

Does a Widow No Longer Deserve Her Share of Inheritance from Her Late Husband After Remarrying?

Darulifta Ahlesunnat

(Dawateislami)

Question

What do the noble scholars and jurists of Islamic law say about the following: If the husband dies and his widowed wife marries another man after waiting the 'Iddah period, will she still receive her share from her deceased husband's inheritance, or will she no longer deserve the share because of getting remarried?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

In the enquired situation, even if the deceased's widowed wife gets remarried, she will still get her share from the deceased husband's inheritance. Her remarriage will not cancel the share she is entitled to.

The detail in this matter is that an heir doesn't deserve inheritance because of four reasons. If any one of those reasons is found, the heir will not receive his share; remarriage isn't amongst those reasons. If the share of a widow or any heir was once established in inheritance, even if they pass away, their share won't be cancelled. Rather, that share will be distributed amongst the latter's heirs according to the principles of inheritance. Therefore, in this situation, even if the widow of the deceased remarries, her share in the inheritance of the deceased husband will not be cancelled. If the deceased husband didn't have any children, the widow would receive a fourth (1/4) from the entire inheritance and if he had children, she would receive an eighth (1/8) of the inheritance. It is stated in The Noble Qur'an in regard to the widow's share of inheritance:

﴿وَلَهُنَّ الرُّبُعُ مِمَّا تَرَكْتُمْ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ فَإِنْ كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الشُّنُّ مِمَّا تَرَكْتُمْ﴾

Translation (Kanz-ul-'Irfan): For your wives, there is a share of one fourth from your inheritance if you do not have children, and if you have children, for them there is a share of one eighth of your inheritance. (Para 4, Surah Al-Nisa', Verse 12)

It is stated in Radd Al-Muhtar about the conditions of receiving inheritance:

وشروطه ثلاثه---وجود وارثه عند موتہ حیا الخ

(Radd Al-Muhtar 'Ala Al-Durr Al-Mukhtar, Book of Inheritance, Vol. 10, p. 525, Publ. Quetta)

Shaykh Al-Islam Wal-Muslimeen, My master, A'la Hazrat, The Imam of Ahl As-Sunnah, Imam Ahmad Raza Khan رحمۃ اللہ تعالیٰ علیہ states about the reasons for prevention from inheritance:

وراثت سے محرومی کے صرف چار سبب ہیں کہ وارث غلام ہو، یا مورث کا قاتل، یا کافر ہو، یا دار الحرب میں رہتا ہو، باقی کوئی ناقابلیت اسے اس کے حق شرعی سے محروم نہ کرے گی۔

Translation: There are only four reasons for prevention from inheritance: The heir being enslaved, being the killer of the deceased, being a disbeliever, and living in Dar Al-Harb. No other defect will prevent him from his Shari'ah right. (Fatawa Razawiyah, Vol. 26, p. 291, Publ. Raza Foundation, Lahore)

In Fatawa Razawiyah, The Imam of Ahl As-Sunnah رحمۃ اللہ تعالیٰ علیہ states regarding the share of a widow who remarried:

(شوہر کے انتقال کے بعد عورت کا) نکاح ثانی کر لینا، عورت کے مہر یا میراث کو ساقط نہیں کرتا۔

Translation: A second Nikah (of a woman after the passing of the husband) doesn't cancel the Mehr or inheritance of a woman. (Fatawa Razawiyah, Vol. 25, p. 374, Publ. Raza Foundation, Lahore)

It is stated in Fatawa Faiz-Ur-Rasool:

دوسری شادی کرنے کے بعد بھی عورت اپنے متوفی شوہر کی جائیداد میں حصہ پانے کی مستحق ہے۔ اگر اس کے خاوند نے کوئی اولاد نہیں چھوڑی، تو اس صورت میں اس کی کل جائیداد میں سے $1/4$ حصہ بیوی کا ہے اور اگر لڑکی یا لڑکا کوئی اولاد چھوڑ کر مرا ہے، تو $1/8$ حصہ ہے۔ اگر خاوند کے ورثہ اس کا پورا حصہ نہیں دیں گے، تو سخت گنہگار، حق العبد میں گرفتار اور مستحق عذاب نارہوں گے۔

