

A ג"ד

Intro

Today we will learn בע"ה of בבא קמא דף ע"ד
Some of the topics we will learn about include.

Halachah of רבא
עדים שהוכחו ולבסוף הוזמו
נהרגין

If two witnesses testified in Bais Din that someone killed a person, and he was sentenced to מיתה;

A second set of עדים were then מכחיש, contradicted, the first set, and testified that the person did not kill anyone; Afterward, a third set of עדים testified that the first עדים were זוממין;

Rava rules that the first עדים are חייב מיתה through the הומה. Their עדות is not considered בטל, disqualified, through the earlier הכחשה, because דהכחשה תחילת הזמה היא
The הומה is considered the beginning of the הכחשה process.

יוצא בשן ועין
וראשי אברים שאינן חוזרים

An עבד becomes free if his owner removes his tooth, blinds his eye, or inflicts permanent damage to the end of his limb.

B

In a case of
סימא את עין עבדו
והפיל את שינו

If two עדים testified that someone first blinded his עבד עבד, and then also removed his tooth, the עבד becomes free for the eye, and the owner pays the עבד for his tooth.

And in the case of
הפיל את שן עבדו
וסימא את עינו

If the עדים testified vice versa, that he first removed the עבד's tooth, and then the eye, the עבד becomes free because of the tooth, and the owner pays the עבד for his eye.

A

נבא
עדים שהוכחו
ולבסוף הוזמו
נהרגין

הכחשה
תחילת הזמה
היא

יוצא בשן ועין
וראשי אברים
שאינן חוזרים

B

סימא את עין עבדו
והפיל את שינו

הפיל את שן עבדו
וסימא את עינו

1 So let's review ...

The Sugya of היא הזמה תחילת הזמה begins in the previous Daf.

אמר רבא
עדים שהוכחו ולבסוף הזמה
נהרגין

If two witnesses testified in Bais Din that someone killed a person, and he was sentenced to מיתה;
Then, a second set of עדים were מכחישי, contradicted, the first set, and testified that the person did not kill anyone;
Afterward, a third set of עדים testified that the first עדים were זוממין;

Rava rules that the first עדים are חייב מיתה through the הזמה. Their עדות is not considered בטל, disqualified, through the earlier הכחשה, because

דהכחשה תחילת הזמה היא
The הכחשה is considered the beginning of the הזמה process.

1

אמר רבא
עדים שהוכחו ולבסוף הזמה
נהרגין

①	②	③
Two witnesses testified that someone killed a person, and he was sentenced to מיתה	A second set of מכחישי עדים were the first set, and testified that the person did not kill anyone;	A third set of עדים then testified that the first עדים were זוממין

The first עדים are חייב מיתה through the הזמה. Their עדות is not considered בטל through the earlier הכחשה, because

דהכחשה תחילת הזמה היא
The הכחשה is considered the beginning of the הזמה process.

2 רבא seeks to support this Halachah from the following Braisa:

The רישה states:
מעידנו באיש פלוני
שסימא את עין עבדו והפיל את שינו
שהרי הרב אומר כן ונמצאו זוממין

If two עדים testified that someone first blinded his עבד עבד, and then also removed his tooth; in which the עבד becomes free for the עין, the eye, and the owner pays the עבד the smaller sum of his tooth;

And then the עדים became זוממין;
משלמין דמי עין לעבד

The עדים must pay the עבד the value of his eye - actually, the difference between the higher value of the eye and the lower value of the tooth - for the loss they wanted to cause him.

2

בריתא:
רבא
מעידנו באיש פלוני
שסימא את עין עבדו והפיל את שינו
שהרי הרב אומר כן ונמצאו זוממין

עבד כנעני testified that someone blinded his עבד, and then later removed his tooth; in which the עבד becomes free for the עין, the eye and the owner pays the עבד the smaller sum of his tooth;

And then the עדים became זוממין;

משלמין דמי עין לעבד

The עדים must pay the עבד the value of his eye - actually, the difference between the higher value of the eye and the lower value of the tooth - for the loss they wanted to cause him.

