



Daf In Review – Weekly Chazarah

Maseches Kesubos, Daf יד – Daf לז

Daf In Review is being sent l'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen, A"H
vl'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

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GEMARA

- **Q:** What form of oath is the beginning of the Mishna discussing? **A: R' Yehuda in the name of Rav** said, it refers to an oath for her having been put in charge of his business during his lifetime. **R' Nachman in the name of Rabbah bar Avuha** said that it even refers to an oath about her kesubah (in a case when the kesubah was partly paid, and certainly would apply to an oath of her being in charge of his business).
 - **R' Mordechai** said to **R' Ashi**, it makes sense that the wife would ask for a waiver of an oath for her kesubah, because collection of her kesubah is something that she anticipates even at the time of her marriage. However, if the Mishna is referring to her being in charge of his business, why would she think that she would become in charge of his business to the point that she would have him write a waiver for such an oath? **R' Ashi** said, you find this difficult because you have **R' Yehuda** as explaining the first part of the Mishna. I, however, have **R' Yehuda's** statement as referring to the end of the Mishna that says that the heirs cannot make her swear about her business dealings of the past. It was on that that **R' Yehuda in the name of Rav** said that they can't make her swear about anything she did during the husband's lifetime, but things that happened after that, even if before the burial, they can make her swear.
 - **R' Masna** said that they cannot make her swear about dealings between the death and the burial.
- **Rabbah in the name of R' Chiya** said, if the husband wrote to her that she shall be "without neder or shevuah", he cannot demand an oath from her, but his heirs may. If he wrote that she shall be "clean of neder and shevuah", neither he nor his heirs may demand an oath, because he has said "you are cleansed from making an oath". **R' Yosef in the name of R' Chiya** said, if the husband wrote to her that she shall be "without neder or shevuah", he cannot demand an oath from her, but his heirs may. If he wrote that she shall be "clean of neder and shevuah", he and his heirs may demand an oath, because he has said "you are to be cleansed by making a shevuah".
 - **R' Zakai** sent to **Mar Ukvah**, in both the above cases, if he said it in terms of "his" possessions, then he cannot demand an oath, but his heirs can. If he said it in terms of "these" possessions, then neither he nor his heirs can make her swear.
 - **R' Nachman in the name of Shmuel in the name of Abba Shaul ben Imma Miriam** said, in either of these cases even the heirs may not make her swear. However, there is no way to enforce this, because the **Rabanan** have said that one who wants to collect from orphans may only do so by making an oath.
 - **Others** say that this statement was made in a Braisa.
 - **R' Nachman bar Shmuel** paskened like **Abba Shaul ben Imma Miriam**.

MISHNA

- If a woman "weakens" her kesubah (admitting that it was partially paid) may only collect the remainder with an oath. If a single witness testifies that it was paid, she may only collect with an oath. If a woman wants to collect from the orphans, or from encumbered property, or not in her husband's presence, she may only collect with an oath.
 - What is the meaning of one who "weakens" her kesubah? If she had a kesubah of 1,000 zuz, and the husband claims it was already paid, but she says she only got 100 zuz, she would have to swear to get the rest.

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- What is the case of the single witness? If a woman has a kesubah of 1,000 zuz, and her husband says it was fully paid, and she says it was not paid, and a single witness says it was paid, she would have to swear to collect her kesubah.
- What is the case of collecting encumbered properties? If she wants to collect her kesubah from land sold to others, she can only collect if she swears.
- What is the case of collecting from the orphans? If the husband died and she wants to collect her kesubah from the orphans, she may only do so if she swears.
- What is the case of collecting not in the presence of the husband? If he traveled overseas and she wants to collect from him in his absence, she may only do if she swears.
- **R' Shimon** says, if she is claiming her kesubah the heirs may make her swear. If she is not claiming her kesubah, the heirs may not make her swear.