Translation: Even after getting remarried, a woman still deserves a share in her deceased husband's inheritance. If her husband didn't leave behind any children, in this case, her share is $1/4$ from his entire inheritance. If he passed away leaving any daughter or son,

then it (her share) is 1/8. If the heirs of the husband don't give her the entire share, they will become sever sinners, will be held accountable for violating the rights of others, and will deserve punishment. (Fatawa Faiz-Ur-Rasool, Vol. 2, p. 728, Publ. Shabir Brothers, Lahore)
Once the share of any heir is established, their share won't be cancelled even after a long period, as is stated by The Imam of Ahl As-Sunnah رحمه الله تعالى عليه:

ہیچ حق ثابت نامقید بوقتے خاص ارث باشد خواہ غیر او مطلقاً اجماعاً بتقدم زمان زہار ساقط نشود

Translation: Once a right is established which isn't limited to any time, whether it be inheritance or any other, there is consensus that it will not be cancelled due to the passing of a long period in any case. (Fatawa Razawiyah, Vol. 26, p. 261, Publ. Raza Foundation, Lahore)
It is stated in Bahar-E-Shari'at regarding the passing of the heir before the inheritance was distributed:

(مناسخہ) یہ لفظ نسخ سے نکلا ہے جس کے معنی بدلنے کے ہیں اور فرائض کی اصطلاح میں اس سے مراد یہ ہے کہ میت کے ترکہ کی تقسیم سے قبل ہی اگر کسی وارث کا انتقال ہو جائے تو اس کا حصہ اس کے وارثوں کی طرف منتقل کر دیا جائے۔

Translation: 'Munasakhah', this is derived from the word 'Naskh', which means to change. In the terminology of inheritance, this means: if an heir passes away before the distribution of the deceased's inheritance, his share will be passed on to his (the second deceased's) heirs. (Bahar-e-Shari'at, Vol. 3, Sect. 20, p. 1157, Publ. Maktaba-Tul-Madinah, Karachi)

Note – Some issues have become so widespread in our community that no attention is given to the fact that they are even wrong and sinful. One of the major issues from them is not giving the inheritance to the one who deserves it according to Shari'ah. Sometime, the daughters are denied their share and are told that their marriage was arranged well enough and too much was spent on it, thus, they will not receive their share of inheritance. Sisters are taunted and even tortured into forgiving their share, or there is

practice of not giving them their shares at all, thus they are therefore deprived of their share. If the in-laws of the widow have control and an influence, they take over her share saying that when a widow remarries, she no longer deserves a share. Similarly, the shares of orphans are consumed using different excuses. In conclusion, this is such a prevailing issue in our community that people are involved in it knowingly and unknowingly even though The Qur'an and Hadith have strictly commanded for the shares to be distributed in the proper manner. Warnings have also been mentioned for those who don't give the shares at all. Thus, Allah Almighty states in The Noble Qur'an about the distribution of inheritance:

﴿يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ -- فَرِضَةٌ مِّنَ اللَّهِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا﴾^(١١)

Translation (Kanz-Ul-'Irfan): Allah commands you regarding your children; the share of a son is equal to the share of two daughters... This is a specified share from Allah. Indeed, Allah is All-Knowing, Most-Wise. (Para 4, Surah Al-Nisa', Verse 11)

In the explanation of the word فَرِضَةٌ, it is stated in Tafsir Ruh Al-Bayan:

أَي فَرَضَ اللَّهُ ذَلِكَ الْمِيرَاثَ فَرِضًا

Translation: Allah had declared (the distribution of) inheritance Fard upon you. (Tafsir Ruh Al-Bayan, Vol. 2, p. 138, Publ. Dar Ihya Al-Turath Al-'Arabiyy, Beirut)

