

מאי מעשה שהיה? דאמר רב יהודה אמר רב: מעשה באדם שהיה מעביר מי חטאת ואפר חטאת בירדן ובספינה, ונמצא כזית 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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שאינו 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, Hilkhhot 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, Hilkhhot Nahalot* 7:1–2 and *Sefer Nashim, Hilkhhot 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 – יתייבמה, 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, Hilkhhot 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.

My husband died, permit me to marry – מת בעלי התירוני – להנשא: A wife came to the court and said: My husband died; permit me to marry. If she did not mention the money of her marriage contract, then she is entitled to her marriage contract, provided she swears that she has not yet received her money. However, she is not permitted even to remarry if she says: My husband died; give me my marriage contract. The *halakha* is in accordance with the opinion of Rav Nahman (Rambam *Sefer Nashim, Hilkhhot Ishut* 16:31; *Shulhan Arukh, Even HaEzer* 100:7).

Permit me to marry and give me my marriage contract – מת בעלי התירוני להנשא. ותנו לי כתובתי: If a woman came to court and said: Permit me to marry and give me my marriage contract, she may remarry, and she receives the money from her marriage contract. The reason is that the phrase in the Gemara: If you say, indicates a lenient ruling in this case. However, the Rema, based on the Rosh, maintains that she is prohibited to remarry (Rambam *Sefer Nashim, Hilkhhot Ishut* 16:31; *Shulhan Arukh, Even HaEzer* 100:8, 17:44).

Give me my marriage contract and permit me to marry – תנו לי כתובתי והתירוני להנשא: A woman may remarry if she says to the court: My husband died; give me my marriage contract and permit me to marry. However, she does not receive the money from the marriage contract. If she took the money of her own accord the court does not take it away from her, as is generally the case for monetary matters left unresolved by the Gemara. The Rema, based on the Rosh (see *Beit Yosef* and *Korban Netanel*), maintains that she is not permitted to remarry, as an unresolved issue involving a prohibition is treated stringently (Rambam *Sefer Nashim, Hilkhhot Ishut* 16:21; *Shulhan Arukh, Even HaEzer* 100:8, 17:44).

All are deemed credible to give testimony with regard to his death, apart from her mother-in-law, etc. – הכל נאמנין להעידה חוץ מחמותה וכו': All people may testify that a woman's husband died, except for five women who are presumed to hate her: Her mother-in-law, the daughter of her mother-in-law, her rival wife, the wife of her *yavam*, and her husband's daughter (Rambam *Sefer Nashim, Hilkhhot Geirushin* 12:16; *Shulhan Arukh, Even HaEzer* 17:4).

”יקום על שם אחיו” אמר רחמנא, והרי קם.

אמר רב נחמן: באת לבית דין ואמרה: “מת בעלי, התירוני להנשא” – מתירין אותה להנשא ונותנין לה כתובתה. “תנו לי כתובתי” – אף להנשא אין מתירין אותה. מאי טעמא – אדעתא דכתובה אתאי.

איבעיא להו: “התירוני להנשא, ותנו לי כתובתי”, מהו? כיון דאמרה בכתובה – אדעתא דכתובה אתאי, או דלמא, כל מיילי דאית ליה לאיניש אמר להו לבי דינא? [ואם תמצוי לומר: כל מיילי דאית ליה לאיניש אמר להו לבי דינא]: “תנו לי כתובתי והתירוני להנשא” מהו?

הקא ודאי אדעתא דכתובה אתאי, או דלמא: הואיל דלא ידעה במאי משתריא? תיקו.

מתני' הכל נאמנין להעידה חוץ מחמותה, ובת חמותה, וצרתה, ויבמתה, ובת בעלה.

Rav Hisda explains: **The Merciful One states in the Torah: “He shall succeed in the name of his dead brother”** (Deuteronomy 25:6), which is interpreted by the Sages as referring to the right of inheritance of the brother who consummates the levirate marriage. **And this man did succeed with respect to the marital relationship, as he consummated the levirate marriage based on the testimony of his *yevama* that her husband died. Consequently, he takes the place of his brother with respect to his inheritance as well.**

§ Rav Nahman said: A woman came to the court and said: My husband died; permit me to marry.^h The *halakha* is that after investigating the matter, they permit her to marry, and also give her her marriage contract. However, if she came and said: Give me my marriage contract,ⁿ they do not even permit her to marry. What is the reason? Since she came with the money of the marriage contract in mind, she is suspected of lying, and her testimony is rejected.

