

92969 - She died and left behind a daughter, husband and full brother

the question

I have a sister who died two months ago in childbirth. The reason why she died was a serious mistake on the part of the doctor who was supervising the birth. The case went to court the doctor paid a sum of money as compensation (diyah). I would like to know what is the shar'i way of dividing this money? How much should the baby girl get, as she is still alive? How much should her father get? Is there anyone else who has a right to the money?.

Detailed answer

This diyah is to be divided among the heirs, and it is like the rest of the estate.

Before dividing the estate, the number of heirs should be listed, so as to determine the share of each of them.

You mentioned that the deceased had a daughter and a husband.

As for the husband, he gets one-quarter because there is a descendent of the deceased, namely the daughter. Allaah says (interpretation of the meaning):

“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”

[al-Nisa' 4:12]

As for the daughter, she gets half, because Allaah says (interpretation of the meaning):

“Allaah commands you as regards your children's (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 a half”

[al-Nisa' 4:11]

If the deceased had no father or mother who were still alive, then the rest of the inheritance, which is one-quarter, goes to her 'asabah (relatives on the father's side), namely her full brother or siblings, with each male getting the share of two females. If there are no full siblings, then the remaining amount goes to brothers through the father ... and so on, according to the order of closeness.

The court should take charge of distributing the estate, after the death has been announced and the number of heirs has been counted.

And Allaah knows best.