
Shema and Burying the Dead

ברכות דף י"ז: ודף י"ט. – דף י"ט: ושלחן ערוך אורח חיים סימן ע"ב וסימן ק"ו סעיף א' [עפ"י פסקי מ"ב] ויורה דעה סימן שד"מ סעיפים י"ב-י"ג וסימן שנ"ח סעיפים א'-ב [עפ"י פסקי ערוך השלחן]

רמב"ם הלכות קריאת שמע פרק ד הלכה ו

קברו את המת וחזרו האבלים לקבל תנחומין וכל העם הולכים אחריהם ממקום הקבר למקום שעומדים בו האבלים לעשות שורה לקבל תנחומין אם יכולין העם להתחיל ולגמור אפילו פסוק אחד קודם שיגיעו לשורה יתחילו ואם לאו לא יתחילו אלא ינחמו את האבלים ואחר שיפטרו מהן יתחילו לקרות. בני אדם העומדין בשורה הפנימיים שהן רואין פני האבלים פטורין מקריאת שמע והחיצונים הואיל ואינן רואין את האבלים חייבין בקריאת שמע במקומן.

השגת הראב"ד

קברו את המת וחזרו וכו'. כתב הראב"ד ז"ל א"א ודוקא באותן הצריכים לראות פני האבל שהם קרויים פנימיים והם הקרובים אליו עכ"ל.

רבינו יונה על הרי"ף מסכת ברכות דף יא עמוד ב

אם יכולין להתחיל ולגמור אפי' פרק ראשון וכו' ... ודוקא בפנימיים הרואים פני האבל אבל החיצונים לעולם יתחילו.

רמב"ם הלכות אבל פרק ג הלכה יד

וכן מיטמא בטומאה מדבריהם לכבוד הבריות, כיצד אבל שהלך בבית הפרס הכל הולכין אחריו שם לנחמו וכו'.

חידושי הריטב"א מסכת ברכות דף יט עמוד ב

והראב"ד ז"ל כתב הכי גרסינן לה במסכת שמחות באין בטהורה בא עמהם בטהורה באין בטמאה בא עמהם בטמאה. ועל כהן אבל קאמר ומשום כבוד צבור מטמא עמהם. וכתב שזה הלשון ערב עליו יותר מאותו שכתוב בספרים כי כמה כבוד או בזיון יש לאבל בהפרד בהן אחד מתוך הצבור הבאין עמו.

At a **פטור** from **שמע קריאת שמע** and **תפלה**, who is **לוי**, who is

Anyone who is needed to carry the coffin is exempt from **שמע קריאת שמע**, even if he reckons that there is enough time in which to read before it reaches his turn, since he may be called upon earlier than expected. Practically, in a place where there is a group of people whose job is to carry the coffin, all of them are **פטור**. In a place where this is not the case, those who are standing close to the coffin, who are, therefore, likely to be honoured with the **מצוה**, are **פטור**, whilst everyone else is **חייב**. It is true that according to many, **מצוה דאורייתא** is a **גמילות חסדים** [see **תלמידי רבינו יונה** and **פרי מגדים א"א** and **סק"ד**], but reading **שמע** does not hamper the **מצוה** of simply walking alongside the **מת** [especially, as pointed out by the **שלחן ערוך**, since the strict **מצוה** is only to walk **ד' אמות** with the **מת**]. The **שלחן ערוך** writes that it seems obvious that, if there are sufficient people to carry the **מת**, who have already read **שמע**, they should relieve the others who have not done so, from carrying the **ארון**, so that they can go off to be **מקיים** the **מצוה** of **שמע**.

However, all present are exempt from תפלה, since it is only דרבנן and requires standing still for quite a time; time that is not available. [This follows the explanation of the רמב"ם in the משנה, in which, he rules that those who are no longer needed for the coffin, are no different to those who never were required to carry it. See the טור, who explains, seemingly based on the other ראשונים, the משנה as we have it. As such, the בית יוסף learns that he would have obligated the מלוים in תפלה too. However, in the ערוך השלחן, he clearly follows the רמב"ם. Interestingly enough, the ערוך השלחן in יורה דעה seems to side with the טור, requiring the מלוים to daven. However, in אורח חיים, he clearly writes like the שלחן ערוך.]