However, the following dilemma was raised before the scholars. If she came and said: **Permit me to marry and give me my marriage contract,^h what is the *halakha*?** Since she mentioned the money from her marriage contract, this shows that she came with the marriage contract in mind. Or perhaps every matter a person has in his favor he will say to the court, even if it is not of particular importance. **And if you say that the ruling in this case is in accordance with the principle: Every matterⁿ a person has in his favor he will say to the court,** then in a case where she said: **Give me my marriage contract and permit me to marry,^h what is the *halakha*?**

The Gemara explains the sides of the dilemma: **Here she certainly came with the marriage contract in mind, as she mentioned it first. Or perhaps she said it in this manner since she does not know what will set her free.ⁿ** In other words, she might have thought that taking the money guaranteed by her marriage contract is part of the process that enables her to remarry, but this does not prove that she is focused on the money. The Gemara states that the question shall stand unresolved.

MISHNA All are deemed credible when they come to give testimony with regard to the death of a woman's husband, apart from her mother-in-law,^h the daughter of her mother-in-law, her rival wife, the wife of her *yavam*, and her husband's daughter,ⁿ her stepdaughter. The reason is that these women are likely to hate her and will lie to her detriment.

NOTES

Give me my marriage contract – תנו לי כתובתי: The early commentaries ask: Even if her mind was set on the money, and with regard to monetary claims her testimony isn't sufficient and two qualified witnesses are required, it was stated earlier that there is a difference between monetary claims and testimony that permits her to remarry. Why, then, can she not marry based on her testimony? One answer is that if her mind is set on the money it is possible that her husband didn't die and she doesn't intend to remarry at all. Consequently, she is not concerned about the potential repercussions of her husband's reappearance. For this reason her testimony cannot be relied upon at all.

And if you say, every matter, etc. – ויאם תמצוי לומר כל מיילי וכו' – The halakhic authorities dispute whether or not these dilemmas were resolved by the Gemara. The Rambam accepts the opinion of the *ge'onim*, who hold that whenever the Gemara states: If you say, etc., this indicates that the dilemma in question was resolved in favor of that option. In this case, this principle would mean that it is permitted for her to remarry *ab initio*. However, some claim that the text of the Gemara that the Rosh and others had omits the phrase: If you say (*Beit Yosef*). Others

maintain that the text of the Gemara the Rosh had did not omit that phrase; rather, the Rosh does not accept this principle at all, and therefore he is of the opinion that the two dilemmas, i.e., the one before and the one after the expression: If you say, remain unresolved.

Since she does not know what will set her free – הואיל דלא ידעה במאי משתריא: The Ritva asks: How can it be suggested that a woman might think the money from her marriage contract is necessary for her divorce? He explains that this woman reasons that if she simply requests permission to remarry the court will not find her credible, whereas if she issues a monetary claim they will more readily believe her.

Five women who are not deemed credible – חמש נשים שאין נאמנות: Although the *halakha* says that there is no concern in general that someone who bears hatred against another might testify falsely against him, in this case there is more reason to be suspicious as these witnesses are otherwise disqualified to testify. Alternatively, the women are under suspicion because they have a personal stake in their testimony (Rashash).

Food [*girsena*] – גִּירְסָנָא: Apparently, this word is similar to the Hebrew *geres*, meaning grist, or *geris*, meaning grit, which are all included in the category of food made by crushing [*gerisa*], as crushed legumes and other produce were made into various foodstuffs. Some derive the word from the Latin *gersuma*, meaning fine (*Arukh*).

מה בין גט למיתה – שהכתב מוכיח.

The mishna explains: In the case of a divorce all people, including these women, may bring her bill of divorce and testify that it was written appropriately. **What, then, is the difference between a bill of divorce and death?** The mishna answers: The difference is **that** in the case of a bill of divorce **the writing proves** the accuracy of the testimony, i.e., her testimony is supported by the text of the document itself, whereas with regard to the death of her husband there is no proof apart from the statement of the woman herself.

גמ' איבעיא להו: בת חמיה מהו? טעמא דבת חמותה משום דאיכא אימא דסניא לה – היא נמי סניא לה, והכא ליכא אימא דסניא לה.