GEMARA

- **Rami bar Chama** thought to say that the oath a woman must make when she weakens her kesubah is D'Oraisa – since she agrees to partial payment it is a case of “modeh b'miktzas”, which requires an oath D'Oraisa. **Rava** said, this can't be correct based on 2 reasons. One, any D'Oraisa oath is only done when the one who swears does not have to pay based on his oath, whereas this woman swears and then *gets paid*. Two, D'Oraisa there is no swearing on items involving land, so this woman would not have to swear in our case. Based on this, **Rava** said the oath of our Mishna is a D'Rabanan. The **Rabanan** enacted that she should have to swear so that we know that she carefully looked into it before claiming that she is owed money.
 - **Q:** What if witnesses saw partial payment on the kesubah and the husband claims to have then paid the remainder? Do we say that if he truly paid he would have paid in front of witnesses, or do we say that it is possible that he paid the remainder without witnesses? **A:** A Braisa says that one who weakens his document without witnesses must swear to collect the remainder. This suggests that if there are witnesses he would not have to swear!
 - It may be that the Braisa is saying that surely if there are witnesses to the partial payment the claimant will have to swear (because he could not have denied the partial payment). The Braisa is saying that even if there are no witnesses, in which case by admitting to the partial payment he is like returning a lost object (and we would therefore think that he need not swear), even then he must swear.
 - **Q:** If a woman admits to a series of partial payments, and lists them all, including some of which she says were less than a perutah, do we say that since she was so meticulous this shows that she is truthful, or do we say that it may be a trick? **TEIKU**.
 - **Q:** If a woman says that she was not paid anything on her kesubah, but admits that the amount of the kesubah is actually less than what was written, do we say that this is another form of agreeing to partial payment, or do we say that she has not admitted any payment and this is therefore different? **A:** A Braisa clearly says that in this case she would be able to collect without an oath.

EID ECHAD ME'IDA SHEHI PARU'AH

- **Rami bar Chama** thought to say that this oath would be D'Oraisa, because a Braisa says that in a case where 2 witnesses would obligate someone to money, one witness would force an oath. **Rava** said, this can't be correct based on 2 reasons. One, any D'Oraisa oath is only done when the one who swears does not have to pay based on his oath, whereas this woman swears and then *gets paid*. Two, D'Oraisa there is no swearing on items involving land, so this woman would not have to swear in our case. Based on this, **Rava** said the oath of our Mishna is a D'Rabanan. The **Rabanan** enacted this to calm the husband by requiring her to swear before collecting.
 - **R' Pappa** said, in a case like this, a husband can pay her a second time in front of a second witness and then have them combine testimonies so that she is faced with 2 witnesses instead of one. He can then claim that the first payment was a loan and demand repayment of it.

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- **Q: R' Shisha the son of R' Idi** asked, these witnesses saw 2 different events, so how can they combine to say a single testimony!? **A:** Therefore he said, the husband can pay a second time in front of the first and the second witness and then claim the first payment was actually a loan.
 - **Q: R' Ashi** asked, she will claim that she actually had 2 kesubos and neither payment was for a loan!? **A: R' Ashi** said, he must notify the witnesses of his plan before making the second payment.

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MINECHASIM MESHUBADIM

- A Mishna says, just as one may collect from orphans only after swearing, so too orphans may collect only after swearing. Now, this can't mean that if they collect a debt of their father they have to swear, because the father would not have had to swear so neither do they. The Mishna means that if orphans collect from other orphans, they must swear before collecting.
 - **R' Zrika in the name of R' Yehuda** said, the Mishna's Halacha is only when the debtor's orphans say that their father told them that he borrowed the money but had already repaid it. However, if they say that their father said that he never borrowed the money, the other orphans could not collect even after swearing.
 - **Q: Rava** asked, when one says he never borrowed money, he is saying that he never paid it back either. If so, since there is a document that says that he did borrow, and he has admitted that he has not paid back, they should surely be able to collect in that case!? **A: R' Zrika** must have said that they collect after swearing only when the debtor had said that he borrowed and paid back. However, if he said that he never borrowed, the orphans can collect even without swearing.

V'NIFRA'AS SHELO B'FANAV LO TIPARA ELAH B'SHVU'AH

- **R' Acha Sar Habirah** said, **R' Yitzchak** in Antuchya said that only a woman for her kesubah may collect if the husband is not there. However, a creditor may not collect if the debtor is not present. **Rava in the name of R' Nachman** said, even a creditor may do so, because if we don't allow that, a person will borrow money and skip town, never having to pay and causing that people will stop lending money.

R' SHIMON OMER KOL ZMAN...

