127945 - If a couple died together in an accident, who inherits from whom?

the question

I have a relative who died along with her husband in an accident when they had only been married for about five months. This was her first marriage but he had another wife and sons and daughters, and when he died (the first wife) was still married to him.
My question is: who inherits from my relative who was the second wife? And what is to be included in her estate? Who is entitled to the gold that her deceased husband gave to her at her wedding? Does it go to her heirs or the heirs of the husband, or to both? How should it be divided? Please note that he has sons and daughters, and a father and siblings, and she has a mother, two sisters and a brother.
With regard to the delayed portion of the mahr that was agreed upon in the marriage contract, should the husband’s family give it to her heirs or is her and their right to it waived?
She had a separate house that the husband rented to be a marital home, and he furnished it and equipped it; to whom should the furniture and equipment go?
He also owned a house in which he and his first wife and children lived; can my relative inherit any part of it and of what her husband left behind, or not?.

Detailed answer

Praise be to Allah.

Firstly:

When a person dies he may be inherited from by his living heirs, so it is essential to establish whether the heir was still alive after the person died. In the case asked about here, if it becomes clear to us that one of the spouses died after the other, even by a short moment, then the one who died later inherits from the first one, then the inheritance passes to his or her heirs after that.

But if we do not know which of the two spouses died first, then the majority of scholars are of the

view that it cannot be proven that they inherit from one another, so neither of them inherits from the other, because one of the conditions of inheritance is that we should establish that the heir was still alive after the death of the deceased, and this condition is not met in this case.

So the husband's estate should be divided among his heirs, and his wife does not inherit anything from him.

And the wife's estate should be divided among her heirs, and her husband does not inherit anything from her.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) said, concerning the ruling on a situation where a group of people who would inherit from one another died in an accident. He said: When that happens, one of the following five scenarios apply:

1.We know exactly who died last, so he inherits from those who died first, and not the other way round.

2.We know that they all died at the same time, so there is no inheritance among them, because one of the conditions of inheritance is that the heir should still be alive after the death of the deceased, de facto or de jure, but that is not the case here.

3.We do not know how they died; was it one after another or all at the same time?

4.We know that they died one after another, but we do not know exactly who died after whom.

5.We know who died after whom but then we forgot.

In the last three cases, they do not inherit from one another according to the three imams [Abu Haneefah, Maalik and ash-Shaafa'i]; this is also the view favoured by al-Muwaffaq Ibn Qudaamah, al-Majd, Shaykh Taqiy ad-Deen Ibn Taymiyah and our shaykhs 'Abd ar-Rahmaan as-Sa'di and 'Abd al-'Azeez ibn Baaz. This is the correct opinion, because one of the conditions of inheritance is that the heir should still be alive after the death of the deceased, de facto or de jure, but this condition is not met when it is not known. However the Shaafa'is said that in the last scenario these

decisions should be delayed until they remember or agree, because remembering is not something impossible.

End quote from Tasheel al-Faraa'id, p. 142, 143

Based on that, when dividing the wife's estate:

If the husband died after the wife, then he inherits from her, and her estate is to be divided as follows:

The husband gets one half, the mother gets one sixth, and the remainder goes to the brother and two sisters, with the male getting the share of two females.

If we do not know whether the husband died after she did, then her estate is to be divided among the mother and siblings as follows:

The mother gets one sixth, and the remainder goes to the brother and two sisters, with the male getting the share of two females.

With regard to this division of the husband's estate:

If the wife died after he did, then she inherits from him and his estate is to be divided as follows:

The two wives together get one eighth, the father gets one sixth, and the children get the rest, with each male getting the share of two females. The siblings do not get anything.

If we do not know whether the wife died after him, then she does not inherit from him and his estate is to be divided as mentioned above. So the father gets one sixth, the first wife gets one eighth to herself, and the children get the rest, with each male getting the share of two females.

Secondly:

Your relative's estate is everything that she left behind of wealth that she owned. That includes her mahr that was given to her, whether it was gold or cash, as well as gifts that were given to

her, because they became her property.

With regard to the delayed portion of her mahr, this is a debt owed by the husband, so it must be taken from his estate and added to hers, then divided among her heirs.

Also included in her estate is the diyah if the accident was caused by an individual, whether it was her husband or anyone else and her heirs asked for the diyah or it was paid by the insurance.

With regard to the furniture and equipment in the house, they belong to the husband unless that was part of her mahr, as is customary in some countries, or any part of it was given as a gift by the husband to his wife.

Thirdly:

The husband’s estate is whatever he left behind of wealth that belonged to him. That includes the house that he owned. This estate is to be divided among all his heirs.

With regard to this issue of inheritance, reference should be made to the sharee‘ah court so as to find out and list all those who are entitled to inheritance and the estate, and to find out the circumstances of death and which of the spouses died first. Because there is a difference of scholarly opinion concerning inheritance between the spouses in such cases, the one who should handle any cases of disagreement among the heirs is the qaadi (judge).

And Allah knows best.