

Question 2429) - Sometimes an heir dies before receiving his inheritance. How do the surviving heirs of both deceased parties inherit?

A: If the shares received by the second deceased can clearly be shared amongst the remaining heirs, then the first calculation will be used for the second death as well. For example, a woman dies leaving behind her husband, son and 2 daughters. The Asl is 4. The husband gets 1 share and the children 3 according to Allaah's command, "For the male is double the share of the female." To divide the children's shares their number will be multiplied by the Asl (4). They are treated as 4 people because of the son getting double the daughters. The result is 16. The husband gets 4, the son 6 and each daughter gets 3. The husband then dies because they receive their shares. He leaves behind the mentioned son and daughters. The estate remains in 16 shares. The son gets 8 shares and each daughter gets 4. This was an example where the Asl of the second estate is equal [Tasawi] to the number shares which the second deceased obtained from the first deceased. No further multiplication or other calculation was needed. If the relationship is instead Tawafuq or Tadakhul, multiply the remaining factor of the second estate with the final adjusted denominator of the first estate. Then multiply that according to the remaining factors of the numbers of the heirs of the first deceased. Both estates will be balanced. For example, a woman dies and leaves behind her husband and two brothers. The adjusted denominator will be 4. The husband takes 2 and the brothers take the remainder of 1 each. The husband then dies before the estate is shared. He leaves 4 sons only. The Asl of the second estate (4) and the number which the second deceased inherited from the first deceased (2) are both divisible by 2. So multiply half the Asl of the second estate (2) with the final denominator of the first estate (4). The result is 8. Multiply remaining factor of 8 (4) with the remaining factor of the shares of the brothers of the first estate (2). The brothers take 2 shares each and the husband's sons 1 each. If the relationship is Tabayun then multiply the second adjusted denominator with the first adjusted denominator. The shares of the first deceased's heirs are multiplied by the second adjusted denominator or the remaining factor. The shares of the second deceased's heirs by what is in his hands or the remaining factor. For example, a woman dies and leaves her husband, daughter, mother and brother. The estate is divided into 12 shares. The husband takes a quarter (3), the daughter half (6), the mother a sixth (2) and the brother takes the remainder (1). The husband dies and leaves a wife besides the first deceased wife. He also leaves his parents. His estate will be divided into 4. The wife takes a quarter (1) and the parents take the remaining 3. There is Tabayun between the Asl of the second estate (4) and the husband's share from the first estate (3). The two Asl are multiplied resulting in 48 by which both estates are balanced. The shares of the surviving heirs of the first deceased are multiplied by the second Asl (4). The shares of the heirs of the second deceased are multiplied by the shares the second deceased got from the first estate (3). The first deceased daughter gets 24 shares, the first deceased mother gets 8, her brother gets 4, the second wife gets 3, the father of the second deceased gets 6 and his mother gets 3. This totals 48.

NOTE:

Once the shares of the Munasakhah have balanced and the Dirham is divided amongst the heirs and there is a remainder after dividing the Dirhams into 48, share the remainder according to the Habbah [units Dirhams are divided into] for each share, and Allaah knows best.

~ al-Quduri ~