Mentioning the virtues of distributing inheritance in the proper manner, it is stated in The Noble Qur'an:

﴿تِلْكَ حُدُودُ اللَّهِ ۚ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا ۚ وَذَلِكَ الْفَوْزُ الْعَظِيمُ﴾^(١٢)

Translation (Kanz-Ul-'Irfan): These are the boundaries of Allah. Whosoever obeys Allah and His Messenger, He (Allah) will admit him to the gardens beneath which rivers flow; they will reside therein forever. This is great success. (Para 4, Surah Al-Nisa', Verse 13)

About those who disobey in the matter of inheritance it is stated in The Noble Qur'an:

﴿وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُهِينٌ﴾ (١٤)

Translation (Kanz-Ul-'Irfan): And whosoever disobeys Allah and His Messenger, and exceeds the boundaries of Allah, then Allah will make him enter Fire, he will remain therein forever; and for him there is a most humiliating punishment. (Para 4, Surah Al-Nisa', Verse 14)
Consuming other's shares of inheritance is the practice of disbelievers. Mentioning this evil of the disbelievers, it is stated in The Noble Qur'an:

﴿وَتَأْكُلُونَ التُّرَاثَ أَكْلًا لَّمًّا﴾

Translation (Kanz-Ul-'Irfan): And you consume all inheritance after amassing it. (Para 30, Surah Al-Fajr, Verse 19)

In the explanation of this verse, it is stated in Tafsir Sirat-Ul-Jinan:

یہاں کفار کی تیسری خرابی اور ذلت کا بیان ہے کہ تم میراث کا مال کھا جاتے ہو اور حلال و حرام میں تمیز نہیں کرتے اور عورتوں اور بچوں کو وراثت کا حصہ نہیں دیتے، بلکہ اُن کے حصے خود کھا جاتے ہو؛ جاہلیت میں یہی دستور تھا۔ اس بیان کردہ ظلم میں بہت سی صورتیں داخل ہیں اور فی زمانہ جو چچا تایا قسم کے لوگ یتیم بھتیجیوں کے مال پر قبضہ کر لیتے ہیں یا روٹین میں جو بہنوں، بیٹیوں یا پوتیوں کو وراثت نہیں دی جاتی، وہ بھی اسی میں داخل ہے کہ شدید حرام ہے۔

Translation: The third evil and disgrace of the disbelievers is mentioned here which is that 'you consume the wealth of inheritance, don't distinguish between Halal and Haram, and don't give the women and children their share in inheritance and rather consume them yourselves'. This was the practice in the era of Jahiliyah (ignorance). There are many ways which are included in this injustice and oppression. Nowadays, the uncles and similar individuals who take hold over the wealth their orphan nephews and those who don't give inheritance to their sisters, daughters, and grandchildren, which is quite common, these are also included, and this is strictly Haraam. (Sirat-Ul-Jinan, Vol. 10, p. 668, Publ. Maktaba-Tul-Madinah, Karachi)

In regard to those who consume the wealth of orphans, it is stated in The Noble Qur'an:

﴿إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتَامَىٰ ظُلْمًا إِنَّمَا يَأْكُلُونَ فِي بُطُونِهِمْ نَارًا ۖ وَسَيَصْلَوْنَ سَعِيرًا﴾ (١٠)

Translation (Kanz-ul-'Irfan): Indeed, those who consume the wealth of orphans in oppression, they fill their stomachs with fire; and soon they will enter a blazing fire. (Para 4, Surah Al-Nisa, Verse 10)

It is mentioned in Tafsir Sirat-ul-Jinan in the explanation of this verse:

