it make to me if it is the Jordan River, and what difference does it make to me if it is one of the many other rivers?

Meanwhile, Rabbi Hananya ben Akiva could have said to you: I stated my ruling even in accordance with the opinion of Beit Shammai, as Beit Shammai state their opinion only there, because she herself is exacting in her investigation before she marries again. Since this is the decisive consideration, what difference does it make to me if the place is near, and what difference does it make to me if the place is far? Here, however, the Sages issued their decree due to a specific incident that occurred. And therefore the Sages issued their decree with regard to the Jordan River and in a boat, the circumstances in which the incident occurred. Conversely, the Sages did not issue the decree with regard to other rivers, where the incident did not occur.

מאי מעשה שהיה? דאמר רב יהודה אמר רב: מעשה באדם שהיה מעביר מי חטאת ואפר חטאת בירדן ובספינה, ונמצא באית מן המת תחוב בקרקעית של ספינה. באותה שעה אמרו: לא ישא אדם מי חטאת ואפר חטאת ויעבירם בירדן ובספינה.

The Gemara explains: What is this incident that occurred, involving the ashes of the red heifer? As Rav Yehuda said that Rav said: An incident occurred involving a person who was transporting waters of purification and ashes of purification on the Jordan River, and in a boat, and an olive-bulk of a corpse was found stuck to the bottom of the boat, which rendered the waters and ashes ritually impure. At that time they said: A person may not carry waters of purification and ashes of purification and transport them on the Jordan River, and in a boat. Later Sages dispute whether this decree applies to similar cases, or only to the exact circumstances of this specific incident.

מתני' בית שמאי אומרים: תנשא ותטול כתובתה. בית הלל אומרים: תנשא ולא תטול כתובתה. אמרו להם בית שמאי: התרתם ערוה חמורה, ולא נתיר ממון הקל? אמרו להם בית הלל: מצינו

MISHNA Beit Shammai say: A woman who testifies that her husband died may marry, and take the money guaranteed in her marriage contract. Beit Hillel say: She may marry, but she may not take her marriage contract, as qualified witnesses are required for monetary matters. Beit Shammai said to them: If you have permitted a woman potentially forbidden to him, which is a relatively stringent prohibition, based merely upon her own testimony, will we not permit a monetary matter, which is more lenient, as the money can be returned and this sin does not entail such a severe punishment? Beit Hillel said to them: This is no proof, as we find

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שאין האחין נכנסין לנחלה על פיה.

that the brothers do not come into the inheritance from the deceased brother based on her testimony.^h Evidently, although this testimony is accepted with regard to forbidden sexual relationships, it is not effective for monetary matters.

אמרו להם בית שמאי: והלא מספר כתובה נלמוד, שהוא כותב לה: שאם תנשאי לאחר – תטלי מה שכתוב ליכי. וחרו בית הלל להורות כדברי בית שמאי.

Beit Shammai said to them: But we can learn this halakha from the scroll of the marriage contract, as every husband writes for her that: If you marry another man, take what is written for you in this contract. This shows that her right to receive the money of her marriage contract is dependent upon her eligibility to remarry. In this case, as she is deemed credible when she says her husband died and she may marry again, she is likewise entitled to the money of the marriage contract. And Beit Hillel again retracted^h their opinion, and decided to teach in accordance with the opinion of Beit Shammai.

גמ' אמר רב חסדא: נתייבמה – יבמה נכנס לנחלה על פיה. הם דרשו מדרש כתובה, אנו לא נדרוש מדרש תורה!?

GEMARA Rav Hisda said: If the woman entered into levirate marriage based upon her own testimony, her yavam comes into the inheritanceⁿ of the property of his dead brother based on her testimony.^h He adds: If Beit Shammai taught their halakha that she is entitled to her money, by interpreting homiletically the language of a marriage contract,ⁿ will we not teach by interpreting homiletically the Torah itself?

HALAKHA

The brothers do not come into the inheritance based on her testimony – אין האחין נכנסין לנחלה על פיה – Heirs do not receive their inheritance until clear evidence is brought that the owner of the estate died. In a case where a man was rumored to have died, or if his wife testified to this fact, or if a gentile innocently reported the events, his wife is free to remarry based on this testimony, but the heirs do not inherit his property (Rambam *Sefer Mishpatim, Hilkhot Nahalot* 7:1–2; *Shulhan Arukh, Hoshen Mishpat* 284:2).

Beit Hillel retracted, etc. – חרו בית הלל וכו' – A woman who says her husband died is deemed credible, and she may remarry or enter into levirate marriage based on her testimony. Furthermore, she is entitled to the main sum of her marriage contract, as Beit

Hillel eventually accepted the opinion of Beit Shammai (Rambam *Sefer Mishpatim, Hilkhot Nahalot* 7:1–2 and *Sefer Nashim, Hilkhot Ishut* 16:26; *Shulhan Arukh, Even HaEzer* 17:43).

If she entered into levirate marriage, her yavam comes into the inheritance based on her testimony – נתייבמה, יבמה נכנס – לנחלה על פיה: Although heirs generally do not inherit until clear evidence is brought that the owner of the estate died, if a woman said: My husband died, and entered into levirate marriage, her yavam inherits from his deceased brother based on her testimony, in accordance with the opinion of Rav Hisda (Rambam *Sefer Mishpatim, Hilkhot Nahalot* 7:2; *Shulhan Arukh, Hoshen Mishpat* 284:3).

NOTES

Her yavam comes into the inheritance – יבמה נכנס – לנחלה: The following problem is discussed in the Jerusalem Talmud: When a woman is married based on her own testimony, does the court accept the monetary rights that the marriage contract grants to others? This would include, e.g., the clauses that the daughters are entitled to sustenance and to their dowries from the late husband's assets, and that this woman's sons inherit the money due to her from the marriage contract in addition to their share in the rest of the inheritance.

Interpreting homiletically the marriage contract – דרשו מדרש כתובה: The issue here is whether one may interpret the phrasing of a marriage contract in a manner that leads to halakhic conclusions, despite the fact that it is essentially written in the language of laymen. Some commentaries ask whether the option of interpreting the marriage contract homiletically is espoused solely by Beit Shammai, as indicated here. This would be surprising, as it is stated that Hillel himself would interpret the marriage contract homiletically (*Tosafot*).

Various answers are suggested for this question. Some suggest that Beit Hillel interpret the marriage contract homiletically only when this would impair the wife's rights, not when the interpretation would increase her rights (*Tosefot on Ketubot* 53a). The logic of this claim is that since the husband writes the contract, he presumably means to diminish its application and scope as much as possible. In the Jerusalem Talmud a long list of Sages is cited, all of whom interpret the marriage contract homiletically. Apparently, the reasoning is that since the Sages instituted the basic form of the text, it is legitimate to reach halakhic conclusions from its language, just as one may do from the phrasing of a mishna.