Thus, even if the זמן of תפלה passes, there is no need for תשלומין. [This is in accordance with most פוסקים; unlike the ט"ז. Refer to 'Laws of Onen'. If the לוי wrongly started after daybreak but prior to people davening, it would seem that, in this case, there would be a need for תשלומין.]

It is getting close to night. Should one wait for מעריב before doing the 'לוי'?

The גמרא says that, other than for an אדם חשוב [which does not apply nowadays], one should not begin a קבורה unless one will finish before the onset of שמע. There is a debate in the תלמודי and subsequently in the פוסקים, as to whether this applies to מעריב as well, even though one has the whole night for קריאת שמע. Although the ערוך השלחן seems to make no differentiation, the consensus is to be more lenient, in light of the fact that if one waits until after sunset, he will lose the מצות עשה of burying on the same day.

If, however, it has already reached night, since [according to the הלכה] one has the whole night before he transgresses the negative commandment not to leave the body overnight, then the די is definitely the same as in the morning; namely, allow enough time for the coffin-bearers and the majority of the community to have davened.

If they miscalculated, should they interrupt the קבורה in order to read שמע?

No; once they have started the לוי, even wrongly, even after it has already reached the זמן for שמע and even if there will not be time to say שמע after the לוי. It is important to note that this refers to those who are needed to deal with the body. However, those who are just accompanying the מת, should read immediately, even if there is still plenty of time ahead in which to read, after the קבורה.

However, during the הספדים [namely, the ones prior to the קבורה], if the מת is not actually in the immediate vicinity, they should all read שמע and daven. [See the טור and בית יוסף, that the ספדן should interrupt his הספד. As to whether he, himself, is now obligated to read שמע, see the בית יוסף and the ט"ז סק"ב.] In accordance with הלכות אנינות, the אונן should sit in silence and not answer to

any of the ברכות; he should be מצדיק the דין, asking Hashem to close up the breaches within כלל ישראל with mercy, but he should not mention the fact that he really deserves far more punishment, in accordance with the dictum, 'אל תפתח פה לשטן'.

If the מת is present, they should then slip out, one at a time, to read שמע and, according to some, including the שלחן ערוך, daven. However, as for the person delivering the הספד, the משנה ברורה says that he may definitely rely on the מקילים for תפלה, especially since there are those who hold that he does not need to even read שמע. [Some say that in the case of a הפסד delivered after the קבורה, it should be interrupted for קריאת שמע and תפלה.]

After the burial, should he read שמע?

They are now going to return to comfort the mourners. As explained by the ריטב"א, in the eyes of חז"ל, from the moment the קבורה is completed, the people present are now involved in the מצוה of ניחום אבלים. As such, only if there is sufficient time to read at least the first פסוק of שמע [obviously, unless time is running out, whilst standing still], then he should read as much as he can, before reaching the place where they will comfort the mourners.

However, if they are approaching the זמן קריאת שמע and there will not be enough time to perform the מצוה afterwards, the רמ"א rules that, in this case, they should read immediately. [The מגן אברהם explains that he has not actually started the מצוה of ניחום אבלים, perhaps arguing with the aforementioned ריטב"א.] On the other hand, many disagree with this. [This may depend on whether גמילות חסדים is actually a complete דאורייתא. Do we say המצוה פטור מן המצוה, even if the first is דרבנן and the second is דאורייתא? See פרי מגדים א"א סק"ד and ביאור הלכה.]

Whilst standing around the אבלים, only those who can actually see the mourners carry the exemption of קריאת שמע. [We do not pasken like ר' יהודה, and, therefore, it makes no difference whether they are related or not and as to what their motive is, in being there. According to the תלמידי רבינו יונה, and, as we have explained the ראב"ד, only those who are likely to be amongst those who can see the אבלים, do not start the שמע, on the way back to the שורה.]