GEMARA A dilemma was raised before the scholars: With regard to the daughter of her father-in-law, who is not the daughter of her mother-in-law, what is the *halakha*? May she testify to the death of the woman's husband, or is she also under suspicion? The Gemara explains the sides of the dilemma: **The reason that the daughter of her mother-in-law is suspected of lying is because she has a mother who hates her daughter-in-law, and therefore the daughter also hates her. But here, there is no mother who hates her, as she is not the mother-in-law's daughter, and therefore she should be deemed credible.**

או דלמא: טעמא דבת חמותה – דאמרה "קאכלה לגירסנא דאימא", הכא נמי קאמרה "קאכלה לגירסנא דבי נשאי"? קאמרה

Or perhaps the reason that the daughter of her mother-in-law hates her is that she says: She eats the food [*girsena*]¹ that my mother prepares. Here too, in the case of the daughter of her father-in-law, she also says: She eats the food of my father's house.

תא שמע: הכל נאמנין להעידה, חוץ מחמש נשים, ואם איתא – שית הויין! דלמא טעמא דבת חמותה, דאמרה קאכלה לגירסנא דבי נשאי – לא שניא בת חמותה ולא שניא בת חמיה.

The Gemara suggests: Come and hear a resolution from the following *baraita*: All are deemed credible when they come to testify with regard to her except for five women. And if it is so, that the daughter of her father-in-law is also disqualified, there are actually six women. The Gemara rejects this: This is no proof, as perhaps the reason that the daughter of her mother-in-law is disqualified from testifying is that she says: She eats the food of my father's house, and if so, the *halakha* is no different with regard to her mother-in-law's daughter and no different with regard to her father-in-law's daughter. Since the two women are disqualified for the same reason the Sages did not list these as two separate cases.

והאנן תנן חוץ משבע נשים! הרי רבי יהודה היא. דתנן: רבי יהודה מוסקיף אף אשת אב והכלה.

The Gemara raises a contradiction from another source. But isn't it taught in a *baraita*: Apart from seven women who are not trustworthy. Apparently that *tanna* added the daughter of her father-in-law as a separate category. The Gemara answers: That ruling is in accordance with the opinion of Rabbi Yehuda.^N As it was taught in a *baraita*: Rabbi Yehuda adds also a father's wife, who hates her stepdaughter, and a daughter-in-law, who hates her mother-in-law.

אמרו לו: אשת אב – הרי היא בכלל בת הבעל בלה – הרי בכלל חמותה.

The Rabbis said to Rabbi Yehuda: A father's wife is included in the category of the husband's daughter, while a daughter-in-law is included in the category of her mother-in-law. In other words, just as a mother-in-law is suspicious of her daughter-in-law, a daughter-in-law is equally suspicious of her mother-in-law, and they need not be listed separately.

ורבי יהודה: בשלמא חמותה סניא לה לבלה – דאמרה "קאכלה לגירסני", אלא בלה מאי טעמא סניא לחמותה? בשלמא בת הבעל דסניא לאשת האב – דאמרה "קאכלה לגירסני דאם", אלא אשת האב מאי טעמא סניא לבת הבעל?

And Rabbi Yehuda, who counts them separately, can answer: Granted that her mother-in-law hates the daughter-in-law, as she says: She eats the food I prepare; but a daughter-in-law, what is the reason that she hates her mother-in-law? Similarly, granted the husband's daughter, that she hates her father's wife, as she says: This woman eats the food that my mother prepared. However, the father's wife, what is the reason that she hates her husband's daughter?

NOTES

The Rabbis and Rabbi Yehuda – רבנן ורבי יהודה: Apparently, there is no practical halakhic difference between these two opinions, as they disagree merely about the reason for the ruling. Nevertheless, some commentaries suggest that there may be a practical difference between their opinions. For example, Rabbi Yehuda maintains that the wife of a husband's brother has no reason to

hate her and is therefore allowed to testify, whereas according to the opinion of the Rabbis she may not testify. Others accept this basic explanation, but claim the opposite: According to the opinion of the Rabbis she is deemed credible, while Rabbi Yehuda says that she is not deemed credible (Meiri).

