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The Mishnah had stated: If there were two sets of witnesses, and the first denied, and then the second denied, [they are both liable].

The Gemara asks: Granted, the second should be liable, because the first denied; but the first — why [should they be liable]? The second set are still there!?

Ravina said: Here we are discussing [a case] where, for example, the second set, at the time of the denial of the first set, were related through their wives; and their wives were dying: you might have thought [because we say] the majority of dying people actually die [the second set are eligible], therefore he teaches us [that they are not], because as yet the wives are not dead. (32b3 – 33a1)

MISHNAH. “I adjure you that you come and bear testimony for me that I have in the possession of so-and-so a deposit, loan, theft, and lost object.” — “We swear we know no testimony for you”: they are liable only once. “We swear that we do not know that you have in the possession of so-and-so a deposit, loan, theft, and lost object”: they are liable for each one. “I adjure you that

you bear testimony for me that I have in the possession of so-and-so a deposit of wheat, barley, and spelt.” — “We swear that we do not know testimony for you”: they are liable only once. “We swear that we do not know testimony for you that you have in the possession of so-and-so a deposit of wheat, barley, and spelt”: they are liable for each one. “I adjure you that you come and bear testimony for me that so-and-so owes me full indemnity for damage, or half-damages, or double, or four or five times the amount; or that so-and-so violated my daughter, or seduced my daughter; or that my son hit me; or that my neighbor injured me, or set fire to my haystack on Yom Kippur”; [and they deny knowledge of testimony] they are liable. (33a1 – 33a2)

It was inquired: If he adjures witnesses in [a case where] a fine [is imposed], what is the ruling? In accordance with the view of Rabbi Elazar son of Rabbi Shimon who says: let the witnesses come and hear testimony, there is no question¹; but the question is in accordance with the view of the Rabbis who say: he who admits [an act for which] a fine [is imposed], and then witnesses come, is exempt².

¹ He who admits an act for which a fine is imposed is exempt; but if after his confession witnesses give evidence, he is liable, according to R' Elazar ben R' Shimon. If, therefore, the witnesses withhold their testimony, they cause a monetary loss to the injured party, and are therefore liable.

² Do we say this is not a real liability, since a confession would exempt him, and therefore if witnesses are adjured to bear testimony before he

confesses, and deny knowledge of testimony, they are exempt; or, since, if they had given evidence before his confession, he would have been liable, they are, by withholding evidence, causing a loss to the claimant, and consequently should be liable?



But [consider] the Rabbis there, with whom do they agree? Shall we say they agree with Rabbi Elazar son of Rabbi Shimon here? Surely he says, that which causes [extraction of] money is counted as [if it had extracted] money! — Well then, they agree with the Rabbis here who say that which causes [extraction of] money is not counted as [if it had extracted] money: what is the ruling? [Shall we say] since, if he had confessed, he would have been exempt, he is not denying [a legitimate] money [liability], or, since now he did not actually confess, [he is denying a money liability]?

Come and hear: “I adjure you that you come and bear testimony for me that so-and-so owes me full indemnity for damage, or half-damages.” Now, ‘half-damages’ is a fine, [and yet they are liable]! — [The Mishnah will agree with him] who holds the half damages is a liability.

The Gemara asks: That is well according to he who holds that the half damages is a liability, but according to he who holds it is a fine, what shall we say?

The Gemara answers: [The Mishnah will refer to] the half damages of pebbles³, for which there is a tradition that it is a liability.

Come and hear: “[so-and-so owes me] double”! — Because of the principal⁴.

“Four or five times the amount”! — Because of the principal.

³ If an animal, while walking, treads on pebbles, and they fly out from under its feet, and cause damage to another's property, the owner of the animal pays half the amount of the damage.

⁴ The witnesses are liable because by withholding evidence they deprive him even of the principal.

⁵ Because he incurs the death penalty for setting a haystack on fire, he does not pay for the damage; so on Yom Kippur, because he incurs the penalty of kares, he does not pay. Our Mishnah, in stating that the

“So-and-so violated, or seduced my daughter”! — Because of the shame and depreciation.

The Gemara asks: What does he teach us? It is all liability!

The Gemara answers: The first clause teaches us one thing, and the last clause teaches us one thing. The first clause teaches us one thing, that the half damages of pebbles is a liability. The last clause teaches us one thing: ‘That he set fire to my haystack on Yom Kippur’ [etc.]. What does this exclude? It excludes the view of Rabbi Nehunia b. Hakkanah, for it was taught: R. Nechunia ben Hakkanah made Yom Kippur equivalent to Shabbos for payment; just as on Shabbos, etc⁵.

Come and hear: “I adjure you that you come and bear testimony for me that So-and-So uttered an evil report about my daughter”; [and the witnesses deny knowledge of testimony] they are liable. If he confessed himself, he is exempt! — This is in accordance with the view of Rabbi Elazar son of Rabbi Shimon, who says: let the witnesses come and bear testimony.

Read then the latter clause: If he confessed himself, he is exempt. We arrive at [the view of] the Rabbis! — It is all in accordance with the view of Rabbi Elazar son of Rabbi Shimon; and this is what he means: It is not possible that, if he confessed himself, he should be exempt, except when there are no witnesses at all, and he confessed himself⁶. (33a3 – 33b1)

witnesses are liable if they withhold evidence in the case of a man who set fire to a haystack on Yom Kippur, obviously holds that had they given evidence he would have had to pay, hence it disagrees with R’ Nechunia ben Hakkanah. This last clause is therefore inserted to exclude R’ Nechunia ben Hakkanah's view.