- **Q:** What case is **R' Shimon's** statement said about? **A: R' Yirmiya** said, he is going on the last case of the Mishna that says she may collect (for the kesubah or for support) not in his presence only after swearing. On that **R' Shimon** says, if she is claiming her kesubah the heirs can make her swear. If she is only asking for support, they cannot make her swear.
 - **Q: R' Sheishes** asked, if he is going on that last case, why does it mention the heirs? The case is where the man is alive and it is Beis Din who can impose the swearing!? **A: R' Sheishes** said, the statement was made on the case of the Mishna where the woman was exempted from having to swear, and after the husband's death she continued managing the finances, the **T"K** said that she can be made to swear for matters in the future. **R' Shimon** says on this case, that she can only be made to swear when she collects her kesubah. If she doesn't, she cannot be made to swear even if she is managing the finances of the estate (because she was appointed as an agent by the husband, and we find a Mishna in which there is a machlokes about exactly this issue).
 - **Q: Abaye** asked, if this is what the statement is referring to, the statement should not say "whenever she collects her kesubah", it should say "if she collects her kesubah"!? **A: Abaye** said, the statement was made on the case of the Mishna in which the husband said there will not be any oath on her from him or his heirs onto her or her heirs or anyone who comes in her place. The Mishna said that she can never be made to swear in that case. **R' Shimon** argues and says that whenever she collects her kesubah she will have to swear, just like anyone else who collects from orphans.
 - **Q: R' Pappa** asked, based on this explanation, what is the second phrase of **R' Shimon** saying – "if she does not collect her kesubah she cannot be made to swear"? **A: R'**

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Pappa said, he means to say that he argues with the earlier Mishna that said that a woman can be made to swear if she is put in charge of financial affairs. **R' Shimon** is saying that she can only be made to swear when collecting her kesubah.

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MISHNA

- If a woman produces a get, but does not have the kesubah, she can still collect the kesubah payment. If she produced a kesubah with no get, and she says she lost her get, but her husband says he already paid the kesubah and lost his receipt, and similarly if a creditor has a loan document but does not have the pruzbul, this woman and this creditor cannot collect. **R' Shimon ben Gamliel** says, from the time of the danger and onward, a woman may collect her kesubah even without a get, and a creditor may collect the debt without the pruzbul.

GEMARA

- **Q:** This seems to be a proof that we write a receipt upon payment and require the husband to hold onto it (instead of returning the kesubah), because if we don't, we should be concerned that she will wait until the husband dies and reuse that kesubah to collect again!? **A: Rav** said, the Mishna is discussing a place where kesubos are not written at all. In such a place we allow women to collect by producing their get. **Shmuel** said, the Mishna may even be discussing a place that does write kesubos.
 - **R' Anan** explained **Shmuel** to mean that there are times when he must pay even without receiving the kesubah in return. The case would be where the woman can prove that he did not write a kesubah for her. In that case he would have to pay and accept a receipt for his payment.
 - **Rav** later changed his view and said that whether in a place that they write kesubos or in a place that they don't write kesubos, if a woman produces her get she can collect the basic kesubah amount, and when she produces her kesubah she may collect the excess kesubah amount.
 - **Q:** Our Mishna's second case said that if she produces only her kesubah she cannot get her kesubah payment. According to **Rav** she should at least get the amount of the excess kesubah!? **A: R' Yosef** said, the Mishna is discussing a case where there are no witnesses to the divorce either. The husband has a miguy that he could have said that he never divorced her. With that miguy he is therefore believed to say that he divorced her and already paid her kesubah.
 - **Q:** At the end of the Mishna **R' Shimon ben Gamliel** says that in times of danger we allow her to collect without a get. The Mishna must be talking about where there are witnesses, because if there are not, on what basis is she collecting? **A:** The entire Mishna is the view of **R' Shimon ben Gamliel**. He first says that if there is no get she may not collect. He then explains that this is only if there are no witnesses to the divorce. If there are, she would be able to collect the excess kesubah payment (because she has the kesubah) and will collect the basic kesubah payment when she produces the get. However, in times of danger, she can collect even the basic kesubah without producing the get.
 - **Q: R' Kahana and R' Assi** asked **Rav**, according to you, how can a widow collect her kesubah based on witnesses that he died? We should be concerned that he had previously divorced her and she will later produce her get and collect based on it!? **A:** A widow can only collect when she is known to have been married to him up to the time of death.
 - **Q:** We should be concerned that he divorced her immediately before his death!? **A:** If he did so, he has brought this loss (of the risk of double payment) upon himself.
 - **Q:** How do we allow a widow from the eirusin to collect, since they didn't live together we can't be sure that she wasn't divorced!? **A: Rav** would agree that when there is no choice we would have her write a receipt of payment for the husband. This must be so, because if not we should always be concerned that the witnesses to death would go to a

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second Beis Din and testify there as well, allowing her to collect the kesubah a second time. It must be that we have her write a receipt for the payment.

