

Inheritance According To Islamic Sharia Law – by Fazli Sameer

Sailan Muslim Inheritance, Muslim Issues 870 Comments 59,515 Views

When a believer dies it becomes incumbent on the family members to ensure that the wealth and property left behind are distributed according to Shariah Law prescribed in the Qur'an and Authentic Sunnah. After meeting the initial expenses incurred in giving the deceased an Islamic burial, and, after paying all of his debts and the "*mahar*" (*dowry*) *that may still be due*, to his wife, up to one-third of the remaining may be expended according to the deceased dying wishes or legal will that is left behind, for those who are NOT entitled by Shariah only.

The remainder must be distributed to all the legal heirs as defined by Qur'an and Authentic Sunnah as detailed hereunder.

Zakat payments, if any, that are due by the deceased must be paid even before the settlements of the debts and even before the burial expenses are utilized from the property of the deceased.

Ten groups amongst Male Heirs are entitled as follows:

son;	brother's son;
son's son	half brother's son;
father;	father's brother;
father's father;	father's half – brother;
brother;*	
– half brother*	son of father's brother;
– step brother*	son of father's half – brother;
	husband
	The freed male slave.

**(children of one father and one mother are referred to as brothers/sisters)*

**(children of a father through different mothers as half – brothers/ half – sisters)*

**(children of a mother and through different fathers as step –brother / step – sister)*

Seven groups amongst Female Heirs are entitled as follows:

daughter	sister;
son's daughter;	wife
mother;	freed slave – girl
grandmother;	

If none of the seventeen groups of people mentioned above is alive his wealth will be distributed among his *Arham*, i.e., non-inheriting relations.

Eleven groups of Heirs come under the class of *Arham*:

children of daughter;	mother's sister;
children of sister;	father's sister;
brother's daughter;	mother's father;
daughter of father's	mother's father's mother;
younger or elder brother;	children of mother's sister.
father's step brother;	
maternal uncle;	

There are six fractions of shares mentioned in the Quran: viz;

$\frac{2}{3}$, $\frac{1}{2}$, $\frac{1}{4}$, $\frac{1}{8}$, $\frac{1}{3}$, $\frac{1}{6}$.

The $\frac{2}{3}$ share is

1. for two or more daughters;
2. for two or more son's daughters;
3. for two or more sisters;
4. for two or more half- sister;

The $\frac{1}{3}$ share is

1. for two or more of mother's children;
2. for the mother in the absence of child, or son's child or two or more brothers or sisters;
3. some times for the grand father when there are brothers and sisters,

The $\frac{1}{2}$ share is

1. For one of the four sets of females mentioned above when she is alone.
2. for the husband when his wife leaves no issue.

The $\frac{1}{4}$ share is

1. for the husband when the wife leaves children;
2. for the wife when the husband leaves no children

The $\frac{1}{8}$ share is

1. for the wife when her husband leaves children

The $\frac{1}{6}$ share is

1. for the father when the deceased leaves children;
2. for the grandfather;
3. for the mother when the deceased leaves children or two or more brothers and sisters;
4. for the grandmother when the deceased leaves children or two or more brothers and sisters;
5. for the son's daughter when the deceased has one daughter;
6. for one or more half – sisters when there is a sister
7. for two or mother's children;

When a father and spouse are alive, after assigning the respective shares due to them, One Third of the Remainder will be assigned to the mother.

The portion assigned to the wife has to be shared equally by two or three of four wives.

Disentitlement of inheritance

Those who are closet in relation ship to the deceased will disentitle others who are distantly related.

1. The son disentitles the son's children
2. The father disentitles the grand father;
3. The mother disentitles her mother;
4. A father and mother disentitle the father's mother
5. The father and/or the son disentitled the brother
6. These three (father, son, brother) disentitle the half brother
7. The father, grandfather, and children disentitle the step – brother.
8. The father, the grandfather, the son, the son's son, the brother, the half- brother, disentitle the brother's son.

9. The above seven persons disentitle the son of the half- brother
10. The above eight persons disentitle the brother of the father.
11. The above nine persons disentitle the half- brother of the father
12. The above ten persons disentitle the son of a half-brother of the father.

An 'Asaba*, i.e an agnate, gets into possession of that portion of a deceased's wealth that is left over after the appropriate shares have been paid. He gets possession of the entire wealth when there are no others entitled to the deceased's wealth.

An 'Asaba is a son, son's son, father, father's father, brother, half brother, their sons, a brother of the father or his sons.

Next to an Asaba as inheritor is the male freed slave and the male issue of his Asaba.