⁶ And the confession was not followed by witnesses. We cannot therefore decide the question (according to the Rabbis) whether or not witnesses who are adjured for a fine and withhold testimony, are liable.



MISHNAH. "I adjure you that you come and bear testimony for me that I am a Kohen, or, that I am a Levi, or, that I am not the son of a divorced woman, or, that I am not the son of a chalutzah; that so-and-so is a Kohen, or, that so-and-so is a Levi, or, that he is not the son of a divorced woman, or, that he is not the son of a chalutzah; that so-and-so violated another's daughter, or seduced his daughter; that my son injured me; that my neighbor injured me, or set fire to my haystack on Shabbos," — they are exempt⁷. (33b1)

GEMARA. The reason [they are exempt] is because [he adjured them:] "So-and-so is a Kohen, or, so-and-so is a Levi," but [if he adjured them:] "So-and-so owes So-and-so a hundred zuz," they would be liable? Surely he teaches in a later clause: [They are exempt] unless they hear [the adjuration] from the mouth of the claimant!

Shmuel said: [It refers to a case where] he comes with power of attorney.

The Gemara asks: But the Nehardeans say: We do not write a power of attorney on movables?

The Gemara answers: That is only when he denies it, but when he does not deny it, we do write. (33b2)

Our Rabbis taught in a Baraisa: How do we know that the verse refers only to a money claim? Rabbi Eliezer said: Here [in connection with the oath of testimony] it is said: or . . . or⁸; and there [in connection with the oath of

deposit] it is said: or . . . or⁹; just as there it refers only to a money claim, so here it refers only to a money claim.

The Gemara asks: But let the or . . . or of a murderer¹⁰ prove [that a money claim is not intended], for they are or . . . or, and refer not to a money claim!

The Gemara answers: We deduce or . . . or which are concerned with an oath [of testimony] from or . . . or which are concerned with an oath [of deposit]; and not let the or . . . or of a murderer prove [anything], for they are not concerned with an oath.

The Gemara asks: But let the or . . . or a sotah prove, for they are or . . . or¹¹, and are concerned with an oath, and refer not to a money claim!

The Gemara answers: We deduce or . . . or which are concerned with an oath, and not concerned with a Kohen from or . . . or which are concerned with an oath, and not concerned with a Kohen; and not let the or . . . or of a murderer prove [anything], for they are not concerned with an oath; nor let the or . . . or of a sotah prove [anything], for, although they are concerned with an oath, they are also concerned with a Kohen.

Rabbi Akiva said: And it shall be, when he shall be guilty in one of these things — in some of 'these things' he is liable, and in some of 'these things' he is exempt: how is this? If he claimed from him money, he is liable, if something else, he is exempt.

⁷ The witnesses, denying knowledge of testimony, are exempt in all these cases, for they are liable only if by their refusal to testify they cause a monetary loss to the claimant. In the case of 'So-and-so violated another's daughter,' they are exempt (though causing monetary loss) because it is not the claimant himself who adjures them.

⁸ or saw or knew

⁹ in a deposit or pledge or robbery, or oppressed his neighbor

¹⁰ or if he hit him with a weapon of wood . . . or hurled at him . . . or in enmity hit him

¹¹ or if the spirit of jealousy



Rabbi Yosi HaGellili said: Behold the Torah says: He being a witness, whether he has seen or known — of such testimony as may be established by seeing without knowing, and by knowing without seeing, the verse deals [and this is only possible in a money claim, as he explains]. ‘Seeing without knowing,’ how? “A hundred zuz I counted out to you before So-and-so and So-and-so.” “Let So-and-so and So-and-so come and bear testimony.” This is seeing without knowing. ‘Knowing without seeing,’ how? “You admitted that you owe me a hundred zuz before So-and-So and So-and-so.” “Let So-and-so and So-and-so come and bear testimony.” This is knowing without seeing. (33b2 – 33b3)

DAILY MASHAL

Rabbi Yosef Albo (1380-1444) in *Sefer Ha'Ikkarim* (2:27) explains that the word *emes* (“truth”) serves as the antonym to both *sheker* and *kazav*. The way he explains it, truth is defined as a statement that reflects not only the consonance between the statement itself and reality, but also the consonance between what a person verbally expresses and what he thinks in his heart. Thus, *sheker* and *kazav* denote dissonance in one of those two equations: *Sheker* refers to when one’s statement and the reality that his statement speaks about are in disagreement, while *kazav* refers to a statement in which there is dissonance between what one says verbally and what one holds true in his heart.

Rabbi Yehuda Leib Edel (1760-1828) takes issue with Rabbi Albo’s assumption that even a statement that truly reflects one’s inner thoughts can be called *sheker* if it does not reflect an outside reality. He asks: According to this definition of *sheker*, how can the Torah forbid a person from testifying *sheker* or taking an oath of *sheker* (Lev. 19:11-12)? If a person cannot truly know what the outside reality really is, he can only present

things as he perceives it! According to Rabbi Albo, if a person would unknowingly swear something that is objectively false, this should be considered “lying” and the swearer should be in violation of the commandment against “lying” — yet the Talmud (*Shavuot* 26a) exempts a person from punishment if he swore falsely while thinking that what he said is true. To Rabbi Edel, this suggests that the definition of *sheker* cannot just be something that is objectively untrue. Rather, it must also have an element of advertent deceit in purposely panhandling falsehood.