- **Q: Mar Kashisha the son of R' Chisda** asked **R' Ashi**, how do we know that a widow from the eirusin would even be allowed to collect without having a kesubah? It can't be from the Mishna that says that a woman collects the entire kesubah at termination of the nissuin or the eirusin, because that Mishna may be discussing where she has a written kesubah, and the chiddush is that we don't say that she only gets the kesubah if she entered into eirusin (like the view of **R' Elazar ben Azarya**)! Also, if there was no kesubah written, she should only be able to collect the basic kesubah payment, and the Mishna says she collects "the full amount"! It also can't be from the Braisa that says that if the husband in an eirusin dies she gets her kesubah, because that too may be discussing where she had a written kesubah!?
- **Q: R' Nachman** asked **R' Huna**, according to **Rav**, who says that she collects the basic kesubah payment based on the get, why are we not concerned that she will take the get and try and collect a second time in another Beis Din? We can't fix that by ripping up her get, because she needs the get to be allowed to remarry!? **A: R' Huna** said, we rip the get and write on it that it was ripped not because it was passul, but rather to prevent her from collecting her kesubah a second time.

MISHNA

- If a woman produces 2 gets and 2 kesubos, she may collect both kesubos. If she produces 2 of one, and 1 of the other, or if she produces a get, a kesubah, and witnesses to the death of the husband, she may only collect one kesubah, because one who divorces his wife and remarries her and does not write a new kesubah is considered to have remarried her on the basis of her first kesubah.

GEMARA

- **Q:** In the second case of the Mishna, the Mishna seems to allow her to use whichever kesubah she wants to collect with. This seems to contradict **R' Nachman in the name of Shmuel**, who says that when there are 2 documents for the same obligation, the later one nullifies the earlier one!? **A:** We have learned that **R' Pappa** said that even **R' Nachman** agrees, that if anything was added in the second document, that second document was not meant to nullify the first. The case in the Mishna must also be talking about where the second kesubah had some addition.
- A Braisa says, if a woman produces a get, a kesubah, and proof of her husband's death, if the get is dated before the kesubah (showing that the kesubah was for a later marriage) then she can collect 2 kesubos. If the kesubah was dated before the get, she can only collect one kesubah, because one who divorces his wife and remarries her and does not write a new kesubah is considered to have remarried her on the basis of her first kesubah.

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MISHNA

- If a minor boy was married off by his father (the marriage is not effective D'Oraisa) and then he became an adult (at which time it becomes effective), the kesubah that he wrote as a minor remains effective, because he kept her as a wife on condition that the kesubah is still effective. Similarly, if a goy converts along with his wife, the kesubah he wrote as a goy remains effective, because he kept her as a wife on condition that the kesubah is still effective.

GEMARA

- **R' Huna** said, the original kesubah remains effective only with regard to the basic kesubah amount, but not for any additional amounts that were written into the kesubah. **R' Yehuda** says it even remains effective for the additional amounts.

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- **Q:** A Braisa says, if the minor added an amount to the kesubah when he became an adult, she gets that added amount. This suggests that she will not get any additional amount to the basic kesubah that was added as a minor!? **A:** The Braisa means she will get this amount on top of any and all amounts written in the original kesubah.
 - **Q:** A Braisa clearly says that if he added something as an adult she gets that amount, and if he did not, she only gets the basic 100 or 200 zuz!? This refutes the view of **R' Yehuda – TEYUFTA**.
 - The Gemara explains, that **R' Yehuda** misunderstood our Mishna to mean that the entire original kesubah remains in effect. In truth, the Mishna means that the basic kesubah remains in effect, and no more.

HADRAN ALACH PEREK HAKOSEIV L'ISHTO!!!

PEREK MI SHEHAYA NASUY -- PEREK ASSIRI

MISHNA

- If a man had 2 wives and he died (not leaving enough money to pay both kesubos), the first wife has priority over the second wife, and if both wives die before collection, the heirs of the first wife have priority over the heirs of the second wife.
- If he married the first wife and she died, then he married the second wife and he died, the second wife and her heirs have priority over the heirs of the first wife.

GEMARA

- The Mishna says that the first wife has *priority*, but doesn't say that the second wife does not have her kesubah. This suggests that if the second wife would seize the property before the first wife, she would be allowed to keep it. We can learn from here that a later creditor who seizes before an earlier creditor will be allowed to keep what he grabbed.
 - The Gemara says it may be that she is not allowed to keep what she seized, and the Mishna means that the first wife has total priority – even if the second wife seized the property.
 - Some said that since the Mishna does not say that if the second wife seizes property she may keep it, it must be that she would not be allowed to keep it. We can learn from here that if a later creditor seizes before an earlier creditor, he will not be allowed to keep what he seized.
 - The Gemara says, it may be that the Mishna uses the verbiage of “priority” only because the end of the Mishna uses that when it says that the second wife and her heirs have priority over the heirs of the first wife.

