

Review of Makos Lesson 9 - Daf 3a:

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1 **(Mishnah):** If Edim (who were later found to be) Zomemim testified that Reuven divorced his wife and did not pay her Kesuvah:

1. They need not pay him the full value of her Kesuvah, for he would have eventually paid it anyway (if he divorces her, or if she was widowed she would have collected it from his estate);

2. Rather, we estimate what one would pay, at a discounted price, for the chance to collect her Kesuvah (the *Tovas Hana'ah*):

i. She collects the full value of the Kesuvah when she is divorced or widowed. If she dies first, the husband inherits her and does not pay the Kesuvah.

(b) **(Gemara) Question:** How do we make the estimation? (It cannot be what someone would pay for her rights of collection, this is not what they tried to make the husband lose !)

(c) **Answer #1 (Rav Chisda):** We estimate the husband's *Tovas Hana'ah* (what one would pay for his rights to keep his property lined against the Kesuvah until it must be paid. If she dies first, he keeps it forever.)

(d) **Answer #2 (Rav Noson bar Oshaya):** We estimate her *Tovas Hana'ah*, and deduct this from the total value of the Kesuvah. (If she would agree to sell it, her husband would buy her *Tovas Hana'ah* to guarantee that he will keep the Kesuvah forever. This is more than his *Tovas Hana'ah*, for the sum of his and her *Tovas Hana'ah* is less than the Kesuvah. This is because one would buy such collection rights only for less than the true value based on statistical expectations to collect. One who wants to buy land is loathe to buy her *Tovas Hana'ah*, for he has no idea when (if at all) he will receive it. People are reluctant to buy his *Tovas Hana'ah*, for they fear to invest in the land, lest she collect it suddenly. However, the husband's *Tovas Hana'ah* is greater than the wife because 1) the purchaser can immediately use the land he bought, and 2) The purchaser does not have the inconvenience of collecting the land, while the one who purchases the wife's *Tovas Haana'ah* must go through the inconvenience of collecting the money from the husband.)

• Example. If the Kesuvah is worth \$100. The husband's *Tovas Hana'ah* is \$50. The wife's *Tovas Hana'ah* is \$40. According to Rav Chisda the false witnesses pay \$50. According to Rav Noson bar Oshaya they pay $\$100 - \$40 = \$60$.

(e) **Answer #3 (Rav Papa):** We deduct her *Tovas Hana'ah* from the Kesuvah (Like Answer #2). However, they do not pay for *Nichsei Melug* (property that she brings into the marriage, and receives it back with her Kesuvah, without compensation if its value rose or declined. This is because they can say that they did not know about it.)