اس آیت میں جو یہ ارشاد فرمایا گیا کہ ”وہ اپنے پیٹ میں بالکل آگ بھرتے ہیں“ اس سے مراد یہ ہے کہ یتیموں کا مال ناحق کھانا گویا آگ کھانا ہے، کیونکہ یہ مال کھانا جہنم کی آگ کے عذاب کا سبب ہے۔۔۔ یتیم کا مال ناحق کھانا کبیرہ گناہ اور سخت حرام ہے۔ قرآن پاک میں نہایت شدت کے ساتھ اس کے حرام ہونے کا بیان کیا گیا ہے۔ افسوس کہ لوگ اس میں بھی پرواہ نہیں کرتے۔ عموماً یتیم بچے اپنے تایا، چچا وغیرہ کے ظلم و ستم کا شکار ہوتے ہیں، انہیں اس حوالے سے غور کرنا چاہیے۔ یہاں ایک اور اہم مسئلے کی طرف توجہ کرنا ضروری ہے وہ یہ کہ یتیم کا مال کھانے کا یہ مطلب نہیں کہ آدمی باقاعدہ کسی بری نیت سے کھائے تو ہی حرام ہے بلکہ کئی صورتیں ایسی ہیں کہ آدمی کو حرام کا علم بھی نہیں ہوتا اور وہ یتیموں کا مال کھانے کے حرام فعل میں ملوث ہو جاتا ہے جیسے جب میت کے ورثاء میں کوئی یتیم ہے تو اس کے مال سے یا اس کے مال سمیت مشترک مال سے فاتحہ تیجہ وغیرہ کا کھانا حرام ہے کہ اس میں یتیم کا حق شامل ہے، لہذا یہ کھانے صرف فقراء کیلئے بنائے جائیں اور صرف بالغ موجود ورثاء کے مال سے تیار کئے جائیں ورنہ جو بھی جانتے ہوئے یتیم کا مال کھائے گا وہ دوزخ کی آگ کھائے گا اور قیامت میں اس کے منہ سے دھواں نکلے گا۔

Translation: The statement in this verse “they fill their stomachs with fire” means that consuming the wealth of orphans unjustly is like consuming fire because consumption of this wealth will be a cause of the punishment of the hell fire... Consuming the wealth of orphans unjustly is a grave sin and strictly Haraam. The Qur'an has strictly mentioned it being Haraam. Unfortunately, people don't even care about this. Generally, orphans are subjected to oppression

by their uncles and others as well. They should reflect seriously on this matter. It is also important to pay attention to the fact that 'consuming the wealth of orphans' doesn't only mean that one consumes it with a wrong intention, but in many situations a person indulges in the Haraam act of consuming their wealth without knowledge about the Haraam. For example, if any of the heirs of a deceased is an orphan, his wealth or the combined wealth which includes his share as well cannot be used for the food of Fatihah, Tija, etc. (food prepared for Isal-e-Sawab of a deceased) because it includes the right of an orphan. Therefore, these foods should only be prepared for Fuqara' (destitutes) and only from the wealth of baligh and present heirs. Otherwise, whoever consumes the wealth of the orphans knowingly will consume the fire of hell and smoke will be released from his mouth on the day of judgment. (Sirat-Ul-Jinan, Vol. 2, p. 171,172, Publ. Maktaba-Tul-Madinah, Karachi)

Any case in which the heirs aren't given their share will be considered consuming wealth unjustly. But Allah Almighty states as a warning:

﴿وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ﴾

Translation (Kanz-Ul-'Irfan): And do not consume the wealth of one another unjustly. (Para 2, Surah Al-Baqarah, Verse 188)

It is stated in Tafsir Na'eemi in the explanation of this verse:

رشوت، غصب، لوٹ، چوری، جھوٹی قسمیں، جوا، کہانت، خیانت وغیرہ ناجائز پیشے، یہ سب باطل آمدنیاں ہیں: یعنی نہ تو تم اپنے مال غلط طرح خرچ کرو اور نہ آپس میں ایک دوسرے کا مال ناجائز طریقے سے حاصل کر کے استعمال کرو۔

Translation: Bribery, usurpation, looting, theft, false oaths, gambling, fortune teller, injustice, and all other impermissible jobs, are invalid sources of wealth. This means, neither spend your wealth in improper ways nor spend other's wealth after attain them in an impermissible way. (Tafsir Na'eemi, Vol. 2, p. 232, Publ. Maktabah Islamiyah, Lahore)

