

משום דרב אסי הסר ממך עקשות פה – רב אסי On account of
who said, ‘remove from you, distortions of the mouth’

OVERVIEW

When two עדים contradict each other concerning the death of the husband, the woman should not remarry; however if she remarried she may remain married. The latter is on account of עולא that the המתיר ע"א is believed כשנים. However initially she should not remarry, on account of רב אסי; to remove any gossip or slander. The issue here is whether this restriction (of not marrying initially) based on רב אסי, is agreed upon by all, or is it just the opinion of ר' יוחנן (according to אביי).

הסר רב אסי, namely anticipates a question and answers it; the statement ascribed to רב אסי, is actually –

פסוק הוא אלא דרב אסי רגיל להביאו¹ -

רב אסי (so why is it said in the name of רב אסי?); **however** since רב אסי was accustomed to cite it often, therefore it is credited to him.

asks: תוספות

ואם תאמר והא דתנן בהאשה שלום (יבמות דף קיז, ב ושם) –

פרק האשה in משנה in And if you will say; and that which we learnt in a משנה in פרק האשה, if - שלום

עד אחד אומר מת וניסת ובא עד אחד ואמר לא מת לא תצא -

One עד claims, ‘your husband died’ and the widow remarried, and subsequently another ע"א came and claimed he did not die; the rule is she is not required to leave her second husband. This concludes the citation of the משנה.

ופריך בגמרא טעמא דניסת הא לא ניסת לא תנשא והאמר עולא כל מקום כולי -

And the גמרא there asks; the reason she is not required to leave is because **she remarried** already before the האוסר came, **however if she did not remarry yet, and the האוסר came, she will not be permitted to remarry;** how can this be **for עולא ruled that wherever, etc., an ע"א is believed** הרי כאן שנים ואין דבריו של אחד במקום שנים, so why can she not remarry?! This concludes the quote from the גמרא. תוספות concludes his question:

ומאי פריך והא עולא² לא קאמר אלא בדיעבד –

¹ See פירוש הרע"ב and פרקי אבות פ"ד משנה יט.

² It would seem more appropriate to insert ר' יוחנן instead of עולא, for עולא did not state specifically any

And what is the גמרא asking; for עולא did not rule that an ע"א is believed as she is, only בדיעבד when she remarried -

אבל לכתחלה מודה דלא תנשא משום דרב אסי -

However, עולא admits that initially she should not remarry on account of רב אסי,³ which would make עולא in agreement with that משנה.

answers: תוספות

ואומר רבינו יצחק דהתם דייק טעמא דניסת -

And the ר"י says, that there the גמרא infers from the משנה that the reason of לא תצא is because she already remarried before the עד האוסר came -

הא אם לא נשאת לא תנשא ואם נשאת תצא -

However, if she did not remarry before the עד האוסר came, she is not permitted to remarry, and if she remarries she should leave -

דהכי משמע מתניתין דוקא נשאת ואחר כך בא העד לא תצא -

For this is the implication of the משנה; only if she remarried and afterward the עד האוסר came, she is not required to leave -

הא בא העד קודם שנשאת ואחר כך ניסת תצא משום הכי פריך מדעולא -

However if the עד האוסר came before she remarried and she remarried afterward, the rule would be תצא (even בדיעבד), that is why the גמרא challenges this ruling from עולא, who maintains that בדיעבד the עד is certainly believed כשנים and she may remain married.⁴

continues to ask: תוספות

ואם תאמר והיכי משני התם דהכי קאמר עד אחד אומר מת והתירו לינשא -

And if you will say; and how then does the גמרא answer there (on the abovementioned question) that this is what the משנה means: 'one עד said 'he died' and ב"ד permitted her to remarry (but she did not remarry yet) -

ובא אחר ואמר לא מת לא תצא מהתירה הראשון⁵ משמע ותנשא לכתחלה -

difference between לכתחלה and בדיעבד, it is only ר' יוחנן (אביי according to) who makes this differentiation.

³ It is possible that תוספות initially stated that הסר ממך וגו' is a פסוק in order to bolster his question. If it is merely a statement of רב אסי (who was an אמורא), it is not that likely that the משנה would have to subscribe to this view, that she should be אסור לכתחלה. However if it is a פסוק, then it is (more) likely that the משנה would rule in a similar fashion.

⁴ The question (on עולא) is not, why she should not initially remarry (if the עד האוסר came before marriage), but rather why if she remarried (even after the עד האוסר came) she cannot remain married. We will interpret the question תנשא לא תנשא to mean לא תצא ואם נשאת תצא to mean לא תנשא ואם נשאת תצא.

⁵ לא תצא does not (merely) mean she does not leave her husband (if she remarried before the עד האוסר came) but rather, she does not lose her היתר, (even) if the עד האוסר came before she remarried.

And another עד came and claimed he did not die; the rule is she does not leave behind her initial permissibility (this concludes the answer of the גמרא;⁶ תוספות continues that), **this indicates that she may initially remarry!**⁷ This contradicts what the גמרא maintains here that even when an ע"א is נאמן רב אסי, she cannot marry (עד האוסר), on account of רב אסי.

answers: תוספות

ויש לומר דודאי לכתחלה לא תנשא –

And one may say, that certainly she may not remarry לכתחלה (on account of רב אסי) -

ולא תצא מהתירה הראשון לענין דאם נישאת לא תצא -

And the meaning of לא תצא מהתירה הראשון **is referring to a case, where she did remarry** (after the עד האוסר came), then בדיעבד she is not required to leave.

SUMMARY

The משנה in יבמות may follow the opinion of רב אסי that when there is an עד (even if he came after the המתיר), she should not marry (עד האוסר). However בדיעבד (even if she remarried באיסור), she may remain married ([only] if the עד האוסר came after the המתיר).

THINKING IT OVER

In a case where we rule לא תנשא (an עד against an עד), and she remarried, the rule is לא תצא מהתירה הראשון and she may remain married; just as she would be allowed to remain married when she married בהיתר. However when she remarried בהיתר (when there was only the המתיר), the reason for this היתר is because אשה דייקא ומנסבא, therefore we can say that even if the עד האוסר came later, nevertheless לא תצא. However in the case where both עדים came before she remarried, and she remarried באיסור, there is seemingly no חזקה that אשה דייקא ומנסבא (for she remarried באיסור), then how can we allow her to remain married without this חזקה?!⁸

⁶ assumes that the גמרא is answering that since ניסת means התירוה לינשא, then we cannot be מדייק that if after the עד האוסר came she should be תצא, since ניסת means התירוה לינשא, and concerning this התירוה the משנה states לא תצא, meaning that even if the עד האוסר came before she remarried תצא.

⁷ When the עד המתיר came (alone), בי"ד was התירוה לינשא, which means they gave her permission to remarry; it follows that the לא תצא מהתירה הראשון, means the same, that she is still permitted to remarry.

⁸ See אילת השחר.