3 And the סיפא states;
 מעידנו את איש פלוני
 שהפיל את שן עבדו וסימא את עינו
 שהרי העבד אומר כן ונמצאו זוממין
 If the עדים testified vice versa, that he first removed the
 עבד's tooth, and then the eye; in which the עבד becomes
 free because of שן, the tooth, and the owner pays the עבד
 the larger sum of his eye;
 And then the עדים became זוממין דמי עין לרב
 משלמין דמי עין לרב
 The עדים must pay the owner the higher value of the עבד's
 eye, for the loss they attempted to cause him

The Gemara asks that the Mishnah certainly cannot mean that there was no other עדים who testified about this incident, because

דמי כוליה עבד לרב בעי לשלומי

In both the רישא and סיפא the עדים should pay the owner the value of the entire עבד, which is the loss the attempted to cause him by having to set the עבד free based on their false testimony?

3 *סיפא*
**מעידנו את איש פלוני
 שהפיל את שן עבדו וסימא את עינו
 שהרי העבד אומר כן ונמצאו זוממין**
*If the עדים testified vice versa,
 that he first removed the עבד's tooth, and then the eye
 in which the עבד becomes free because of שן, the tooth,
 and the owner pays the עבד the larger sum of his eye;*
**זוממין דמי עין לרב
 משלמין דמי עין לרב**
*The עדים must pay the owner the higher value of the עבד's
 eye, for the loss they attempted to cause him*

?

The Gemara asks. . .

*The Mishnah certainly cannot mean that there was
 no other עדים who testified about this incident, because*

דמי כוליה עבד לרב בעי לשלומי

*In both the רישא and סיפא the עדים should pay the owner
 the value of the entire עבד,
 which is the loss the attempted to cause him by having to
 set the עבד free based on their false testimony?*

4 Therefore, רבא explains בשלש כיתות
 The Braisa refers to three sets of עדים:
 And in the רישא, it was as follows:

1.
 At first
 אתו בי תרי ואמרי הפיל את שינו סימא את עינו
 One set of עדים testified that he first removed the tooth and then the eye;
 דבעי מיתבי ליה הרב דמי עינו
 The עבד becomes free for the tooth, and the owner must pay the עבד the larger sum of his eye.
2.
 Then
 ואתו בי תרי מציעאי ואמרי עינו והדר שינו
 A second set of עדים testified vice versa, first the eye, and then the tooth; and
 שהרי הרב אומר כן
 דלא בעי למיתב ליה אלא דמי שינו
 The owner pays only the smaller sum of the tooth, which benefits the owner.
3.
 Afterward
 ונמצאו זוממין
 A third set of עדים testified that the SECOND set were עדים זוממין.
 In this case;
 משלמין דמי עין לעבד
 The second עדים must pay the עבד the larger sum of his eye which he would have lost through their עדות.

And as the Gemara concludes;
 In the רישא there is no proof for הזמה even though the second עדים were contradicted by the first עדים before they became זוממין through the third עדים, because מציעאי לא מתכחשי מידי
 דיש בכלל מאתים מנה
 This is not considered a הכחשה, because the smaller sum of עין דמי in the second עדות is included in the larger sum of עין דמי in the first עדות, and the first עדים agree that he is obligated, at least, the smaller sum of עין דמי; and that would be the Psak of Beis Din at this point.

4


 רבא explains
בשלש כיתות
 The Braisa refers to three sets of עדים

<p>3 ונמצאו זוממין A third set of עדים testified that the SECOND set were עדים זוממין. משלמין דמי עין לעבד The second עדים must pay the עבד the larger sum of his eye which he would have lost through their עדות.</p>	<p>2 ואתו בי תרי מציעאי ואמרי עינו והדר שינו A second set of עדים testified vice versa, first the eye, and then the tooth; and שהרי הרב אומר כן דלא בעי למיתב ליה אלא דמי שינו The owner pays only the smaller sum of the tooth, which benefits the owner.</p>	<p>1 אתו בי תרי ואמרי הפיל את שינו סימא את עינו One set of עדים testified that he first removed the tooth and then the eye; דבעי מיתבי ליה הרב דמי עינו The עבד becomes free for the tooth, and the owner must pay the עבד the larger sum of his eye.</p>
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There is no proof for הכחשה תחילת הזמה even though the second עדים were contradicted by the first עדים before they became זוממין through the third עדים, because


מציעאי לא מתכחשי מידי דיש בכלל מאתים מנה

5 However, in the סיפא, which is also a case of שלש כיתות, there is proof for הכחשה תחילת הזמה

1.
At first
אתו בי תרי ואמרי
הפיל את שינו וסימא עינו
שהרי העבד אומר כן
One set of עדים testified, that it was the tooth first, and then the eye, and Bais Din ruled that the owner must pay the larger sum of his eye, which benefits the עבד. Then אתו בי תרי אחריני ואמרי
סימא את עינו והפיל את שינו
A second set of עדים testified vice versa, first the eye, and then the tooth;
דקא מכחשי להו להני קמאי
In this case, the first עדות for the larger sum of דמי עין were contradicted by the second עדות for the smaller sum of דמי עין, because they do not agree with the first set, and the Psak would be lower like the second עדות.
Afterward
ונמצאו זוממין
A third set of עדים testified that the FIRST set were עדים זוממין;
קמאי משלמין דמי עין לרב
The first עדים must pay the owner for the eye that he would have paid through their עדות.