BACKGROUND

The West – מערבא: In the Babylonian Talmud, Eretz Yisrael is called the West, as it is southwest of Babylonia. Later, the customs in Eretz Yisrael were referred to as western ones, as opposed to the eastern customs of Babylonia.

אלא מאי מוסיף תרתי? אלא בלה מאי טעמא סניא לחמותה – דמגלה לבנה כל דעבדה. אישת אב נמי סניא לבת הבעל דמגלה לאביה כל דעבדה.

The Gemara asks: **Rather, what is the reason that Rabbi Yehuda adds these two? Rather, his logic is: In the case of a daughter-in-law, what is the reason that she hates her mother-in-law? Because she reveals to her son everything his wife does. And likewise a father's wife also hates the husband's daughter, because she reveals to her father everything she does.** In each case the reason for this hatred is different from the reason for the hatred of the other woman, the mother-in-law or the husband's daughter, and therefore they belong in a separate category.

ורבנן: "כמיים הפנים לפנים בן יב האדם לאדם" ורבי יהודה: ההיא בדברי תורה כתיב.

And the Rabbis, who say that the reasons for the hatred are the same and therefore count only five disqualified women, how do they respond to this argument? They cite the verse: "As in water face answers to face, so the heart of man to man" (Proverbs 27:19). That is, if one person hates another, the feeling soon becomes mutual. Here too, there is no need for a separate reason in order that the hatred be reciprocated. The Gemara asks: **And Rabbi Yehuda, why doesn't he rely on this verse?** Rabbi Yehuda would retort: **That verse was written about matters of Torah.** In other words, it means that the more one studies Torah, the more Torah he understands.

אמר רב אחא בר עויא, בעי במערבא: חמותה הבאה לאחר מיכן, מהו? מי מסקה אדעתה דמית בעל ונפלה קמי יבם, וסניא לה, או לא?

§ Rav Aḥa bar Avya says: **They raise a dilemma in the West,**^{BN} i.e., Eretz Yisrael. With regard to **her mother-in-law who comes afterward,**^{NH} **what is the halakha?** This refers to the mother of the husband's brother, but not her husband's mother, i.e., the wife's future mother-in-law if the wife enters into levirate marriage. Can this woman testify with regard to the future wife of her son? The Gemara clarifies: **Does it enter her mind that if this woman's husband died, the widow will happen before the yavam, her son, for levirate marriage, and as the widow, when she then married her son, would eat her food she hates her already, or not?**

NOTES

They raise a dilemma in the West – בעי במערבא: Another question was asked in Eretz Yisrael, in the Jerusalem Talmud: Does this concern about lying apply only to women, or are the corresponding close male relatives also under the same suspicion? The Gemara there concludes that the concern is referring exclusively to women (see *Shiltei HaGibborim*).

לאחר מיכן: Some commentaries explain, unlike Rashi, that this is referring to a woman who testifies with regard to the death of the husband of her future mother-in-law, i.e., the mother of her husband's brother (Rabbeinu Ḥananel). The question is whether there is a concern that the potential daughter-in-law is thinking of the possibility that she will enter into levirate marriage with this woman's son, and therefore she is seeking to cause her harm.

Her mother-in-law who comes afterward – חמותה הבאה

HALAKHA

Her mother-in-law who comes afterward – חמותה הבאה: לאחר מיכן: Not only is a woman's mother-in-law not deemed credible to testify on her behalf, but the same applies to a future mother-in-law, e.g., the mother of the man who will consummate the levirate marriage with her (Rema, citing

Rosh and Rabbeinu Yeruḥam). *Beit Shmuel* explains that since the Rambam and the Rif do not accept this ruling, in places where levirate marriage is not performed one may rely upon this opinion (*Shulḥan Arukh, Even HaEzer* 17:4, and in the comment of Rema).

תא שִׁמְעוּ: אָמְרָה "מֵת בְּעָלֵי וְאַחַר כֵּךְ מֵת חָמִי" – תִּנְשֵׂא וְתִטּוֹל כְּתוּבָהּ, וְחִמּוּתָהּ אֶסוּרָה. מֵאֵי טַעְמָא חִמּוּתָהּ אֶסוּרָה, לֹא מִשּׁוּם דְּאִמְרִינָן: לֹא בְּעָלָה מֵיִת וְלֹא חִמְיָה מֵיִת, וְהֵא דְקָאֲמְרָה הֵכִי – לְקַלּוּלָא לְחִמּוּתָהּ הוּא דְקָמִיכּוּנָא.

