

Review of Makos Lesson 5 - Daf 2b:

(d)We cannot learn this from the Pasuk in the Aseres ha'Dibros "Lo Sa'aneh ve'Re'acha Eid Shaker" [You shall not bear false witness against your neighbor.] - because it is a 'La'av she'Ein bo Ma'aseh' [A negative transgression which has no action] (and would therefore not be subject to Malkos, were it not for the Pasuk under discussion).

(e)Our Mishnah cited two cases where the witnesses receive Malkos (rather than the punishment indicated by "Ka'asher Zamam" - as they planned on doing). The Tana Kama of the Beraisa cites two more cases where the witnesses do not receive the punishment indicated by "Ka'asher Zamam.].

1.The third case is when they tried to make the defendant pay Kofer [an atonement through the value of his life] (by testifying that his Mu'ad ox [that already killed three animals] killed a person). The ...

2. The fourth case is that - they cannot be sold as Avadim Ivrim [Jewish servants] (in the event that they testify that the defendant stole and is unable to pay).

2. The fifth case added by Rebbi Akiva is that - if Eidim Zom'min admit (of their own volition) in another Beis-Din that they are Zom'min, they are not obligated to pay.

7)

(a)The logic behind the ruling that the false witnesses do not pay Kofer is - the fact that it is a Kaparah [atonement], and the witnesses (may well have sinned, but) they are not subject to a Kaparah. (The atonement is required for the death at the hands of Hashem which the money is atoning for. However, when the witnesses actually lied, the victim was never at risk to death at the hands of Hashem, which never would require financial atonement. So the witnesses never succeeded in having the victim die at the hands of Hashem or need to pay for its atonement.)

(b)In another Beraisa, the Tana Kama holds that Kofer entails paying the dead man's value. According to Rebbi Yishmael B'no shel Rebbi Yochanan ben Berokah - it is his own value that he has to pay.

(c)According to Rav Chisda - Rebbi Yishmael holds that Kofer is a Kaparah (**and is therefor the author of the first Beraisa**), whereas according to the Tana Kama, it is Mamon (a monetary payment).