



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Yevamos Daf Lamed Ches

- If the safek and the yavam argue about splitting the estate of the yavam's father, and the safek says that he is the son of the dead brother and therefore should be entitled to the dead brother's full share, and the yavam says that the safek is his son, and therefore should get no share of the estate, in this case the yavam is coming with a certain claim and the safek has a questionable claim. Therefore, the safek gets nothing ("ein safek motzi midei vada'i").
- If the safek and the yavam's 2 sons argue about splitting the estate of the yavam's father, and the safek says that he is the son of the dead brother and therefore should be entitled to the dead brother's full share, and the yavam's sons say that the safek is their brother and therefore must share along with them, in this case, since the safek agrees that the 2 sons deserve half of the estate, they get that half. Since the sons agree that the safek is entitled to 1/3 of the estate, he gets the 1/3. What remains is 1/6, and that 1/6 is split among them all.
- If the dead brother's father and the yavam argue over the estate of the safek (who had died), or if the dead brother's father and the safek argue over the estate of the yavam, since each party is based on a safek as to who the father of the safek is, the parties to this dispute must divide the estate.

MISHNA

- If a shomeres yavam (a widow waiting for her brother in law to give chalitzah or yibum) inherits property from her father, **B"R** and **B"H** would both agree that she may sell it or gift it, and the transfer is valid.
 - If she dies while waiting, what happens to her kesubah and to her "nichsei melug" (possessions to which she owns title, but which her husband had rights to use for income, regarding which she takes these properties with her when her marriage is terminated)? **B"R** say, the husband (the yavam) and the woman's father (or his heirs) divide her estate. **B"H** say that the assets stay with those in possession – meaning the kesubah goes to the yavam and the nichsei melug go to the woman's father.
 - Once the yavam marries her, she is treated as a full-fledged wife, except that the kesubah obligation remains with the first husband.

GEMARA

- **Q:** Why do they not argue in the first case of the Mishna as well? **A:** **Ulla** said, the first part of the Mishna is discussing where she fell to yibum from being an arusah and the later part of the Mishna is discussing where she fell to yibum from being a nesuah, and **Ulla** holds that the zikah from being an arusah gives her the status of a safek arusah, and a zikah from being a nesuah gives her the status of a safek nesuah. This must be the case, because we find that **B"H** say that an arusah may not l'chatchila sell possessions that she has gotten while an arusah, so if she would be considered a full arusah in the case of the Mishna, they would not agree that she may sell the possessions l'chatchila. We also find that **B"R** say that a woman may not give away the possessions once she is a nesuah, so they would not agree that the yavam and the father share the possessions. We see that the zika in each situation only gives her the status of a safek in that situation.
 - **Q: Rabbah** asked, if this is correct, why does the Mishna need to present a case where she died, and then have **B"R** say that the best way to deal with the possessions is to have her split them, why can't the Mishna give the case of where she is alive, and say that she splits the produce/income of the asset with her husband (since she is a safek

nesuah)? **A: Rabbah** therefore says, both cases are we she fell to yibum as a nesuah, and as **Ulla** said, the zika gives her the status of a safek nesuah. The difference between the cases is, that in the first case where she is alive, she has a certain claim and the yavam only has a questionable claim, and therefore she gets to keep the assets (ein safek motzi midei vadai). However, in the later case where she died, we have 2 groups who are coming to inherit her, each with equally valid claims, and therefore we must divide the estate.

- **Q: Abaye** asked, we find that **B”S** say that a safek does take from a vadai! A Mishna says, if a father and one of his sons were killed together, and the son owed money, and the creditors say that the father died first and the son then inherited him and they can therefore collect from the father’s estate, but the other inheritors say that the son died first, and therefore the son never got the money, **B”S** say they must split the amount that is owed, even though the other inheritors are a vadai and the creditors are a safek!? **A: B”S** hold that when one has a debt document, it is considered as if it is collected already (meaning that it is considered to be somewhat in his possession already), and he therefore comes with as strong of a claim as the other inheritors.
 - We see that **B”S** hold this way, because they say in a Mishna, that if the husband of a sotah died before she drank the water, she may get her kesubah. Now, she is a safek (since we don’t know if she was mezaneh) and yet she takes her kesubah from the vadai of the husband’s estate. We see that **B”S** hold that a debt document is considered as already collected to some degree.
 - **Q: Why didn’t Abaye** ask his question from this Mishna? **A: We** would say that kesubah is different, and the **Rabanan** allow for easy collection, so that women should want to get married.
 - **Q: Why didn’t he** ask from the case of kesubah in our Mishna, where the father takes half the amount even though he is only a safek, and this can’t be so that women should get married, because the woman is not the one who is collecting here!? **A: B”S** actually do not argue in regard to the kesubah, and hold that the father will not get any of it. When he says that they divide it, he is referring only to the nichsei melug.
 - Although the Mishna seems to say that **B”S** was giving his view on the kesubah as well, he was actually only giving his view with regard to the nichsei melug. **R’ Ashi** says, this is even suggested in the words of the Mishna that say that the yavam splits it with the father (and doesn’t say that the father splits it with the yavam), which suggests that we are discussing something that the father should really keep, and the yavam is coming and taking half. This must refer to the nichsei melug only.
- **Abaye** said, the first part of the Mishna is discussing where the assets fell to her while she was a shomeres yavam. The later part of the Mishna is discussing where the assets had fallen to her while she was still married (and since the husband had rights to these assets, the yavam does as well, although to a lesser degree since it is only based on a zikah). **Abaye** holds that the husband and the wife are like equal owners in nichsei melug.
- **Rava** said, property that a wife inherits while married is considered to be more strongly owned by the husband than by her. Therefore, he says that both cases of the Mishna are discussing assets that fell to her while she was a shomeres yavam. The first part of the Mishna is discussing where no maamer was done, and the later part of the Mishna is discussing where maamer was done. **Rava** holds that maamer according to **B”S** accomplishes to create a vadai arusah (she makes the tzara patur from yibum) and a safek nesuah (her inheritors must split her estate with the yavam).
 - We find that **R’ Elazar** said like **Rava** and that **R’ Yose bar Chanina** said like **Abaye**.

- **R' Pappa** said, the words of the Mishna suggest as **Abaye** said. The Mishna talks of the assets that “came in and went out with her”. That suggests that she inherited the assets while she was still married. This is what **Abaye** said, but not what **Rava** said. However, it is problematic according to **Abaye** as to why the Mishna had to give the case of when she died, instead of just giving the case of when she is alive and must now divide the produce of the assets with the yavam.