If there are males as well as females among those that cannot disentitle each other, the males will get two shares each while the females get one share each. *Asaba – male relation on the paternal side.

There are four means of inheritance

1. Inheritance by lineage
2. inheritance by marriage ties
3. inheritance by a slave obtaining freedom
4. Inheritance by a public body or establishment like the *Baitul Mal* or *Treasury*.

There are four means by which inheritance may be lost.

1. The inheritor having any connection (even indirectly) with the cause of the death of the person whose heir he is
2. his becoming a Kafir
3. his becoming a slave
4. Uncertainty as to who died earlier.

A son's son is like son, but he will not get the ratio of 2:1 with the daughter (of the deceased) .

A mother's mother and a father's mother are like a mother, but they will have no claim to one third of the wealth. The share of these two will always be one sixth.

A father's father is like a father, but he will not disentitle the brothers. He will get his share together with the brothers.

A son's daughter is like a daughter, but she will be disentitled by the son.

A half- brother is like a brother but he will not get the ratio of 2:1 with a sister.

AI-QURAN – CHAPTER 4 – Al-Nissa – Verses 11,12 & 176

4:11 Allah commands you as regards your children (inheritance),

To the **MALE**, a portion equal to that of **TWO FEMALES**;

If (there are) only **DAUGHTERS**, two or more, their share is **TWO-THIRDS** of the inheritance;

If only one, her share is **HALF**.

For **PARENTS**, a **SIXTH** share of inheritance to **EACH** if the deceased left **CHILDREN**;

If **NO CHILDREN**, and the **PARENTS** are the (**ONLY**) heirs, the **MOTHER** has a **THIRD**;

If the deceased left **BROTHERS** or (**SISTERS**), the **MOTHER** has a **SIXTH**.

(The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. You know not which of them, whether your parents or your children are nearest to you in benefit. (these fixed shares) are ordained by Allah. And Allah is Ever All-Knower, All-Wise.

4:12 In that which your **WIVES** leave, your share is a **HALF** if they have **NO CHILD**;

But if they leave a **CHILD** you get a **FOURTH** of that which they leave after payment of legacies that they may have bequeathed or debts.
In that which **YOU** leave, their (**YOUR WIVES**) share is a **FOURTH** if you have **NO CHILD**;
But if you leave a **CHILD** they get an **EIGHTH** of that which you leave after payment of legacies that you may have bequeathed or debts.

If the **MAN** or **WOMAN** whose inheritance is in question has left **NEITHER ASCENDANTS NOR DESCENDANTS** (Al-Khalala), but has left a **BROTHER** or a **SISTER**, **EACH ONE** of the two gets a **SIXTH**; but if **MORE THAN TWO**, they share in a **THIRD**; after payment of legacies he (or she) may have bequeathed or debts, so that no loss is caused (to anyone).

THIS IS A COMMANDMENT FROM ALLAH; And Allah is Ever All-Knowing, Most-Forebearing.
4:176 They ask you for a legal verdict, Say, "Allah directs (thus) about Al-Khalala (those who leave neither ascendants nor descendants as heirs).

If it is a **MAN** that dies, leaving a **SISTER** but **NO CHILD**, **SHE** shall have **HALF** the inheritance.
If (such a deceased was) a woman, who left **NO CHILD**, her **BROTHER** takes her **INHERITANCE**.
If there are **TWO SISTERS**, they shall have **TWO-THIRDS** of the inheritance;
If there are **BROTHERS** and **SISTERS**, the male will have **TWICE** the share of the female.
(Thus) does Allah make clear to you (His Law) lest you go astray. And Allah is the All-Knower of everything.

Note: 4:12 refers to UTERINE (same mother, diff father) siblings while 4:176 refers to FULL (same father and mother) or CONSANGUINE (same father diff mother) siblings

LEVEL I – PRIMARY (Immediate) HEIRS

The primary (or immediate) heirs classified as Level I are:-

1. The **SPOUSE** (Husband or a maximum of four Wives)
2. The **CHILDREN** (Sons and Daughters)
3. The **PARENTS** (Father & Mother)
4. The **GRANDCHILDREN** (Sons's SON or Son's DAUGHTER only)
(applicable only when the SON is already deceased only and has offspring)

LEVEL II – SECONDARY HEIRS

The secondary heirs classified as Level II are:-

1. The **GRANDPARENTS** (Paternal and Maternal)
2. The **BROTHERS** and/or **SISTERS** (In the absence of Father and Son ONLY)
3. The **UNCLES** and/or **AUNTS** (In the absence of Grandparents ONLY)
4. The **NEPHEWS** and/or **NIECES** (In the absence of Brothers and Sisters ONLY)

Note: It is not practical to go beyond Grandparents as the chances of Greatgrandparents surviving before you is not very high. However, the logic is that in the absence of a particular heir, the next level becomes eligible for inheritance. Eg; IF the Grandparents are dead THEN the Great Grandparents are entitled (if living only) and so on. It is better, for practicality and convenience to limit the inheritance level up to The GrandParents and the Grandchildren. If we attempt to go beyond these levels there will be no limit to the program logic validation.