Regarding not giving an heir his (share from) inheritance, it is stated in a Hadith:

قال رسول الله صلى الله عليه وسلم من فر من ميراث وارثه قطع الله ميراثه من الجنة يوم القيامة

Translation: The Messenger of Allah ﷺ said: Whoever avoids giving inheritance to his heirs, Allah will deprive him of his share in Jannah on the day of judgment. (Sunan Ibn Majah, Book of wills, p. 194, Publ. Karachi)

Not distributing inheritance will necessitate stealing others land and it is stated in a Hadith about this:

من اخذ شبرا من الارض ظلما فانه يطوقه يوم القيامة من سبع ارضين

Translation: Whoever takes a span of land unjustly, that extent taken from seventh earth will be placed around their necks on the day of judgement. (Sahih Al-Bukhari, Book about the beginning of creation, Chapter: What was narrated about the seven earths, Vol. 1, p. 454, Publ. Karachi)

It is stated in Mir'at Al-Manajeeh in the explanation of this Hadith:

پہلے تو اس غاصب کو زمین کے سات طبق کا طوق پہنایا جائے گا، پھر اسے زمین میں دھنسا دیا جائے گا۔۔۔
معلوم ہوا کہ زمین کا غصب دوسرے غصب سے سخت تر ہے۔

Translation: Firstly, this thief will be made to wear the seven layers of earth around his neck. Then, he will be sunk into the ground... We get to know that usurpation of land is more severe than any other form of usurpation. (Mir'at Al-Manajeeh, Vol. 4, p. 361, Publ. Maktabah Islamiyah, Lahore)

My master, A'la Hazrat, The Imam of Ahl As-Sunnah, Imam Ahmad Raza Khan رحمۃ اللہ تعالیٰ علیہ stated in Fatawa Razawiyah regarding not distributing inheritance:

مذکورہ عمل یقیناً غصب اور حرام ہے۔

Translation: The mentioned action is undoubtedly usurpation and Haraam. (Fatawa Razawiyah, Vol. 19, p. 675, Publ. Raza Foundation, Lahore)

He also states about taking land unjustly:

اللہ تبارک و جبار کے غصب سے ڈرے، ذرا من دو من نہیں، بیس پچیس ہی سیر مٹی کے ڈھیلے گلے میں باندھ کر
گھڑی دو گھڑی لئے پھرے، اُس وقت قیاس کرے کہ اس ظلم شدید سے باز آنا آسان ہے یا زمین کے

ساتوں طبقوں تک کھود کر قیامت کے دن تمام جہان کا حساب پورا ہونے تک گلے میں، معاذ اللہ! یہ
کروڑوں من کا طوق پڑنا اور ساتویں زمین تک دھنسا دیا جانا۔ وَالْعِيَاذُ بِاللّٰهِ تَعَالٰی!

Translation: Fear Allah, the subduer and omnipotent. Not a 'Man' (a measurement) or two, just hang twenty or twenty-five 'Sayr' (a measurement) of clod of dirt and roam around for an hour or two. Then just contemplate whether it is easier to end this great oppression (of usurpation of land) or to have seven layers of earth land dug up and tied around the neck while the accountability of all the people is taken. We ask for Allah's protection, being tied with the weight of millions of 'Man' and being sunk into the ground! والعياذ بالله تعالى (We seek protection from Allah Most High)! (Fatawa Razawiyah, Vol. 19, p. 665, Publ. Raza Foundation, Lahore)

وَاللّٰهُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُوْلُهُ اَعْلَمُ صَلَّى اللّٰهُ تَعَالٰی عَلَیْهِ وَاٰلِهٖ وَسَلَّم

(Allah Almighty knows best and His Messenger صَلَّى اللّٰهُ عَلَیْهِ وَاٰلِهٖ وَسَلَّم knows best.)

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