423278 - Should a young girl receive a share from all of the estate?

the question

My mother died, may Allah have mercy on her, and she left behind an estate worth sixty thousand, including gold, money and a car. I have a young sister who is nine years old, and her estimated portion of the estate is five shares, which is approximately two thousand and five hundred. Should her portion include gold, money and a share of the car, in equal proportions, or should she take her share entirely in the form of gold, for example, and not receive anything of the money and so on?

Summary of answer

If the girl's guardian thinks that it is in her best interests for her share of the estate to be all gold, or all cash, he may do that, with the consent of the other heirs. But if each heir insists on taking his share of each type of wealth, then they have the right to do that.

Detailed answer

Praise be to Allah.

When someone dies, his estate should be shared out among his heirs.

The basic principle is that everything that the deceased left behind – whether it was gold or cash or a car – should be shared out among all of his heirs, unless the heirs who are adults of sound mind agree to something else.

So the gold should be shared out by grams, and the cash should be shared out, and they all have a share of the car, or one of them may take it and compensate the others, or it may be sold and the price shared out among all the heirs.

In the case of a nine year old girl, if she has not yet reached puberty, or she has reached puberty

but is not yet mature, meaning that she is not able to handle wealth properly, she should be given her share of everything, and it should be kept for her. It is not acceptable for her to agree with the other heirs on anything other than that, unless her guardian who takes care of her wealth agrees that that is more appropriate for her, so he does what is in her best interests, such as if he thinks that if she takes all of her share in the form of gold, that is better for her, for example. In that case, he may make all her share in the form of gold, so long as the other heirs agree to that.

Her guardian who takes care of her wealth should be her father, or a man appointed by her father, or the ruler, or the judge, and the judge may appoint one of her relatives to be her guardian and take care of her wealth.

This is the view of the majority, but some scholars are of the view that guardianship of a minoer's wealth should be given to the closest of the male relativeson the father's side. This was narrated from Ahmad and was the view favoured by Ibn Taymiyah in *al-Insaf* (5/324). It was also deemed to be more correct by Shaykh Ibn 'Uthaymin in *al-Sharh al-Mumti'* (9/305).

The guardian is obliged to handle the wealth in the way that is in the minor's best interests.

It says in *Manar al-Sabil* (2/550): It is haram for the guardian of a minor, one who is insane or one who is legally incompetent to dispose of their wealth except in a manner that is beneficial to the minor and serves his best interests, because Allah, may He be exalted, says (interpretation of the meaning): { And do not approach the property of an orphan, except in the way that is best } [al-Isra' 17:34]. The one who is legally incompetent and the one who is insane come under the same heading. End quote.

It says in *Sharh Muntaha al-Iradat* (2/175): "It is haram for the guardian of a minor or of one who is insane or legally incompetent to handle that person's wealth in any manner except that which is beneficial to the one who is deemed incompetent and unable to handle it, because Allah, may He be exalted, says (interpretation of the meaning): { And do not approach the property of an orphan, except in the way that is best } [al-Isra' 17:34], and the one who is legally incompetent and the one who is insane come under the same ruling.

If the guardian gives something of the minor’s wealth in charity or as a gift, or shows favouritism to a third party by selling him some of the minor’s property for a price lower than the real price, or he buys something for him for a price higher than the real price, or he spends more on the maintenance of the minor or the one who is insane than is required according to custom, or he spends more than is reasonable on the maintenance of their dependents, then he is liable for what he donated or what he did on the basis of favouritism, or what he spent more than what is required for maintenance, because of his negligence. End quote.

Based on that, if the girl’s guardian thinks that it is in her best interests for her share of the estate to be all gold, or all cash, he may do that, with the consent of the other heirs.

But if each heir insists on taking his share of each type of wealth, then they have the right to do that.

And Allah knows best.