סְבָרָה: לְבַתֵּר שְׁעָתָא לָא תִיֵּיתִי תַצְטַעְרֵן.

דְּלִמָּא שְׂאֵינִי הָתָם, דְּרָגִישׁ לָהּ צַעְרָא.

מתני' עד אומר: "מת", ונשאת, ובא אחר ואמר: "לא מת" – הרי זו לא תצא. עד אומר: "מת", ושנים אומרים: "לא מת", אף על פי שנשאת – תצא. שנים אומרים: "מת" ועד אומר: "לא מת", אף על פי שלא נשאת – תנשא.

גמ' טעמא – דנשאת, הא לא נשאת – לא תנשא, והאמר עולא: כל מקום שהאמינה תורה עד אחד – הרי באן שנים, ואין דבריו של אחד במקום שנים!

Come and hear a resolution to this dilemma. If she said: My husband died and afterward my father-in-law died, she may marry and take her money from the marriage contract, and her mother-in-law is prohibited to remarry; she is not deemed credible to testify for her mother-in-law, as already stated. The Gemara clarifies: What is the reason that her mother-in-law is prohibited to remarry? Is it not because we say: Perhaps her husband did not really die, and she is still her mother-in-law, and her father-in-law did not die either, and the reason that she says this statement is that she intends to ruin her mother-in-law?

The Gemara elaborates. She reasons: Later, when the husbands arrive, she will not come back and trouble me, because if the mother-in-law relies on this testimony and remarries she will no longer be able to return to her original husband, and she will be out of her daughter-in-law's life. This shows that there is a concern that a daughter-in-law might lie in order to prevent future family relationships from coming into being. Similarly, a woman should be suspected of lying with regard to her future daughter-in-law.

The Gemara rejects this suggestion. Perhaps it is different there, as the daughter-in-law has already felt oppressed by herⁿ mother-in-law. In other words, she is suspected of lying because she had previous dealings with that woman, whereas in the case of a future mother-in-law, with whom she had no previous dealings, there is no such concern. Consequently, the dilemma cannot be resolved from this case.

MISHNA If one witness says: The man died,^h and the wife married based on this testimony, and one other witness came and said: He did not die, she need not leave her new husband due to this testimony. However, if one witness comes and says: The husband died, and two witnesses say: He did not die,^h then even though she married based on the first witness she must leave her new husband. If two witnesses say: He died, and one witness says: He did not die, the testimony of the two witnesses is accepted, and even though she did not yet marry, she may marry.

GEMARA The Gemara infers: The reason in the case of one witness contradicted by another witness is that she already married;ⁿ however, if she did not yet marry and a second witness comes in the meantime and contradicts the statement of the first one, she may not marry. The Gemara asks: But didn't Ulla say: Wherever you find that the Torah relies on one witness, his testimony is considered complete proof, as though there are two witnesses present here? If so, the witness who comes and testifies to the opposite is only one witness, and the statement of one witness has no standing in a place where it is contradicted by two witnesses. Why, then, may she not remarry, even *ab initio*?

HALAKHA

A witness says he died, etc. – עד אומר מת וכו' – If one witness came and testified that a woman's husband died, and the court ruled that she is permitted to marry based on this testimony, and afterward another witness came and said he did not die, she remains permitted to marry. One commentary maintains that she should not marry in practice, as negative rumors would spread about her (Rema), but others claim that this is merely a good piece of advice, not a halakhic ruling (*Helkak Mehokek*, citing Rosh). Conversely, some contend (*Beit Shmuel*, citing *Tosafot*) that this is a full-fledged prohibition, although if she married

she need not leave her husband (Rambam *Sefer Nashim, Hilkhot Geirusushin* 12:5; *Shulhan Arukh, Even HaEzer* 17:37).

One witness says he died and two say he did not die – עד אומר מת ושנים אומרים לא מת – If one witness testified that the husband died, and afterward two witnesses came and said that he did not die, the woman may not remarry, and even if she married based on the initial testimony, she must leave her new husband (Rambam *Sefer Nashim, Hilkhot Geirusushin* 12:5; *Shulhan Arukh, Even HaEzer* 17:37).

