

352716 - He took a loan from the bank, which was split evenly with his brother, then his brother died and the bank waived the debt. Is he obliged to give anything to his nephews?

the question

I asked my brother to take a loan from the bank for me in his name, and I did not need the full amount, so he took the loan and we split it evenly. We agreed that each of us would pay half of the monthly instalment. Now my brother has died, and the bank has waived the entire amount. Are they entitled to ask me to pay back to them what I took of the loan? Please note that I did not want the entire loan.

Detailed answer

Firstly:

If you delegated your brother to take out the loan, and he borrowed an amount that you would both pay back together, then his sons have no right to demand anything from you, because their father did not lend you anything; rather it was the bank that lent you something, and your brother's role in this matter was that of a proxy and partner in the loan.

Secondly:

As the borrower is you and your brother together, you must contact the bank and tell them about that, then the bank may or may not ask you to pay off your share of the loan, based on the fact that the apparent borrower was your brother, who has died.

Shaykh Sulayman al-Majid (may Allah preserve him) was asked: Muhammad agreed with his brother Fahd that Muhammad would take out a loan from ar-Rajihi Bank for 100,000, and hand over the amount to Fahd, who would then pay it back. Now Muhammad has died, so what must Fahd do with regard to the bank and his brother, if the bank waives the loan to his brother?

He replied: Praise be to Allah. To proceed... So long as Fahd is the one who actually benefitted from having the cash made available to him, then he must pay off the instalment to the bank, even if his brother has died, and he must inform the bank of that. And Allah knows best.

End quote from the Shaykh's website.

And Allah knows best.