

# Can Father Waive His Daughter's Meher? Or A Woman Voluntarily Waive Her Meher?

Darulifta Ahlesunnat

(Dawateislami)

## Question

What do the scholars of Islam say in this regard: I require the answer to two questions regarding dowry.

1. If a mature and sane woman's marriage takes place with the consent of her family, and the woman's father waives the groom's dowry (Meher) for his daughter, what does Islamic law say about this?
2. When a woman is close to death or suffering from terminal illness whilst her husband is alive, her inheritors have her waive her right to dowry, which she goes on to do. In certain places, the heirs do not make this demand, but she voluntarily forgives it based on prevailing custom. What is the Islamic ruling regarding this?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

The father cannot forgive the right to dowry of a mature woman. If the father waives it, then as long as the woman does not accept this with complete satisfaction, the right to dowry will not be considered forgiven and it will remain obligatory upon her husband.

Even if the woman accepts her father's waiving, but her satisfaction is not included, her right to dowry will still not be foregone. If the woman fully accepts her father's waiving with her satisfaction and the husband does not object to this, then the latter will no longer be obliged to pay dowry.

For dowry to be waived the consent of the woman is necessary, just as Allah Almighty tells us in the Quran:

وَأْتُوا النِّسَاءَ بِمَا كُنْتُمْ لَكُمْ عَن شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ بِنِيئٍ مَّا رِيئًا ﴿٤٠﴾

And willingly give the women (upon marriage) their dowry; if they then give you (back) a part of it, consume it therefore wholesomely with pleasure.<sup>1</sup>

Muftī Na'īm al-Dīn Murādābādī رَحِمَهُ اللَّهُ عَلَيْهِ explains this verse:

Women have the right to either gift any portion of their dowry or its entirety to the husband at the time of marriage. However, they should not be compelled or mistreated in order to forgo the dowry, as Allah has said طِبْنَ لَكُمْ. This means to forego with contentment of the heart.<sup>2</sup>

<sup>1</sup> Al-Quran, 4:4, Translation from Kanz al-Īmān

<sup>2</sup> Tafsīr Khazāin al- Irfān, al-Nisa, verse no: 04, p. 153, Maktabat al-Madina

It is necessary for the remission of the dowry that the woman gives her consent. Compelling her to waive it forcefully is incorrect, as mentioned in *Fatāwā Ālamgīrī*:<sup>3</sup>

وان حطت عن مهرها صحح الحط كذا في الهداية ولا بد في صححة حطها من الرضا حتى لو كانت مكرهة لم يصح

The right to remit the dowry of a mature woman cannot be exercised solely by the father, as elucidated upon in *Fatāwā Shāmī*:<sup>4</sup>

(قوله: وصح حطها) الحط الاسقاط كما في المغرب وقيد بحطها لان حط ابها غير صحيح لو صغيرة ولو كبيرة توقف عن اجازتها ولا بد من رضاها

Muftī Amjad ‘Alī al-A‘zamī رَحْمَةُ اللهِ عَلَيْهِ writes:

If a woman waves either a portion or the entire dowry willingly, it will be considered remitted provided that the husband does not disapprove. If the woman has not come of age and her father wants to forgo the dowry on her behalf, he cannot do so. If she is an adult, her consent will determine whether the remission is valid.<sup>5</sup>

2. If a woman is terminally ill or in her last moments and she forgoes her dowry on her own, or if another person makes her forgo it and she affirms this; the dowry will not be considered forgiven unless other heirs also consent. If the other heirs accept this remission, then the husband's obligation to pay the dowry will be waived.

If a woman is terminally ill, the dowry will not be remitted by her waiving it, as mentioned in *Baḥr al-Rā‘iq*,<sup>6</sup> *Fatāwā ‘Ālamgīrī*, and *Fatāwā Shāmī*:

واللفظ للبحر ”ولا بد في صححة حطها من ان لا تكون مريضة مرض الموت“

Shaykh al-Islam, Imām Aḥmad Razā Khān رَحْمَةُ اللهِ عَلَيْهِ was asked:

Someone’s wife was close to dying and he asked her, “Have you waived my dowry debt?” She did not respond verbally due to inability to speak, but instead nodded her head. Will the dowry be considered remitted or not?

The imam answered, “The remission of dowry during one’s final moments, without the permission of other heirs, is not valid.<sup>7</sup>

وَاللّٰهُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُوْلُهُ اَعْلَمُ صَلَّى اللهُ تَعَالَى عَلَيْهِ وَاٰلِهِ وَسَلَّمَ

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**Dar-ul-Ifta Ahlesunnat (Dawat-e-Islami)**



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<sup>3</sup> *Fatāwā Ālamgīrī*, vol. 1, p. 313, published in Peshawar

<sup>4</sup> *Radd al-Muḥtār ma‘a Al-Durr al-Mukhtār*, vol. 4, p. 239, Published in Quetta

<sup>5</sup> *Bahār-i-Sharī‘at*, vol. 2, part 7, p. 68, Published by Maktabat al-Madina

<sup>6</sup> *al-Baḥr al-Rā‘iq*, vol. 3, p. 264, Published in Quetta

<sup>7</sup> *al-Fatawa al-Razawiyah*, vol 12, pp. 180, 181, Raza Foundation Lahore