

205351 - He died and left behind a daughter and the children of his full brother, both males and females

the question

My paternal uncle has died. He has one daughter, and his wife had died before him. We are the children of his full brother who is also deceased, two sons and two daughters. How should his estate be divided?

Detailed answer

If a man dies and leaves behind a daughter, and the children of his full brother (two sons and two daughters), then the estate is to be divided in the following manner:

The daughter receives half, because Allah, may He be exalted, says (interpretation of the meaning): *{And if there is only one [daughter], for her is half} [an-Nisa' 4:11]*.

The remainder goes to the sons of the full brother, because the Prophet (blessings and peace of Allah be upon him) said: "Give the shares of inheritance to those who are entitled to them, and whatever is left goes to the closest male relative." Narrated by al-Bukhaari (6732) and Muslim (1615), from Ibn 'Abbaas (may Allah be pleased with him).

With regard to the two daughters of the full brother, they do not receive anything of the estate, because they come under the heading of dhawi'l-arhaam [relatives who are not entitled to an allocated share or residual share].

Shaykh Ibn Baaz (may Allah have mercy on him) was asked: A man died and he did not have a wife or any children, but he has nephews and nieces, the children of a full brother who died before him. Do his brother's children, males and females, inherit from their paternal uncle who has died?

He replied: If the situation is as the questioner has mentioned, then the entire estate goes to the sons of the full brother, but not his daughters, according to the consensus of the Muslims,

because the Prophet (blessings and peace of Allah be upon him) said: “Give the shares of inheritance to those who are entitled to them, and whatever is left goes to the closest male relative.” Agreed upon. That is because the brother’s daughters are not among those who are entitled to an allocated share and are not those who are entitled to a residual share; rather they come under the heading of dhawi’l-arhaam according to scholarly consensus." (*Fataawa Noor ‘ala ad-Darb*).

And Allah knows best.