Under Islamic Law, the primary beneficiaries of a deceased person are his/her IMMEDIATE (Level I) Heirs. ie; Spouse(s), Children, Parents and Grandchildren (if children are deceased only). The Grandchildren that are entitled are only the Son's Son or the Son's Daughter. Daughters children are not entitled even if the Daughter is deceased.

In the absence of some or all of these heirs the secondary beneficiaries (Level II) become Heirs under various conditions. In the absence of a particular Heir (eg; Uncle) if and when he/she is entitled the children of that Heir become eligible.

LEVEL I – Inheritance Logic:

1. SHARE OF HUSBAND

IF NO ENTITLED DESCENDANTS EXIST (ie; Children/Grandchildren) THEN

HUSBAND = 1/2

IF ENTITLED DESCENDANTS EXIST (ie; Children/Grandchildren) THEN

HUSBAND = 1/4

Note: ENTITLED DESCENDANTS = Sons, Daughters, Son's Son, & Son's Daughter. Daughter's children are NOT treated as entitled descendants.

2. SHARE OF WIFE

IF NO ENTITLED DESCENDANTS EXIST (ie; Children/Grandchildren) THEN

WIFE = 1/4

IF ENTITLED DESCENDANTS EXIST (ie; Children/Grandchildren) THEN

WIFE = 1/8

Note: ENTITLED DESCENDANTS = Sons, Daughters, Son's Son, & Son's Daughter. Daughter's children are NOT treated as entitled descendants.

3. SHARE OF DAUGHTER'(s)

IF ONLY ONE DAUGHTER (and NO Sons) THEN

DAUGHTER = 1/2

IF TWO OR MORE DAUGHTERS ONLY (and NO Sons) THEN

DAUGHTERS = 2/3

(to be shared equally between all of them)

IF both SON's & DAUGHTERS EXIST, THEN

SON:DAUGHTER = 2:1

4. SHARE OF FATHER

IF ENTITLED DESCENDANTS EXIST

(Sons, Daughters, Son's Sons, Son's Daughters) THEN

FATHER = 1/6

IF NO MALE DESCENDANTS EXIST (Sons, Son's Sons) THEN

FATHER = 1/6 plus Residue

(residue = remainder after all legal shares are distributed)

IF NO ENTITLED DESCENDANTS EXIST THEN

FATHER = Residue

5. SHARE OF MOTHER

IF ENTITLED DESCENDANTS or BROTHERS/SISTERS EXIST THEN

MOTHER = 1/6

IF NO ENTITLED DESCENDANTS EXIST THEN

IF NO BROTHERS/SISTERS, NO FATHER, NO SPOUSE EXIST THEN

MOTHER = 1/3

IF BROTHERS/SISTERS, FATHER, or SPOUSE EXIST THEN

MOTHER = 1/3 of Residue

6. UTERINE BROTHER/SISTER (from same Mother, different father)

IF ONE UTERINE BROTHER/SISTER EXIST THEN

IF NO ENTITLED DESCENDANTS and NO MALE ASCENDANTS

(Father/Father's Father etc) THEN

UTERINE BROTHER = 1/6 or UTERINE SISTER = 1/6

IF TWO OR MORE UTERINE BROTHERS/SISTERS EXIST THEN

IF NO ENTITLED DESCENDANTS .AND.NO MALE ASCENDANTS

(Father/Father's Father etc.) THEN

ALL UTERINE BROTHERS & SISTERS = 1/3

Note: If there are UTERINE Brothers/Sisters IN ADDITION to FULL Brothers/Sisters (same father/mother), then they share in the residue.