And even though
הא אתכחשו להו מעיקרא
The first עדים were contradicted by the second עדים, before they became זוממין through the third עדים, and nevertheless they pay?
It must be
שמע מינה
הכחשה תחילת הזמה היא

5



However, in the סיפא, which is also a case of שלש כיתות, there is proof for
הכחשה תחילת הזמה

<p>3</p> <p>ונמצאו זוממין</p> <p>A third set of עדים testified that the first set were עדים זוממין; קמאי משלמין דמי עין לרב</p> <p>The first עדים must pay the owner for the eye that he would have paid through their עדות.</p>	<p>2</p> <p>אתו כי תרי אחריני ואמרי סימא את עינו והפיל את שינו</p> <p>A second set of עדים testified vice versa, first the eye, and then the tooth; דקא מכחשי להו להני קמאי</p> <p>In this case, the first עדות for the larger sum of דמי עין were contradicted by the second עדות for the smaller sum of דמי עין, and the Psak would be lower like the second עדות.</p>	<p>1</p> <p>אתו בי תרי ואמרי הפיל את שינו וסימא עינו שהרי העבד אומר כן</p> <p>עדים testify that it was the tooth first, and then the eye, and Bais Din ruled that the owner must pay the larger sum of his eye, which benefits the עבד.</p>
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And even though
הא אתכחשו להו מעיקרא
The first עדים were contradicted by the second עדים, before they became זוממין through the third עדים, and nevertheless they pay?
It must be
שמע מינה
הכחשה תחילת הזמה היא

6 **אבי** disagrees and says there is no proof. Perhaps, the Braisa holds
 הכחשה לאו תחילת הזמה היא
 And therefore
 עדים שהוכחשו ולבסוף הזמו
 אין נהרגין

And the **סיפא** does not refer to שלש כיתות, three sets of עדים, in which there was הכחשה, but rather the **סיפא** is a case of עדים, שני כיתות, two sets of עדים, במיפך והזמה
 As follows;
 First
 אתו בי תרי ואמרי
 הפיל את שינו וסימא עינו
 שהרי העבד אומר כן
 One set of עדים testified, that first it was the tooth, and then it was the eye, which benefits the עבד. Then ודקא אפכינהו ואוזמינהו
 The second set testified that the first set were עדים זוממין, and also that the incident was vice versa, first the eye and then the tooth;
 קמאי משלמין דמי עין לרב
 The first עדים must reimburse the owner for the eye that he would have paid through their עדות, because the הכחשה was not before the הזמה, but afterward.

7 And the Gemara continues to explain;
 דקא מקדמי קדומי הני בתראי
 Only if the second עדים claimed that the incident occurred before the first עדים testified, AND
 דעמד בדן
 When the first עדים testified the owner was already obligated to free the עבד by a previous Bais Din;
 In this case, the עדים זוממין pay the owner only for the loss of עין דמי but not for the whole עבד, because their עדות did not cause him this loss, as he was already obligated to set his עבד free before they testified.

However,
 אי דקא מאחרי אחורי הני בתראי
 If the second עדות claimed that the incident occurred only after the first עדים testified;
 OR
 לא עמד בדן
 When the first עדים testified the owner was not yet obligated to free him;
 דמי עבד לרב בעי שלומי
 The עדים זוממין must pay the owner for the whole עבד, even though he was eventually obligated to set his servant free, because
 דכי מחייבי ליה לגברא
 אכתי גברא לאו בר חיובא הוא
 They caused him this loss, since at the time of their testimony the owner was not yet obligated to set the עבד free.

