

## What If A Driver Does Not Set A Fare With The Passenger?

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What do the religious scholars say regarding the practice in our area where taxi or rickshaw drivers at the time of deciding fare just say "pay whatever you feel is appropriate" or "give as much as you wish"? What is the ruling on this practice of setting fare?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ  
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According to Islamic principles, it is necessary for the remuneration (fare/wage) to be clearly specified in an Ijarah (rental/employment contract). If the remuneration (fare/wage) is left unknown, the contract becomes invalid (Fasid). In the case of an invalid ijarah contract, if the service is utilized, it is obligatory to pay the customary remuneration (Ujrat-ul-Misl) for that service.

In the scenario mentioned, where taxi or rickshaw drivers ask passengers to pay "whatever they feel is right" or "whatever they wish," this practice is not permissible because it leaves the fare unspecified, making the contract invalid. In such cases, the passengers must pay the customary fare (Ujrat-ul-Misl)

for that distance or service, which is usually given by the people in that area. Although this fare itself is halal (permissible), making such a contract is sinful, and one must repent and refrain from this in the future.

Regarding the ruling of an invalid Ijarah (i.e. Fasid) agreement, it is stated in Durr-ul-Mukhtar:

“(حكم الاول) وهو الفاسد (وجوب اجر المثل بالاستعمال)”

Translation: The ruling of an invalid Ijarah (الاجارة الفاسده) is that upon utilization, paying the customary remuneration becomes obligatory.

(Durr-ul-Mukhtar Ma Raddul Muhtar, Vol. 9, Pg. 75, Published in Quetta)

One of the conditions for a valid Ijarah agreement is that the remuneration must be specified, as mentioned in Majalla al-Ahkam al-Adliyya:

“يشترط ان تكون الاجرة معلومة”

Translation: It is a condition that the remuneration must be specified.

(Majalla-Tul-Ahkam-il -Adaliyya, Pg. 86, Published in Karachi)

Imam-e-Ahle-Sunnat, Imam Ahmed Raza Khan (رحمه الله) writes in Fatawa Razawiyyah regarding an Invalid Ijarah (الاجارة الفاسده):

“اجاره فاسده میں بھی بعد استيفائے منفعت اجرت، کہ یہاں وہی اجر مثل ہے، واجب ہو جاتی ہے

۔۔۔۔۔ اس ملک میں خبث بھی نہیں ہوتا، اجیر کے لئے طیب ہوتی ہے اگرچہ اصل عقد گناہ و فاسد تھا۔“

Translation: Even in an invalid Ijarah (الاجارة الفاسده), after utilizing the service, the remuneration i.e. customary fare becomes obligatory.....This remuneration is free of filth (خبث) for the employee if he owns it. It is pure (طيب) for him although the original agreement was sinful and invalid.

(Fatawa Razawiyya, Vol. 19, Pg. 535,  
Raza Foundation Lahore)

Failure to specify the remuneration also makes the Ijarah invalid (i.e. Fasid),as Sadrush-Shariah Mufti Muhammad Amjad Ali Azmi (رحمہ اللہ) mentioned in Bahar-e-Shariat:

”جہالت سے اجارہ فاسد ہو جاتا ہے۔ اس کی چند صورتیں ہیں: جو چیز اجرت پر دی جائے وہ مجہول ہو یا منفعت کی مقدار مجہول ہو یعنی مدت بیان میں نہیں آئی مثلاً مکان کتنے دنوں کے لیے کرایہ پر دیا یا اجرت مجہول ہو یعنی یہ نہیں بیان کیا کہ کرایہ کیا ہو گا۔“

Translation: lack of specification makes the Ijarah invalid (i.e. Fasid). There are several forms of this: when the item given for rent is unknown, when the quantity of benefit (like duration) is unspecified for example days of renting a house are unknown, and when the remuneration is unknown for example rental was not specified.

(Bahar-e-Shariat, Vol. 3, Pg. 141,  
Maktaba-tul-Madina Karachi)

Sadrush-Shariah Mufti Muhammad Amjad Ali Azmi (رحمہ اللہ) while mentioning the ruling on Invalid Ijarah writes:

”اجارہ فاسدہ کا حکم یہ ہے کہ اس استعمال کرنے پر اجرت مثل لازم ہوگی اور اس میں تین صورتیں ہیں: اگر اجرت مقرر ہی نہیں ہوئی یا جو مقرر ہوئی معلوم نہیں، ان دونوں صورتوں میں جو کچھ اجرت مثل ہو دینی ہوگی۔“

Translation: The ruling for an invalid (i.e. Fasid) Ijarah is that upon utilization, the customary remuneration (Ujrat-ul-Misl) becomes obligatory. There are three scenarios in this regard: First, wage is not fixed at all, secondly, it is fixed, but it is unknown. In both cases it is obligatory to pay customary wage (Ujrat-ul-Misl).

(Bahar-e-Shariat, Vol. 2, Pg. 141,  
Maktaba-tul-Madina Karachi)

والله اعلم عز وجل ورسوله اعلم صلى الله تعالى عليه وآله وسلم

Written by

Abu Muhammad Mufti Ali Asghar Attari Madani

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Translated by Maulana Abdul Wajid Madani