NASA ES HARISHONA

- We can learn three things from this Halacha: 1) in a case where one wife died during the husband's lifetime and the second died after his death, there is still the concept of the “benin dichrin kesuba” for the heirs of the first wife, and we are not concerned that the heirs will argue – we see this from the fact that the Mishna says the second heirs have *priority*, which suggests that if there is enough money the first heirs will get the benin dichrin piece as well; 2) we can learn that the amount paid for the second wife's kesubah is considered an amount “left over” in the estate, which would therefore allow for the application of the benin dichrin kesubah (the Mishna later says that for benin dichrin to apply there must be at least a dinar left in the estate after the application of the benin dichrin); and 3) benin dichrin is not collected from encumbered property, because if it was, the heirs of the first wife should go and take the property that was used to pay the kesubah of the second wife.
 - **Q: R' Ashi** asked, maybe there is no benin dichrin in the case outlined in #1. Maybe the Mishna means that the heirs of the second wife have priority in that they collect before the laws of inheritance kick in, but they kick in right after the kesubah of the second wife is collected, and at that time all the heirs inherit equally!? Also, there is no proof from our Mishna for #2, because maybe our Mishna is discussing where there is a dinar leftover without considering the kesuba payment!?

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- The Gemara says that the #1 is actually a machlokes Tanna'im in a Braisa. The Braisa says, if one wife died during his lifetime and the other died after his death, **Ben Nanas** says, the heirs of the first wife can tell the heirs of the second wife, you are a creditor, take the kesubah of your mother and go. **R' Akiva** says, the estate has already jumped away from the first heirs and has fallen to the second heirs. Presumably the machlokes is that **Ben Nanas** holds that benin dichrin applies in this case and **R' Akiva** holds that it does not.
 - **Rabbah** said, I saw the **Rabanan** of the yeshiva of **Rav** sitting and saying that really all hold that benin dichrin would apply. The machlokes is regarding #2, whether the kesubah payment is considered an amount left over. **Ben Nanas** says that it is, and the same would apply to an amount paid to any creditor, and **R' Akiva** says that it is not, and the same would apply to an amount paid to any creditor. **Rabbah** told them, all would agree that an amount paid to another creditor is considered to be an amount left over. The machlokes is only regarding a kesubah payment.
 - **Q: R' Yosef** asked, if this is the true machlokes, **R' Akiva** should have said, if there is a dinar left over there will be benin dichrin and if not there is not. Why does he say "the estate has jumped from the first heirs"? **A: R' Yosef** said, the proper understanding of the machlokes is as originally thought, and it is regarding #1, as explained above.
 - We can say that this is also the machlokes between the Tanna'im of another Braisa. The Braisa says, if the first wife died, he then married a second wife, and then he died, the sons of this one (presumably the second one) can come after the death and collect the kesubah of their mother. **R' Shimon** says, if there is a dinar left over they each get their mother's kesubah. If not, they split it equally. Presumably we can say that they argue about #1 – **R' Shimon** says there would be benin dichrin and the **T"K** says that there would not be.
 - It may be that all agree to #1, and that there would be benin dichrin in this case. The machlokes may be whether the remaining dinar in the estate must be a dinar worth of land (which would be the view of the **T"K**) or whether a dinar of even moveable property would suffice (**R' Shimon**).
 - **Q: In a Mishna R' Shimon** clearly says that there must be an extra dinar of land!? **A: The machlokes** could be that the **T"K** holds the dinar must consist of unencumbered land, whereas **R' Shimon** holds it may even be of encumbered land.
 - **Q: If this is correct, R' Shimon** in the Braisa should have said "since there is an extra dinar", not "if there is an extra dinar"!? **A: It must be** that they argue in whether or not an extra dinar is needed, or whether even less than a dinar suffices.
 - **Q: Both the T"K and R' Shimon** say that a dinar is needed!? **A: We must use one** of the previous 2 answers (the machlokes is whether the extra dinar must be of land, or whether it can be of encumbered property), and we should reverse the views so that it is **R' Shimon** who holds that the dinar must be of real property that is unencumbered.