NOTES

Felt oppressed by her – רָגִישׁ לָהּ צַעְרָא – Some commentaries explain that this is not referring to pain the daughter-in-law suffered in the past. Rather, it means that as it is common for people to return from overseas, she anticipates the upcoming pain she will have to suffer from her mother-in-law and therefore seeks her speedy ruin. Consequently, she is untrustworthy (Razah; Ritva).

The reason is that she married – טַעְמָא דְנִשְׂאָת – The commentaries dispute whether or not the permission granted here is absolute, which is apparently the opinion of the Rambam. In the Jerusalem Talmud it is stated that she should not remarry *ab initio*, but if she did so she need not leave her new husband.

In a case of people disqualified from giving testimony, etc. – בפסולי עדות וכו' – Some commentaries maintain that according to the plain meaning, the mishna is referring to qualified witnesses. However, as that case provides no novel *halakha*, the Gemara interprets the mishna in a more inclusive form, as referring to disqualified witnesses, in accordance with the opinion of Rabbi Neḥemya (Meiri).

Where a woman came initially – דאֲתַאי אִשָּׁה מֵעֵקְרָא – The early commentaries discuss the following case: The woman herself initially testified that her husband died, and afterward a qualified witness came and denied her statement. Is this witness also considered like two witnesses, or does that principle apply only to disqualified witnesses against disqualified witnesses? Other commentaries discuss whether gentile witnesses who innocently describe events are also treated as qualified witnesses in this regard.

Two say he died – שְׁנַיִם אוֹמְרִים מֵת – The Jerusalem Talmud cites the opinion of Rav, who says that the court should not doubt the testimony of two witnesses at all, even if one or both of them later changes his mind. However, the Gemara there is ultimately uncertain whether this opinion is the accepted *halakha*.

הָכִי קָאָמַר: עַד אֶחָד אוֹמֵר: "מֵת", וְהַתְּיוּבָה לְהַנְשֵׂא, וּבֵא אֶחָד וְאָמַר: "לֹא מֵת" – לֹא תֵצֵא מִהֵיתִיבָה הָרֵאשׁוֹן.

"עַד אוֹמֵר: מֵת". פְּשִׁטָּא, דְּאִין דְּבָרֵי שֶׁל אֶחָד בְּמָקוֹם שְׁנַיִם! לֹא צְרִיכָא, בְּפִסּוּלֵי עֵדוּת, וּבְדַרְבֵּי נַחְמִיָּה.

דְּתַנְיָא, רַבִּי נַחְמִיָּה אוֹמֵר: כָּל מְקוֹם שֶׁהָאֱמִינָה תוֹרָה עַד אֶחָד – הֵלֵךְ אַחֵר רֹב דְּעוֹת, וְעָשׂוּ שְׁתֵּי נָשִׁים בְּאִישׁ אֶחָד בְּשְׁנֵי אֲנָשִׁים בְּאִישׁ אֶחָד.

וְאִיבְעִית אֵימָא: כָּל הֵיכָא דְאֲתָא עַד אֶחָד בְּשֵׁר מֵעֵקְרָא – אֶפִּילוּ מֵאָה נָשִׁים כְּעַד אֶחָד דְּמִינִין. אֲלֵא כְּגוֹן דְּאֲתַאי אִשָּׁה מֵעֵקְרָא,

וְתַרְצָה לְדַרְבֵּי נַחְמִיָּה הָכִי: רַבִּי נַחְמִיָּה אוֹמֵר, כָּל מְקוֹם שֶׁהָאֱמִינָה תוֹרָה עַד אֶחָד – הֵלֵךְ אַחֵר רֹב דְּעוֹת, וְעָשׂוּ שְׁתֵּי נָשִׁים בְּאִשָּׁה אֶחָת בְּשְׁנֵי אֲנָשִׁים בְּאִישׁ אֶחָד, אֲבָל שְׁתֵּי נָשִׁים בְּאִישׁ אֶחָד – כְּפִלְגָּא וּפְלִגָּא דְּמִי.

"שְׁנַיִם אוֹמְרִים: מֵת" וְכו' מֵאִי קִמְשָׁמַע לָן, בְּפִסּוּלֵי עֵדוּת וּבְדַרְבֵּי נַחְמִיָּה, דְּאִיִּל בְּתַר רֹב דְּעוֹת – הֵינּוּ הָךְ!

