

SOME QUESTIONS ABOUT INHERITANCE

Q: 2- In respect of distribution of inheritance, please respond to the following situations:

1. A widow passes away leaving behind the following relatives:

- (1). A married sister and a married brother with children
- (2). A married daughter with children
- (3). A widowed daughter-in-law
- (4). Orphaned grand children".

2. A widow passes away leaving behind the following relatives:

- (1). A married daughter with children
- (2). Children of two deceased sisters

How will the assets (minus the liabilities) of the deceased be distributed in each of the above situations?

3. Is it incumbent upon heirs to set aside before distribution a sum to meet expenses for Hajj-e-Badal, if the deceased had not performed Hajj in his lifetime despite his physical and financial ability to do so." [A. Muslim, Dallas (Texas, U.S.A)]

A: The answer to this question depends on what you mean by "grandchildren". There may be four situations, and the answer in each case will be different.

If the grand children are only the male children of the son of the deceased lady, the answer will be as follows:

(a) The brother and sisters and the daughter-in-law of the deceased shall not get any share in the inheritance. They are not her legal heirs in this situation.

(b) One half of her inheritance shall go to her real daughter and the remainder half shall be distributed between her male grand-children equally.

(ii) If the grand-children consist of only the female children of her son, the distribution shall be effected in the following manner:

(a) The daughter-in-law shall not get any share.

(b) One half of the inheritance shall go to the daughter of the deceased lady.

(c) One sixth of the inheritance shall go to her grand-daughters. If they are more than one, this one sixth shall be divided between them equally.

(d) The remainder of the inheritance shall be divided into three shares, out of which two shares shall be received by the brother of the deceased lady, and one share shall go to her sister.

(iii) If the grand-children are both male and female, the distribution shall be in the following terms:

(a) The daughter-in-law, the brother and the sister of the deceased lady shall not be entitled to have any share in the inheritance.

(b) One half of the property shall vest in the daughter of the deceased lady.

(c) The other half shall be distributed between her grand-children, so that each grand son shall get double of the share of a grand -daughter. For example, if there are two grand sons and two grand - daughters, this one half of the property shall be divided into six shares, out of which two shares shall be received by each grand son and one share shall go to each grand-daughter

(iv) If the grand children are the children of the daughter of the deceased, the answer shall be as follows:

(a) The daughter-in-law and the grand children shall not receive any share from the inheritance.

(b) The real daughter shall be entitled to get one half of the property.

(c) The remaining one half shall be divided into three shares, out of which two shares shall be received by the brother of the deceased lady and one share shall go to her sister.

It will be clear from the details given above that the manner of distribution in the Islamic Law of Inheritance is so diversified, that they differ from case to case, and even a slight change in the list of the relatives can alter the whole scheme altogether. So, when asking a question about the inheritance, the list of the relatives should always be given to the expert with minute details in clear words, and one should not determine the shares of the inheritors on the basis of his own analogy, unless it is confirmed by some scholar familiar with the subject.

The normal course for replying a vague question about inheritance is to refer it back to the person who asked the question for further query, and to answer it only after the necessary details are obtained from him. But as you are very far from us, and the required explanation would have taken much time, we preferred to mention the rules for all the possible situations which might be imaginable within the scope of your question.

2. In this case the married daughter of the deceased lady shall get one half of the estate. Then, if she has a brother, or a son of a brother or a paternal uncle or a son of an uncle he will get the other half. But if she has none from the relations listed above, the other half shall go to all the children of her daughters, no matter whether their parents are alive or dead. The one half in this case shall be distributed among all of them in such a way that every male shall receive twice more than a female. For example, if the children of her daughters are ten, five male and five female, the one half shall be divided into fifteen shares, out of which every male shall get two

shares, and every female shall receive one share.

3. If the deceased lady had made a wassiyah (a will) that Hajj-e-Badal should be performed out of her estate, then her heirs are under an obligation to perform Hajje-Badal on her behalf, provided that the amount required for Hajj does not exceed one third of the total property left by her.

But if the deceased lady had made no wassiyah for this purpose, her successors are not under any obligation to perform Hajj-e-Badal for her.' However, the adult heirs may perform Hajj-e-Badal from their own shares, if they so desire.

Likewise, if the amount required for Hajj is more than one third of the property, the adult and sane heirs of the deceased lady may either contribute from their own shares, or may choose to send somebody for Hajj-e-Badal from a place nearer to Makkah so that one third of the property may be sufficient for Hajj.

Contemporary fatawaa