

126997 - The couple and their daughter died one after another in an accident; how should their estate and diyah be divided?

the question

In a car accident an entire family died, consisting of three members, a father, a mother and a girl. They died in the following order: first the mother, then the father, then the daughter.

The mother has a father, mother, brothers and sisters.

The father has a mother and sisters and a brother.

My question is: who should take the prescribed diyah (blood money), and how should the diyah and the rest of the estate and wealth be divided?.

Detailed answer

If the person at fault in this accident is someone other than these people, such as the driver of another car, and what is meant by the father and mother is the husband and wife, and they died in the order mentioned, then the one who died later inherits from the one who died earlier, and the diyah of each one who died is to be added to his estate and divided among his heirs.

Shaykh Ibn Baaz (may Allaah have mercy on him) said: If two or more people who would inherit from one another die in a building collapse, by drowning, in a fire or in a plague and the like, then there are five scenarios, one of which is where one of those who would inherit from one another dies after the others, even if it is only a moment later; the one who dies later inherits from the one who dies earlier, according to consensus. End quote from al-Fawaa'id al-Jaliyyah fi'l-Mabaahith al-Faradiyyah.

Based on that, the diyah of the wife and the rest of her estate is to be divided as follows:

Her husband gets one-quarter, because of the presence of a descendant who inherits.

Her daughter (the girl) gets half.

Her father gets one-sixth.

Her mother gets one-sixth.

Her brothers and sisters do not get anything, because the father's presence prevents that.

It may be noted in this case that the shares of the heirs add up to more than one (whole number)

This is what the scholars call al-'awl, and in this case, something has to be deducted from the share of each heir, so as to be just and fair. So when the estate is divided, it is divided into thirteen equal parts:

The husband gets three parts; originally he gets one-quarter, which is 3 out of 12 parts.

The daughter gets 6.

The mother gets 2.

The father gets 2.

The diyah of the husband and the rest of his estate – including the quarter of his wife's estate to which he is entitled – is to be divided as follows:

His daughter gets half.

His mother gets one-sixth.

His brother and sisters get the rest, with the male getting the share of two females.

In addition to the diyah for the child, there is what she inherited from her parents, and her share of the diyah for her father and mother, and it is to be divided among her living heirs.

There are no heirs in this case except her two grandmothers and her paternal uncle (her father's brother).

As for her paternal aunts and maternal aunts, they do not inherit because of the presence of al-'asbah (male relative(s) on the father's side).

Similarly, the maternal grandfather does not get anything.

The two grandmothers (father's mother and mother's mother) get one-sixth, to be divided equally between them.

The rest goes to the paternal uncle as a male relative on the father's side.

The matter should be referred to the shar'i court, to make sure that the people you mentioned are the only heirs.

And Allaah knows best.