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- **Mar Zutra in the name of R' Pappa** paskened, 1) in a case where one wife died during the husband's lifetime and the second died after his death, there is still the concept of the "benin dichrin kesuba" for the heirs of the first wife, and we are not concerned that the heirs will fight; 2) the amount paid for the second wife's kesubah is considered an amount "left over" in the estate, which would therefore allow for the application of the benin dichrin kesubah.
 - **Q: It is understandable why #2 must be stated even if #1 is stated, to teach that a kesubah payment is considered to be left over money of the estate. However, why couldn't he just state #2, and we would**

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know that he paskens like #1! **A:** If he would just say #2, we may think to say that he paskens like #1 only when there are 3 wives, where 2 of them died in his lifetime and one died after his death, and this one who died after his death only had a daughter (who doesn't inherit). Therefore, the sons of the first 2 wives are in the same boat and will not come to argue about the inheritance. However, in a simple case as stated in #1, maybe he would say that we do not apply benin dichrin so that there should be no arguing.

MISHNA

- If a man had two wives and they both predeceased him, and each of the wives' sons is demanding their mother's kesubah as benin dichrin, but there is only enough money to pay the kesubos and would leave nothing over in the estate, they do not get the kesubos and instead divide the estate equally. If after paying the kesubos there would still be a dinar remaining in the estate, each set of sons gets their mother's kesubah. If one of the sons says he will overvalue the property of the estate so that the kesubos can be paid and the estate will still be left with a dinar, we do not listen to him, rather we have the estate valued in Beis Din. If the estate has assets coming to it in the future (the father of the man who died has assets which will pass to this son's estate when the father dies), they are not considered to be currently in the estate for purposes of deciding whether there is a dinar left over. **R' Shimon** says, in order to apply benin dichrin there must be a dinar of *real property* left over in the estate after payment of the kesubos.

GEMARA

- A Braisa explains the case of the Mishna. If the kesubah of the first wife was for 1,000 and the second wife was for 500, if there will still be dinar left in the estate, each woman's sons takes the amount of her kesubah, and the remainder of the estate is divided equally.
- **Q:** If at the time of death the estate had value to pay the kesubos and have a dinar left over, and then the estate depreciated, it is clear that benin dichrin would still be applied, because they have each acquired their share at the time of death. What is the Halacha if at the time of death there was not enough value to have a dinar left over, but then the estate appreciated to the point that there is enough value? **A:** Such a case was brought to **R' Amram** and he said that benin dichrin will be applied. They then went to **R' Nachman** and he said that it is not applied.
- There was a person who owed 1,000 zuz, and he owned two mansions. He sold each of them for 500 zuz to the same buyer. The creditor went and took one from the buyer for his debt. He wanted to take the second one as well. The buyer told him, if you will accept the one that you already took as payment for your entire 1,000 zuz loan, then you can keep the one you have. If you will not do so, I will give you 1,000 zuz and take back the first mansion from you as well. **Rami bar Chama** thought to say that this is like the case in our Mishna where the heirs want to inflate the value of the estate to allow for application of benin dichrin, and just as in that case we do not allow them to do so, in this case we should not allow the buyer to do so either. **Rava** said, in our Mishna the over inflation causes a loss to the other heirs. In this case, the creditor will still end up with 1,000 zuz if he doesn't agree. Therefore it would be allowed in this case.
 - **Q:** If the creditor keeps the one mansion in full settlement of the 1,000 debt, when the buyer sues the seller/debtor for payment on the mansion that he lost, can he only sue for 500 or can he sue for 1,000? **A:** **Ravina** said he can sue for the full 1,000 and **R' Avira** said he may only sue for the 500. The Gemara paskens like **R' Avira**.
- The Gemara brings a similar case, only here there were 2 small fields worth 50 zuz each, it was **R' Yosef** who said what **Rami bar Chama** said above, and it was **Abaye** who said what **Rava** said above.
- A person owed 100 zuz and passed away. He left over a small field worth 50 zuz. The creditor attempted to collect the field. The heirs went and gave him 50 zuz instead of having him take the field. The creditor took the money and then attempted to collect the field for the remaining 50 zuz of the debt. **Abaye** told them, there is a mitzvah to pay off the debts of one's father. Therefore, even though they did not have to give the money (only real property must be used to pay off the debts), doing so was a mitzvah. Now, by going after the field for the remainder, he is collecting for his debt according to Halacha, and therefore he may do so.

