106516 - Can a person who kills another accidentally inherit from the deceased?

the question

A man killed his brother by accident; can he inherit from him or not?.

Detailed answer

Praise be to Allah.

The one who kills another deliberately cannot inherit from the deceased. This is a point on which there is scholarly consensus, because of the hadeeth of Abu Hurayrah (may Allaah be pleased with him) who said: The Messenger of Allaah (peace and blessings of Allaah be upon him) said: “The killer does not inherit.” Narrated by al-Tirmidhi (2109); classed as saheeh by al-Albaani in Saheeh al-Tirmidhi (1713). Al-Tirmidhi said: This hadeeth is what the scholars follow: the killer does not inherit, whether the killing was deliberate or accidental. Some of them said: If the killing was accidental, then he may inherit; this is the view of Maalik. End quote.

As for the one who kills by accident, there is a difference of scholarly opinion. Some of the scholars thought it most likely that he may inherit from the deceased, but he may not inherit any of the diyah (blood money) – in a case where he paid blood money – rather he may inherit from the rest of his estate.

Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) said: The most correct view with regard to the issue of killing is that if the heir deliberately and indubitably killed the one from whom he would inherit, then he does not inherit. If it was an accident then he may inherit, but can he inherit any of the diyah which he will pay? He does not inherit any of it, because the diyah is a penalty that he must pay, and it says in a hadeeth narrated by Ibn Majaah: “He may inherit from his original wealth” meaning what he owned before; so he may inherit from his wealth, not from the diyah. End quote from al-Sharh al-Mumti’ (11/321).