

Bava Basra – Simanim

דף קכז – Daf 127

פרק ח – יש נוהלין

1. בכורה is excluded from various *halachos*, such as *טומטום שנקרע ונמצא זכר*

The Gemara teaches five laws which exclude *טומטום שנקרע ונמצא זכר* – *tumtum* whose covering was torn off and he was found to be a male. (1) *אינו נוטל פי שנים* – He does not take a double portion of his father's property, even if he was the firstborn. (2) He is not subject to the law of *בן סורה ומורה* – a wayward and rebellious son. (3) *אינו ממעט חלק בכורה* – He does not reduce the *bechor's* extra portion. The *bechor's* portion is calculated as if he does not exist, and the remainder is divided equally among all the brothers. (4) Rav Shizvi says he is not circumcised on the eighth day if it is Shabbos. (5) Rav Sheravya says his mother does not become *tamei* from his childbirth. This last ruling is refuted from a Mishnah teaching that a woman who miscarries a *טומטום* must observe the stringencies of a male and female birth (i.e., fourteen *tamei* days, and a *tahor* period only until forty days). This does not refute Rav Shizvi's ruling, although it is based on the same *passuk*, because it is possible that the Tanna is uncertain about excluding a *טומטום*.

2. Two infants, one of whom is the *bechor*, but it is not known which

A Baraisa *darshens*: *ולא ספק "בכור"* – the *passuk* says "*firstborn*," teaching the double portion is not given to a doubtful *bechor*. This means to exclude from Rava's ruling: *שתי נשים שילדו ב' זכרים במחבא* – two wives of one man who gave birth in hiding, and it is therefore unknown which is the *bechor*, *כותבין הרשאה* – they may write for each other a [document empowering the other to collect on his behalf], to be able to collect the extra portion. The above Baraisa teaches that since the *bechor's* identity was unknown, he is not entitled to the extra portion at all. Rav Pappa told Rava that Ravin sent a ruling from Rebbe Yannai: *הוכרו ולבסוף נתערבו* – if [the infants] were originally recognized and later became mixed (i.e., the *bechor's* identity was initially known, but later the two were confused), they may write a *הרשאה* for each other. Since his identity was once known, the *bechor* is entitled to a double portion. *לא הוכרו* – But if they were not ever recognized, they cannot write a *הרשאה* for each other, because the *bechor* is not entitled to a double portion. Rava had his error announced publicly and corrected it.

3. *Machlokes* when a father is believed to identify the *bechor*

A Baraisa *darshens* the word *"יכיר"* – he shall recognize (his firstborn son) to teach: *יכירנו לאחרים* – he can identify him to others. From here Rebbe Yehudah said: *נאמן אדם לומר זה בני בכור* – a person is believed to say, "This is my firstborn son," even when it was presumed otherwise. Similarly, he is also believed to identify his son as a *חלל*. The Chachomim say he cannot identify his *bechor* against a presumption, nor disqualify his son. Rava explains that they derive from *"יכיר"* that a father can identify his firstborn son *בצריך היכרא* – where identification is needed (i.e., there is no presumed *bechor*). Although it seems obvious that a father is believed (to entitle him to a double portion of inheritance), since he could simply give him any of his possessions as a gift, a *pasuk* is needed for possessions he obtains after his identification (which he could not give as a gift). According to Rebbe Meir, who holds one may even transfer possessions he later acquires, the *pasuk* is needed for possessions he acquires as a *גוסס* – dying man, when he is incapable of transferring them.

Siman – Cookies

The sad *טומטום שנקרע ונמצא זכר* eating cookies to console himself for being excluded from five *halachos*, together with a disappointed *safek bechor* who discovered he can't receive a double portion, was surprised when a father walked up to a friend of his sitting on their bench, and announced, "This is my first-born son."



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3 things to remember

1. **טומטום שנקרע ונמצא זכר** is excluded from various halachos
2. **Safek bechor** does not receive "פי שנים"
3. **Machlokes** when a father is believed to identify the bechor

