



Overview

Halacha Highlight

Siman 548 Seif 4:

When we stated that one who buries the deceased during the *moed* does not mourn we referred to public mourning practices but private mourning practices are observed. (However, it is permitted to sleep in the same room as one's wife and a watchman is not necessary.)

- ❖ He does not change his clothing since his mourning did not begin before the *moed*. He is also not obligated to change his seat in the *bais haknesses*. (M.B. 15)
- ❖ This includes bathing, marital relations and Torah study. Some authorities permit Torah study but it is certainly not worthwhile to call him for one of the required *aliyos*. (M.B. 16)

Siman 548 Seif 5:

Although *aveilus* is not observed, *aninus* is observed. Therefore, if a relative dies during *chol hamoed* the relatives may not do those activities that an *onen* may not do. If the deceased passed on Yom Tov and they will not bury the deceased that day, the relatives are not *onenim* unless one must travel to the end of the *techum* to make preparations for the deceased. In such a case he becomes an *onen* when it becomes dark. If the deceased passes on the second day of Yom Tov and they will bury him that day, or even if he passes on the first day and gentiles will perform the burial, the restrictions of *aninus* apply.

- ❖ He is prohibited to consume meat and wine and the other restrictions of *aninus*. (M.B. 17)
- ❖ If he does not wait at the end of the *techum* he is obligated to perform all of the *mitzvos* until nightfall. The night of the 2nd day of Yom Tov he is certainly obligated to observe the *mitzvos* since people do not bury the deceased at night. (M.B. 19)
- ❖ Shulchan Aruch means that the relatives could bury the deceased if they wanted, as opposed to if there was some reason the burial could not be done that day, in which case the restrictions of *aninus* do not apply. (M.B. 20)
- ❖ One who is an *onen* during the *moed* may not study Torah and may certainly not receive an *aliyah*. The implication is that the restriction is in force even when the burial will not take place. Dagul Merevavah questions why the restriction against studying Torah should be in force if he is not an *onen*. (M.B. 21)

A mourner studying Torah during the *moed*

Shulchan Aruch Siman 548 Seif 4

אבל דברים שבצנעה נוהג

Private expressions are observed

Shulchan Aruch (סעי' ד') notes that the rule stated above that one who buries a relative during the *moed* does not observe *aveilus* is limited to public observances of mourning. However, private mourning practices must be observed. These include the prohibition against bathing in hot water and marital relations (מ"ב ס"יק ט"ז). Mishnah Berurah (שם) presents a dispute whether Torah study is included in the category of prohibited private mourning practices. He adds that with regards to giving the mourner an *aliyah*, *l'chatchila* one should be stringent. However, on Simchas Torah when the custom is to give everyone an *aliyah*, Rav Shlomo Kluger (חכמת שלמה) ruled that it is permitted for a mourner who buried a relative on Sukkos to receive an *aliyah*. His reasoning is that refraining from giving a mourner an *aliyah* would constitute a public expression of mourning. Sdei Chemed (אספת דינים מערכת אבילות אות ל') cites approvingly other authorities who disagree and maintain that the mourner should walk out of the *bais haknesses* at that time and thus it will not constitute a public observance of mourning on Yom Tov.

The rationale to permit a mourner to study Torah is that regarding this *mitzvah* we rely on Rambam's position that a mourner does not observe any mourning practices during the *moed* even those that are observed privately. The reason to rely on Rambam's position in this case is because the alternative is to limit the mourner to studying only *hilchos aveilus* and other sad topics and that is unreasonable (שו"ת חכם צבי ח"א סי' קי). Elya Rabba (סק"ג) adds that one may also rely upon those authorities who categorize the restriction against Torah study as a public observance of mourning rather than a private one and thus it is permitted during the *moed*. Pischei Teshuvah (יו"ד סי' שצ"ט סק"א) cites Teshuvos Aish Das who explains that the prohibition against Torah study is due to the joy that it generates and during the *moed* it is not proper to restrict Torah study and deny the mourner from fulfilling the Biblical command of joy on the *moed*.