6 **אבי** disagrees and says there is no proof. Perhaps, the Braisa holds
 הכחשה לאו תחילת הזמה היא
 And therefore
 עדים שהוכחשו ולבסוף החמו
 אין נהרגין

And the **סיפא** does not refer to שלש כיתות
 Rather the **סיפא** is a case of שני כיתות

במיפך והזמה

2 **דקא אפכינהו ואזמינהו**
 The second set testified that the first set were עדים זוממין, and also that the incident was vice versa, first the eye and then the tooth

1 **אתו בי תרי ואמרי הפיל את שינו וסימא עינו שהרי העבד אומר כן**
 One set of עדים testified, that first it was the tooth, and then it was the eye, which benefits the עבד.

קמאי משלמין דמי עין לרב
 The first עדים must reimburse the owner for the eye that he would have paid through their עדות, because the הכחשה was not before the הזמה, but afterward.

7 **אי דקא מאחרי אחורי הני בתראי**
 If the second עדות claimed that the incident occurred after the first עדים testified; OR
לא עמד בדן
 When the first עדים testified the owner was not yet obligated to free him;

דקא מקדמי קדומי הני בתראי
 The second עדים claimed that the incident occurred before the first עדים testified, AND
דעמד בדן
 When the first עדים testified the owner was already obligated to free the עבד by a previous Bais Din;

אי דקא מאחרי אחורי הני בתראי
 If the second עדות claimed that the incident occurred after the first עדים testified; OR
לא עמד בדן
 When the first עדים testified the owner was not yet obligated to free him;

דקא מקדמי קדומי הני בתראי
 The second עדים claimed that the incident occurred before the first עדים testified, AND
דעמד בדן
 When the first עדים testified the owner was already obligated to free the עבד by a previous Bais Din;



8 The Gemara now seeks to bring proof for the **הכחשה תחילת** from our Mishnah's first case
הזומה from our Mishnah's first case
 גנב על פי שנים וטבח ומכר על פיהם
 ונמצאו זוממין
 משלמין הכל
 If the same two **עדים** testified to the **גניבה** and the **טביחה** and they were found to be **זוממין**, they must pay the complete **ד' וה'** to the accused.

The Gemara assumes that the Mishnah refers to the **העידו על הגניבה** and the **העידו על הטביחה** and then about **טביחה** separately;
 והזמנו על הגניבה
 וחזרו והזמנו על הטביחה
 And then they first became **זוממין** on the **גניבה**, and afterward on the **טביחה**;
 And even though
 כיון שהזמנו על הגניבה
 לגבי **טביחה** הוה להו מוכחשין
 The **הזומה** for the **גניבה** also serves as a **הכחשה** for the **טביחה**, because
 שאם אין גניבה
 אין טביחה ואין מכירה
 Nevertheless
 משלמין לו את הכל
 The **עדים** also pay the accused for the **טביחה**.
 It must be because
 ש"מ הכחשה תחילת הזומה היא

8 *Proof that **הכחשה תחילת פיהם** from our Mishnah's first case*

**גנב על פי שנים וטבח ומכר על פיהם
 ונמצאו זוממין
 משלמין הכל**

*If the same two **עדים** testified to the **גניבה** and **טביחה** and they were found to be **זוממין**, they must pay the complete **ד' וה'** to the accused.*

**וחזרו והעידו
 על הטביחה**

**דהעידו
 על הגניבה**

**וחזרו והזמנו
 על הטביחה**

**והזמנו
 על הגניבה**

Even though

**כיון שהזמנו על הגניבה
 לגבי טביחה הוה להו מוכחשין**

*The **הזומה** for the **גניבה** also serves as a **הכחשה** for the **טביחה**, because*

שאם אין גניבה אין טביחה ואין מכירה

Nevertheless

משלמין לו את הכל

*The **עדים** also pay the accused for the **טביחה**.
 It must be because*

ש"מ הכחשה תחילת הזומה היא

9 The Gemara says that this is not necessarily so. Perhaps, the Mishnah refers to the **הזומה** from our Mishnah's first case
 כגון שהזמנו על הטביחה תחילה
 They first became **זוממין** on the **טביחה**, and afterward on the **גניבה**, and therefore
 משלמין לו את הכל
 The **עדים** also pay for the **טביחה**, because the **הכחשה** was not before the **הזומה**, but afterward.

The following Mishnah is reviewed in the next Daf.

9 *Perhaps, the Mishnah refers to*

כגון שהזמנו על הטביחה תחילה
*They first became **זוממין** on the **טביחה**,
 and afterward on the **גניבה**,*

Therefore

משלמין לו את הכל

*The **עדים** also pay for the **טביחה**,
 because the **הכחשה** was not before the **הזומה**,
 but afterward.*