194322 - How can the daughters of the deceased be given their shares of the inheritance fifteen years after the death of their father?

the question

If the daughters share is not paid and has been delayed for 15 yrs since the demise of the father. Do we have to calculate the share based upon the value at the time of demise of the father or it has to be calculated based upon the present value?

Detailed answer

Praise be to Allah.

Firstly:

It is obligatory to give each person who is entitled his share of the inheritance in accordance with the laws of Allah regarding division of the estate. Ownership of the estate passes to the heirs as soon as the deceased dies. It says in al-Mawsoo'ah al-Fiqhiyyah (24/76): The fuqaha' are unanimously agreed that the estate passes to the heirs, if there are no debts connected to it, from the moment the deceased dies. End quote.

Ibn 'Uthaymeen (may Allah have mercy on him) said:

The wealth passes to the heirs after the death of the deceased.

End quote from Fataawa Noor 'ala ad-Darb, 12/360

Secondly:

If the daughters of the deceased were prevented from obtaining their rightful share of the inheritance throughout this time, if the estate includes cash, they should take their share of the money as the deceased left it, unless the one who kept the money used it to do business with it or invested it, in which case they are entitled to take their share of the profits on that money,

commensurate with their shares of the inheritance.

If the estate was property or land, then they should take their share of that, according to the shares allocated in sharee'ah. If it is not possible to divide it among all the heirs, and they need to sell it, or some of the heirs need to sell any of their shares, then they may take their share on the basis of the current price, even if it is greater than its price on the day it was usurped, or if it grew or developed, as in the case of livestock, crops and the like, regardless of whether that growth is connected to the original property or not.

Shaykh Zakariyya al-Ansaari (may Allah have mercy on him) said:

The transgressor is responsible for the original property and whatever results from it of additional entities, such as offspring and crops, because he seized the original property unlawfully.

End quote from Asna al-Mataalib, 2/340

If any part of it has been damaged or destroyed, such as if there has been any depreciation in its value since the time when it was usurped, then the usurper must give those who have a rightful share what they are entitled to, along with compensation for the depreciation in its value.

Al-Husni (may Allah have mercy on him) said: It should be noted that just as it is obligatory to return the usurped property, it is also obligatory to give compensation for any depreciation in value; it makes no difference whether it was partially damaged or completely destroyed.

An example of depreciation in value is if the usurper confiscated a plump animal, which then became lean, then grew fat again. He has to return it along with compensation for the first loss of fatness, because the second time it grew fat is something else altogether. And analogies may be drawn from this.

An example of complete destruction or loss is if the usurper confiscated a pair of slippers worth ten dirhams, then lost one of them, and the value of the remaining slipper is two dirhams. In this case he is liable for the value of the lost slipper, which is five dirhams, as well as compensation for the depreciation in value of the remaining slipper, which is three dirhams, so he is liable for eight

dirhams, because the depreciation in value of one of them resulted from the loss of the other.

End quote from Kifaayat al-Akhyaar, 1/283. See also Asna al-Mataalib, 2/344; Mataalib Ooli an-Nuha, 4/10ff.

Under the same heading of loss of value due to damage or complete destruction we may include a drop in the price or value of the item because of a drop in its marketability compared to the day on which it was seized; the usurper is also liable for that according to the correct opinion.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said:

This usurper kept the item away from its rightful owner until its price dropped, so he is a wrongdoer. The drop in price is in fact a kind of damage, because the price reflects the value of the item. Hence the correct view is that if the price drops, then the usurper is liable for the depreciation in value. So we say that he must return the item to its rightful owner, along with compensation for the depreciation in its value.

End quote from ash-Sharh al-Mumti‘, 10/163. See also Kifaayat al-Akhyaar, 1/283

What the one who has committed any of these wrong actions, or usurped the rights of others, or delayed it in such a way that it caused him harm or made him miss out on making profits, must do is return it to its rightful owner and repent to Allah, may He be exalted, from that sin.

Al-Bukhaari (2449) narrated that Abu Hurayrah (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “Whoever has wronged his brother with regard to his honour or anything else, let him seek his forgiveness today, before (the Day when) there will be no dinars or dirhams, and if he has any good deeds to his credit, they will be taken from him commensurate with the wrong that he did, and if he does not have any good deeds to his credit, bad deeds will be taken from his companion (i.e., the one whom he wronged) and added to his burden.”

See also the answer to question no. 181388

And Allah knows best.