

Receiving Commission for Stopping a Bus at a Hotel or Shop

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What do the esteemed scholars say about this issue: We guide visitors to sacred sites in the Arab region. Along the way, we stop the vehicle at some shops where there is a prior agreement with the shopkeepers that each time the vehicle stops, they will pay us 200 riyals. Whether the passengers shop a little, a lot, or not at all, we will still receive the 200 riyals commission. Is it permissible for us to take such a commission?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الجواب بعون الملك الوهاب اللهم هداية الحق والصواب

The method described in the question, where a commission is taken from the shopkeeper, is impermissible and sinful.

Here is a detailed explanation of the ruling: According to common practice (عرف), the primary task of a broker is to facilitate a contract between two parties. Any work that does not involve brokering a contract is not typically considered compensable (قابل معاوضه). In the case mentioned, facilitating a contract between two parties is not the goal. This is evident from the fact that even if no pilgrim or traveler buys anything from the shop, the driver will still receive the agreed amount of riyals.

According to the details provided, it is clear that the commission is based solely on bringing individuals to the shop,

without the establishment of a contract between two parties, which is not a compensable service in brokerage according to customary practice (عرف). Hence, this agreement is void.

Even if this arrangement is not considered brokerage but merely an agreement for bringing people to the shop, it would still be invalid because bringing all kinds of individuals, whether or not they are interested in purchasing, is not a service in practice for which someone is hired. Moreover, if the driver is a private employee of the pilgrims, where he has been hired for a specified time, then working for the shopkeepers during the contracted time is not permissible without the permission of the pilgrims. The purpose of the pilgrims is not typically to visit shops; rather, it is often an unannounced route that they discover upon arrival at the shop.

Quotations From Different Books Regarding The Ruling:

For an employment contract to be valid, it must be for a sought-after service (منفعة مقصودة) that is customarily sought through an employment contract.

In Badai' al-Sana'i, it is stated:

”ومنها أن تكون المنفعة مقصودة يعتاد استيفؤها بعدد الاجارة ويجري بها التعامل بين الناس لانه

عقد شرع بخلاف القياس لحاجة الناس ولا حاجة فيما لا تعامل فيه للناس“

“Among the conditions [of a valid employment contract] is that the service being contracted must be for a recognized benefit that is customarily obtained through a contract of employment and commonly practiced among people. Because

this type of contract is against the Qiyas and it was allowed only due to people's needs so when a contract is not commonly practiced, there will not be any need to permit it.”

(Badai' al-Sana'i, Volume 4, Page 192, Published in Beirut)

Brokerage is not a compensable service unless the two parties enter into a contract:

In Sharh Majalla-Til-Ahkam, it is stated:

“ان العادة بين الناس انهم لا يعطون الاجرة اذالم يتفق البيع فكان المعقود عليه عادة هو البيع دون مقدماته”

“It is in practice of the people that no commission is given if the sale does not occur. Therefore, what is customarily agreed upon is the sale, not the actions leading to it.”

(Sharh Majalla-Til-Ahkam by Al-Atassi,
Volume 2, Page 677, Published in Beirut)

If the service is not commonly attained through the contract, the employment contract for that service is void.

In Hidaya, it is stated:

“وان اشتراها مطلقا وتركهها على النخيل، وقد استاجر النخيل الى وقت الادراك طاب له الفضل
لان الاجارة باطلة لعدم التعارف والحاجة فبقى الاذن معتبرا”

“If someone purchases fruit without stipulation and leaves it on the tree, and then rents the tree until the fruit ripens, the excess in fruit is permissible because the lease is void and that is because renting trees for ripening fruit is not in practice and also there is no need of it and the permission from the seller will remain valid in this regard.”

(Hidaya Ma Sharh Binayah, Volume 8,
Page 40, Dar al-Kutub al-Ilmiyyah)

A Private employee cannot work for others during contracted time:

In Fatawa Razawiyya, it is stated:

”اجیر خاص کو بے اجازتِ آقا دوسرے کا کام کرنا، جائز نہیں۔ در مختار میں ہے: لیس للخاص ان يعمل لغيره ولو عمل نقص من أجرته بقدر ما عمل (اجیر خاص دوسرے کے لئے عمل نہیں کر سکتا اور اگر اس نے عمل کیا تو عمل کی مقدار اس کی اجرت کاٹ لی جائے)

“A private employee (الاجیر الخاص) cannot work for another without the permission of his employer. In Durr al-Mukhtar, it is mentioned: The private employee cannot work for others, and if he does, the amount from his wage for the time spent in that task will be deducted.”

(Fatawa Razawiyya, Volume 19, Page 454,
Raza Foundation, Lahore)

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

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