The Gemara answers that **this is what the mishna said: If one witness says: He died, and they permitted her to marry based on his testimony, and one other witness later came and said: He did not die, she does not leave her initial, permitted state, i.e., the permission she was granted to remarry is still in force, and she may marry *ab initio*.**

§ The mishna taught that if one witness says: **He died**, and two come and say: He did not die, she must leave her new husband. The Gemara asks: **This is obvious, as the statement of one witness has no standing in a place where it is contradicted by two witnesses.** The Gemara answers: **No, it is necessary in a case of people disqualified from giving testimony.^{NH}** In other words, the mishna is referring to two people who are generally disqualified from serving as witnesses. In the case of a missing husband, however, their testimony is accepted in contradiction of the first, qualified, witness. **And this is in accordance with the opinion of Rabbi Neḥemya.**

As it is taught in a *baraita* that Rabbi Neḥemya says: **Wherever you find that the Torah relies on one witness, follow the majority of opinions, even if they are disqualified. And the Sages established the testimony of two women against one man in this case like the testimony of two men against one man, i.e., the testimony of the two witnesses negates the earlier testimony of a single witness.** The mishna is teaching that even if the first witness was qualified to give testimony, his account is negated by the statements of the two disqualified witnesses who contradicted him.

And if you wish, say: **Anywhere that a qualified witness came initially and testified that he died, even if one hundred women came and contradicted his account, they are considered like one witness, and cannot negate his testimony. However, here it is speaking of a case where a woman came initially^N and they relied on her testimony to release the wife, and afterward two other women came and contradicted her.**

The Gemara explains: **And you can explain the ruling in accordance with the opinion of Rabbi Neḥemya as follows: Rabbi Neḥemya says: Wherever you find that the Torah relies on one witness, e.g., in testimony concerning a woman's missing husband, follow the majority of opinions, and they established two women against one woman like two men against one man. However, in a case involving two women against one man, the latter of whom is a qualified witness, this is like half against half, i.e., they are equal.** The testimony of two women has no advantage over that of one male witness, who is considered like two witnesses in testimony concerning a missing husband.

§ The mishna taught: **If two witnesses say: He died,^{NH} and one witness says: He did not die, even if she did not yet marry, she may marry.** The Gemara asks: **What is the mishna teaching us? If you say it is referring to people disqualified from giving testimony, and this is in accordance with the opinion of Rabbi Neḥemya, who follows the majority of opinions, then this case is identical to that previous case.**

HALAKHA

In a case of people disqualified from giving testimony – בפסולי עדות – The *halakha* states that the testimony of one witness who says a husband died is negated by the testimony of two witnesses who say he did not die. However, this applies only when all the witnesses are of the same status, e.g., if all three witnesses were qualified or all three were otherwise disqualified. Conversely, if a qualified witness came and testified that he died, and two disqualified witnesses came and testified that he did not die, the testimony on each side is considered of equal weight, in accordance with the final version of Rabbi Neḥemya's opinion. The *Tur*, based on Rashi, holds that this is the case only when all the witnesses came together, but if one qualified witness came first, and the court permitted her to marry on the basis of his testimony, and afterward two disqualified witnesses came

and contradicted his testimony, she retains her permitted status (Rambam *Sefer Nashim, Hilkhot Geirushin* 12:20; *Shulḥan Arukh, Even HaEzer* 17:37).

Two say he died, etc. – שְׁנַיִם אוֹמְרִים מֵת וְכו' – If two witnesses testify that a man died and one says he did not die, his wife may remarry. This *halakha* applies whether the witnesses were qualified or disqualified. The difference between the case of qualified and disqualified witnesses is that in the case of disqualified witnesses the court always follows the majority opinion. For example, if ten women say he did not die and eleven say he died, it is permitted for her to remarry, in accordance with the opinion of Rabbi Neḥemya (Rambam *Sefer Nashim, Hilkhot Geirushin* 12:23; *Shulḥan Arukh, Even HaEzer* 17:40).

