

INHERITANCE

Before Islam, succession to properties both among Arabs and non-Arabs was quite unsatisfactory and not in well-defined lines. Succession among the Pre-Islamic Arabs was confined only to able male relations. Daughters, widows, mothers, sisters and minors and incapable persons had no share in the heritage.

Islam adopted equitable and just principles in inheritance, thereby ensuring the absolute rights of women in different capacities, as mother, sister, daughter and wife. These shares have been guaranteed, their rights have been recognized and thus their status has been greatly raised up. The Holy Quraan says: *“Men shall have a portion of what their parents and near relatives leave; and women shall have a portion of what their parents and near relatives leave, whether there is little or more of it”*. (4:7)

1.1 Distribution of Property:

The assets left by the deceased must be dealt in Islam in the following way in order of preference:

1. funeral expenses,
2. satisfaction of debts,
3. payment of bequest, if any, to the extent of one-third of the total assets,
4. to divide the remainder among the heirs.

The rules to be observed in the division are as follows:

1. Firstly, the sharers (*Ashab-e-Fardh*) will get their shares as fixed by Almighty **Allah**,
2. Secondly, the residue shall be divided among such residuaries as are entitled to the residue. In default of the first, the second will get the whole,
3. Distant kindred. In default of the first and the second, the third shall inherit except in one case.

4. In default of the former three, succession will go to one held by *Wala*, i.e., one who undertakes to pay fine or ransom for the deceased.
5. If that does not occur in a case, it will go to the acknowledged kinsmen, i.e., person of unknown descent in whose favour the deceased has made an acknowledgement of kinship, not through himself but through another.
6. In default, it will go to the universal legatee, i.e., the person to whom the deceased has left the whole of his property by will.
7. In default of any of the former persons, it will escheat to the *Baitul Mal* or Public Treasury.
8. In default of Public Treasury, it will go to the leaders of the village of the deceased for distribution to the poor.

16.2 Sharers with shares:

1. Father: one-sixth,
2. Grandfather: one-sixth,
3. Husband: one-fourth with child and one-half without child,
4. Wife: one-eighth with child and one-third without child,
5. Mother: one-sixth with child and one-third without child,
6. Grandmother: one-sixth (paternal or in default maternal),
7. Daughter: one-half when alone, and two-third if more when no son,
8. Uterine brother or sister: one-sixth if one, two-third if more,
9. Full-sister: one-half when alone and two-third if more.

There are 12 sharers, of them there are six that inherit as residuaries when there are corresponding males of parallel grade – father, true grandfather, daughter, son's daughter, full sister and consanguine sister.

16.3 Order of Succession:

1. Son,
2. Son's son,

3. Father,
4. True grandfather,
5. Full brother,
6. Full sister,
7. Full brother's son,
8. Consanguine brother's son,
9. Full brother's son's son's son,
10. Consanguine brother's son's son,
11. Full paternal uncle,
12. Consanguine paternal uncle.

Sayyiduna Abdullah Ibn-e-Abbas reported that Rasoolullah (Sallallahu Alaihi Wassallam) said: *“Pay the fixed shares of inheritance to the persons entitled to them. What remains thereafter is for the nearest male person”*. (Agreed)

Sayyiduna Usamah Bin Wassallam) Zaid reported that the Glorious Prophet of Islam (Sallallahu Alaihi Wassallam) said: *“No Muslim inherits a polytheist, nor a polytheist inherits a Muslim.”* (Agreed)