7. SHARE OF SON'S DAUGHTER

IF ONE SON'S DAUGHTER EXIST THEN

IF NO DAUGHTERS EXIST THEN

IF NO SON'S SON EXIST THEN

SON'S DAUGHTER = 1/2

IF SON'S SON EXIST THEN

SON'S DAUGHTER = HALF SHARE OF SON'S SON

(ie Son's SON share: Son's DAUGHTER share = 2:1)

IF TWO OR MORE SON'S DAUGHTERS EXIST THEN

IF NO DAUGHTERS EXIST THEN

IF NO SON'S SONS EXIST THEN

SON'S DAUGHTERS = 2/3 (equally between them)

IF SON's SON EXISTS THEN

SON'S DAUGHTER = HALF SHARE OF SON'S SON

(ie Son's SON share: Son's DAUGHTER share = 2:1)

8. SHARE OF FULL BROTHER/SISTER

(Full Brother/Sisters are brothers/sisters from the same FATHER & MOTHER)

Brothers & Sisters inherit ONLY when there are NO Descendants (Son/Sons, Son's son etc.) and NO Ascendants (Father/Grandfather etc.)

The arabic word "**AL-KHALALA**" is used in the Quran, Chapter 4 – Al-Nisa, Verses 12 & 176, which is translated by almost all the translators of the Quran to mean "Ascendants & Descendants" thus giving rise to the interpretation that they include "Parents and Children". However, many scholars have preferred to classify the word as meaning "Father or Son" thus excluding the female components of both Ascendants and Descendants (mother & daughters).

IF NO FULL BROTHER and NO FEMALE ENTITLED DESCENDANT EXIST

(daughter, Son's daughter etc.) THEN

IF deceased was MALE, THEN

FULL SISTER = 1/2 (if only ONE)

IF NO FULL SISTER and NO FEMALE ENTITLED DESCENDANT EXIST THEN

IF deceased was FEMALE, THEN

FULL BROTHER = 1 (if only ONE)

IF TWO OR MORE BROTHERS & SISTERS THEN

FULL SISTERS = 2/3 (shared equally between them)

FULL BROTHER's & SISTER's (combination) = 2:1

IF NO FULL BROTHER EXIST but FEMALE ENTITLED DESCENDANT EXIST

(daughter, Son's daughter etc.) THEN

FULL SISTER = 1/6 (if only one)

IF NO FULL SISTER EXIST but FEMALE ENTITLED DESCENDANT EXIST THEN

FULL BROTHER = 1/6 (if only one)

IF FEMALE ENTITLED DESCENDANT EXIST THEN

FULL SISTERS & BROTHERS = 1/3 (share equally)

9. CONSANGUINE SISTER (Sister from same Father but different Mother)

Consanguine Sisters inherit ONLY when there are NO SON's or Son's SON(s) AND NO FATHER AND NO FULL BROTHER.

IF ONLY ONE FULL SISTER AND NO CONSANGUINE BROTHER THEN

CONSANGUINE SISTER (if only one) = 1/2

CONSANGUINE SISTER(s) (if two or more) = 2/3

IF ONE FULL SISTER AND CONSANGUINE BROTHER(s) THEN

(CONSANGUINE) BROTHER:SISTER = 2:1

10. TRUE GRANDMOTHER

True Grandmother is defined as the one whose line of connection with the deceased is NOT interrupted by a MALE between two FEMALES. They are entitled ONLY if the FATHER or MOTHER do not exist.

Eg; Mother's MOTHER, Father's MOTHER

Father's Father's MOTHER, Mother's Mother's MOTHER

TRUE GRANDMOTHER = 1/6

11. TRUE GRANDFATHER

True Grandfather is the one whose line of connection with the deceased is NOT interrupted by a FEMALE between two MALES. They are entitled ONLY if the Father or Mother do not exist.

Eg; Father's FATHER

Father's Father's FATHER

Mother's FATHER

Mother's Father's FATHER

TRUE GRANDFATHER = 1/6 IF MALE DESCENDANTS EXIST (Son, etc)

TRUE GRANDFATHER = 1/6 + Residue IF FEMALE descendants exist

TRUE GRANDFATHER = Residue IF NO Male/Female descendants exist

12. UNCLES & AUNTS (Father's/Mother's Brothers & Sisters)

Uncles and Aunts are ONLY entitled in the absence of GRANDPARENTS. This means that they will receive shares ONLY if there are NO Parents AND Grandparents because Grandparents do not inherit when the Parents are living. They will also NOT inherit if the children (or children's children) of the deceased are living. Proportions here are also in the ratio of 2:1 for Male:Female.

13. NEPHEWS & NIECES (Children of Brothers/Sisters)

Nephews and Nieces are ONLY entitled in the absence of Brothers and Sisters. This means that they take the shares of the Brothers/Sisters of the deceased in their absence. Hence a Nepew/Niece will receive what his/her parent (Brother/Siuster of the deceased) would have received if he/she was alive. They will also NOT inherit if the children (or children's children) of the deceased are living. Proportions here are also 2:1 for Male:Female.