32716 - The delayed portion of the dowry is regarded as a debt that the husband owes

the question

Is the delayed portion of the dowry regarded as a debt left by a husband who has died, and must it be paid to the wife from his estate? Please note that he had not consummated the marriage with the wife.

Detailed answer

Praise be to Allah.

Firstly:

It is permissible for the dowry to be paid immediately or to be deferred, or for part to be paid immediately and part deferred… If it is stipulated that it should be paid at a specific time, then it must be paid at that time, but if it is deferred without specifying the time when it is to be paid, then according to Al-Qaadi, the mahr (dowry) is valid and the time for it to be paid is upon separation. Ahmad said: If a dowry is being paid in two parts, one immediate and one deferred, the deferred is only payable in the case of (the husband’s) death or separation. End quote.

This was stated by Ibn Qudaamah in al-Mughni, 10/115

Secondly:

If one of the spouses died before the marriage is consummated, the woman is entitled to the mahr in full.

This was stated in Mughni al-Muhtaaj, 4/374, where it says that there was consensus among the Sahaabah (may Allaah be pleased with them) on this point.

It was also mentioned in al-Insaaf (21/227) where it says that there is no scholarly dispute on this

matter.

Thirdly:

If the husband dies, the mahr that had not been paid to the wife becomes a debt that he still owes; it should be taken from the estate before it is divided among the heirs.

The Standing Committee for Issuing Fatwas was asked:

Is the delayed portion of the mahr permissible or not? If it is permissible but the husband has died and he did not divorce his wife, is it a debt that he left behind or not?

They replied:

It is permissible for the entire dowry to be paid in advance or to be deferred, or part of it may be paid in advance and part of it deferred. Whatever was deferred must be paid when the time stipulated comes. If no specific time was stipulated, then the husband must pay it if he divorces his wife, and it must be paid from his estate if he dies. End quote.

Fataawa al-Lajnah al-Daa'imah, 19/54.