One says he died and the other one says he did not die – **אחת אומרת מת ואחת אומרת לא מת**: If two rival wives come to court, and one testifies that the husband died and the other testifies that he did not die, the one who testified that he died may remarry, as the testimony of her rival wife is entirely discounted with regard to her. The *halakha* is in accordance both with the unattributed opinion of the mishna, as stated by Rabbi Yoḥanan, and with the majority opinion, as maintained by Rabbi Elazar (Rambam *Sefer Nashim, Hilkhot Geirushin* 12:24; *Shulḥan Arukh, Even HaEzer* 17:43).

Did he die or was he killed – **מת או נהרג**: If one wife says the husband died naturally and her rival wife says he was killed, it is permitted for both of them to remarry. The *halakha* is in accordance with the opinion shared by Rabbi Yehuda and Rabbi Shimon, not that of Rabbi Meir (Rambam *Sefer Nashim, Hilkhot Geirushin* 12:24; *Shulḥan Arukh, Even HaEzer* 17:9, 47).

מהו דתימא: כי אילינן בְּתַר רוב דעות לחומרא, אבל לקולא לא, קא משמע לן.

The Gemara answers. This case is also necessary, lest you say that when we follow the majority of opinions, this is only when it leads to a stringency, but when this principle would lead to a leniency, to permit her to marry based on the majority of opinions, we do not follow the majority opinion. Therefore, the mishna teaches us that there is no difference in this regard, as the majority of opinions is accepted whether this leads to a lenient or a stringent outcome.

מתני' אחת אומרת: "מת", ואחת אומרת: "לא מת", זו שאומרת: "מת" – תנשא, ותטול כתובתה. וזו שאומרת: "לא מת" – לא תנשא ולא תטול כתובתה.

MISHNA If two women who were married to the same man come forward, and one of them says that the husband died, and the other one says he did not die,^H the one who says he died may marry on the basis of her own testimony, and she takes the money of her marriage contract. And the one who said he did not die may not marry, and does not take the money of her marriage contract.

אחת אומרת: "מת" ואחת אומרת: "נהרג", רבי מאיר אומר: הואיל ומכחישות זו את זו – הרי אלו לא ינשא. רבי יהודה ורבי שמעון אומרים: הואיל וזו וזו מודות שאין קיים – ינשא. עד אומר: "מת" ועד אומר: "לא מת",

If one wife says: He died in a normal manner, and the other one says: He was killed,^{NH} Rabbi Meir says: Since they contradict one another, these women may not marry. Rabbi Yehuda and Rabbi Shimon say: Since they both agree that he is not alive they may marry, despite the fact that they dispute the circumstances of his demise. If a witness says: He died, and a witness says: He did not die,

NOTES

אחת אומרת מת – **אחת אומרת מת**: Some commentaries maintain that the dispute between Rabbi Meir and Rabbi Yehuda is based on a fundamental question: Is the credibility of one witness in the case of a missing husband like that of any other witness's testimony, or is his credibility a special decree by Torah law? If the testimony of one witness in this case is basically considered like that of any other witness, then when the two witnesses contradict each other with regard to the details

their testimony should be rejected, notwithstanding the fact that they both testify that the man is dead (*Mei Naftoah*). However, if a witness with regard to the death of a husband is deemed credible by a special decree of the Torah, then it does not matter that the two witnesses here dispute the circumstances of his demise. In fact the Jerusalem Talmud discusses whether these two conflicting accounts should be considered a single, self-contradictory testimony.

She was silent – **הא אישתיקא**: If one of two rival wives testifies that their husband died, while the other wife remains silent, the first wife may remarry on the basis of her own testimony. Her rival wife remains prohibited to remarry, as one rival wife may not testify on behalf of another (*Shulḥan Arukh, Even HaEzer* 17:45).

Perek XV
Daf 118 Amud a

אשה אומרת: "מת", ואשה אומרת: "לא מת" – הרי זו לא תנשא.

or one woman says: He died, and another woman says: He did not die, this woman may not marry.

גמ' טעמא דאמרה: "לא מת", היא אישתיקא – תנשא. היא אין צרה מעידה לחברתה!

GEMARA The mishna taught that if one rival wife says their husband died, while the second maintains that he did not die, the one who says he did not die may not remarry. The Gemara infers: The reason is that the second rival wife said explicitly: He did not die, from which it may be inferred that if she was silent^H and said nothing, she is permitted to marry based on the testimony of the first. However, this conclusion is problematic, as there is a principle that one rival wife may not testify on behalf of another, and if so, how can she rely on the testimony of her rival wife?