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- The Gemara says, if when they gave him the money they told him that the 50 zuz is for the field (as if they are buying it back from him) he can not then try and collect the field a second time, because it is as if he collected the field and then sold it to the heirs.
- A person sold the future rights that he may have in his mother's kesubah. He told the buyer that if his mother were to protest this sale, the sale would be nullified, but the money would not have to be returned. The mother died without protesting the sale. The seller then said, as his mother's heir he is now protesting the sale thereby nullifying it. **Rami bar Chama** thought to say that he is in his mother's place and may therefore protest the sale and nullify it. **Rava** told him, although he agreed to nullify the sale on protest of the mother, it is clear that the buyer did not agree to nullify the sale on protest of the seller, and therefore the protest is meaningless and the money would have to be returned.

-----Daf צב--92-----

- **Rami bar Chama** said, if Reuven sold a field to Shimon without a guarantee (if a creditor of Reuven takes the field from Shimon, Reuven would not be obligated to reimburse Shimon), and Shimon then sold it back to Reuven with a guarantee, and a creditor of Reuven then came and took the field from Reuven, Shimon would be obligated to reimburse Reuven for the field. **Rava** said to him, Shimon accepted on himself to reimburse Reuven if the field is taken away by any other creditor, but not if it is taken away by a creditor of Reuven himself!
 - The Gemara says that **Rava** would agree that if this field was originally inherited by Reuven and the creditor who took it from Reuven was a creditor of Reuven's father, that Shimon would have to reimburse Reuven, because a creditor of his father is considered like any other outside creditor.
- **Rami bar Chama** said, if Reuven sells a field to Shimon with a guarantee, and they then set the amount of the purchase as a loan from Reuven to Shimon (he did not pay for the field, so they made the amount as a loan), and then Reuven dies and a creditor of his tried to take the land from Shimon and so Shimon gave him money instead (thinking that the money he anyway owed to Reuven he now gave to the creditor), the heirs of Reuven can tell Shimon, you owed our father money, and money of an estate is not encumbered to pay back a loan. Therefore, if you had given us the money we would not have had to pay the creditor. Therefore, Shimon would have to now still pay to the heirs the amount that he owed to Reuven.
 - **Rava** said, if Shimon is smart he should pay the loan to Reuven's heirs with the land. Once they have the land he can then take it back as the guarantee that was given to him by Reuven. This is based on what **R' Nachman** said in the name of **Rabbah bar Avuha**, that if heirs get land as payment for a debt to their father, that land then becomes subject to the lien of their father's creditors.
- **Rabbah** said, if Reuven sold all of his fields to Shimon in one document, and Shimon then sold one of the fields to Levi, if a creditor of Reuven comes to take a field for his debt, he may take a field from whomever he wants. This is only true if Levi bought middle grade land (which is what a creditor normally collects from). However, if Levi bought high grade or low grade, he can tell the creditor that I purposely didn't buy middle grade land, because I did not want to become subject to a creditor. Moreover, even if Levi bought middle grade land, if he left some middle grade land with Shimon, Levi can tell the creditor that I purposely did not buy all the middle grade land so that if a creditor comes he can go to Shimon to collect.
- **Abaye** said, if Reuven sold a field to Shimon with a guarantee and a creditor of Reuven then comes and tries to take that field, Reuven is allowed to go and try to prevent the creditor from doing so. The creditor cannot tell Reuven that he has no standing to do so, because Reuven says, if you take this from Shimon he will come to me for reimbursement.
 - **Others** say that Reuven may do so even if he did not sell with a guarantee, because he can say that he doesn't want Shimon having any complaints on him.
- **Abaye** said, if Reuven sold a field to Shimon without a guarantee, and someone then came forth stating that the field was his and not Reuven's, the Halacha is that if Shimon did not yet make a kinyan chazaka on the field he can still back out and not pay for it. Once he did make the kinyan he can no longer back out, because he has bought a field without a guarantee, accepting the risks that come along with that.
 - The kinyan is made as soon as he walks the boundary of the field.

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- **Others** say that even if it was purchased with a guarantee he still cannot back out once he made the kinyan, because Reuven can tell him, show me the document that the field was taken from you and then I will pay you.

-----Daf ל"ט-----93-----

MISHNA

- If a man was married to 3 women, where one kesubah was for 100, the second was for 200, and the third was for 300, and he died with an estate worth 100, they split the estate equally.
 - If the estate was worth 200, the woman with a kesubah of 100 takes 50, and the women with the kesubos of 200 and 300 take 75 each.
 - If the estate was worth 300, the woman with a kesubah of 100 takes 50, the woman with a kesubah of 200 takes 100, and the woman with a kesubah of 300 takes 150.
- Similarly, if 3 people put money into a fund to be used for investment, and they had a loss or a profit, they would share in this same way.

GEMARA

- **Q:** In the second case the Mishna says that the woman with the kesubah of 100 takes 50, which represents half of the first 100 of the estate, since her lien is only on 100 of the estate. Now, she should have to share that with the other 2 women (who also have a lien on that 100), and as such should only get 1/3 of that 100, not one half!? **A: Shmuel** said, the Mishna is discussing where the woman with the kesubah of 200 waived her rights to collect from the first 100, and there are therefore only 2 women who share in that 100.
 - **Q:** If so, why does the woman of 200 end up with 75, which includes 25 from the first 100? Since she gave up her rights she should not collect from that 100 at all!? **A:** She only said that she will not make a claim to the detriment of the woman of 100. She never said that she gives up any piece that she has. Therefore, once the woman of 100 takes her share, the woman of 200 will split the remainder with the woman of 300.

HAYU SHAM SHLOSH MEYOS...

- **Q:** Why does the woman of 200 end up with 100? She should only get 75 (25 of the first 100 as explained above, and then 50 of the second 100, and nothing of the third 100)!? **A: Shmuel** said, the Mishna is discussing where the woman of 300 told the woman of 100 and the woman of 200 that she relinquishes her rights to the first 100 (but the woman of 200 did not waive any rights in this case). Therefore the woman of 200 gets 50 of the first 100 and 50 of the second 100.
 - **R' Yaakov of Nehar Pekod in the name of Ravina** said, the earlier case of the Mishna is dealing with 2 seizures of property and the later case of the Mishna is also dealing with 2 seizures of property. The earlier case is discussing where at first 75 fell to all three women, and Beis Din had them divide it equally. Then the other 125 fell to them. They each still have a lien on another 75, so they split that evenly, and the remaining 50 is split among the woman of 200 and the woman of 300. The later case is discussing where at first 75 fell to all three women, and Beis Din had them divide it equally. Then the other 225 then fell to them. They each still have a lien on another 75, so they split that evenly, the next 100 is divided between the women of 200 and 300, and the remaining 50 is given to the woman of 300 by herself.
- A Braisa says, the Mishna follows the view of **R' Nosson**. However, **Rebbi** says that in all the cases the women are to divide the estate equally.

V'CHEIN SHLOSHA SHEHITILU

- **Shmuel** said, if one person put 100 into an investment fund and another person put 200 into the fund, the profit is divided equally.
 - **Rabbah** said, it would make sense to say that **Shmuel** was referring to a case where they invested in an ox to be used for plowing which was actually used for plowing. In that case each partner's share is integral to making the investment. However, if they invested in an ox for plowing and instead sheched

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it for its meat, each would take profits in proportion to the money invested. **R' Hamnuna** said, even if this case the profits would be divided equally.

- **Q:** A Braisa says when one person puts 100 into a fund and another puts 200 into the fund they split the profit equally. Presumably this is discussing where the money was invested in an ox to be used for plowing, but which was actually shechted, and we see the profits are equally divided, not like **Rabbah** said!? **A:** The Braisa is discussing a case where the ox was meant for plowing and was actually used for plowing as well.
 - **Q:** This would mean that the Braisa holds that if the ox was shechted they would take proportionate shares in the profits. If so, when the Braisa wants to give a case where they would take proportionate shares, why does it have to give a case where they each bought oxen and then formed a partnership with the oxen? Why can't it give the case of where the ox was shechted instead of being used for plowing? **A:** The Braisa should be understood as saying that if the ox is shechted each would take a proportionate share of the profits just like in the case of where the oxen were purchased separately and then used to form a partnership.
- **Q:** Our Mishna says that the profits from a fund are divided in proportion to the money placed into the fund!? **A:** The Mishna does not refer to a true profit. The Mishna refers to where better quality coins were exchanged for the low quality coins that were originally placed into the fund. In that case they take proportionately. However, if a true profit or loss was generated, it would be shared equally.

MISHNA

- If a man was married to 4 wives and he died, the first wife has priority to collection of her kesubah over the second wife. The second wife has priority over the third, and the third has priority over the fourth. The first wife must swear to the second before taking payment (that she hasn't been paid before), the second must swear to the third, and the third to the fourth. The fourth takes payment without the need to swear. **Ben Nanas** says, just because she is last she need not swear!? Rather, she must swear before getting paid as well.
- If all 4 kesubos were written on the same day, whichever one was written earlier in the day takes priority over the others. In Yerushalayim they would write the time of day on the document.
 - If they were all written at the same time and the entire estate consists of only 100, they divide it equally.