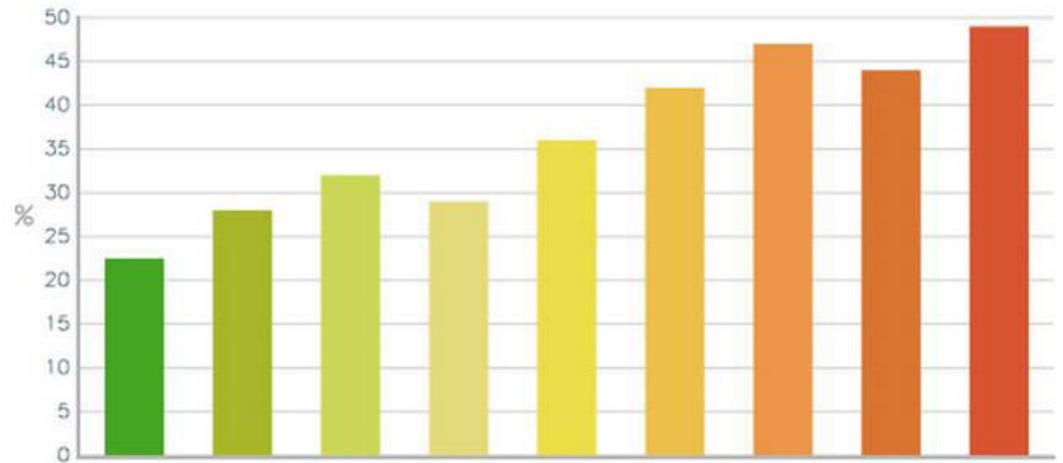
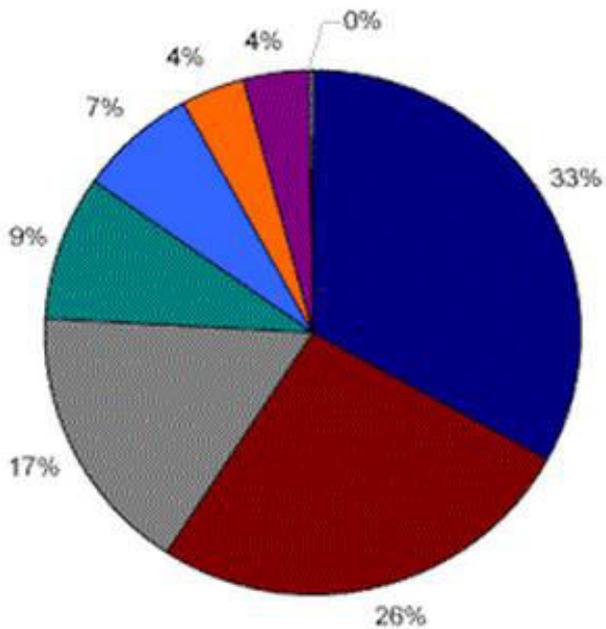


Mirath Inheritance



For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much - an obligatory share. (This share is fixed) (Surah Al-Nisa (4: 7))

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ
الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ ۚ نَصِيبًا مَّفْرُوضًا ﴿٧﴾

Inheritance under Islamic Law is obtained by Allah and therefore should be complied with by every Muslim on earth.

There are 5 legal regulations about Inheritance. The law stipulates that:

1. Both Men & Women have a share in it.
2. It must be divided among all heirs however little or insignificant the share may be. (On the other hand, the law permits an heir to buy the share of other only by natural consent).
3. The Law applies to all sorts of Property.
4. The right of inheritance becomes valid only when the deceased leaves some property behind without the hindrance of a debt
5. The Law also implies that the near in blood is nearer in heritage i.e that when the nearest relatives are alive, the distant relatives have no right inheritance.

- Before any inheritance can be shared out ALL Expenses must be paid for
- Debts, Funeral expenses, Obligations etc... and then the remaining can be shared.
- Some People will get Fixed Shares
- Some People will be blocked by Immediate Family still alive to inherit.
- A person can make a Will (Wassiyah) only up to 1/3 of his Estate to whomever he wants and the remaining will be shared according to the Shariah Law. (After all funeral expenses & debts are paid for.)

Conditions:

- 1. Confirmation of death (The death of the person must be actual & clear either by real death or judgement of the court in the case of a missing person.
- 2. Survival of Heirs (It must be proved that the heir or heirs are surviving at the time of his/her death, before they are allowed to inherit.
- 3. Relationship which justify inheritance

The Right Heirs

There are 3 parties that will always be entitled to a share of inheritance:

- Parents
- Children
- Spouse

Heirs

The following verse in the Qur'an gives details of shares: 4:11

يُوصِيكُمُ اللَّهُ فِي أَوْلَادٍ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ فَإِنْ كُنَّ
 نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا
 النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ
 وَلَدٌ فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ أَبُوَاهُ فَلِأُمِّهِ الثُّلُثُ فَإِنْ كَانَ لَهُ
 إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ لِأَبَائِكُمْ
 وَأَبْنَاؤِكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا فَرِيضَةٌ مِّنَ اللَّهِ إِنْ
 اللَّهُ كَانَ عَلِيمًا حَكِيمًا

Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah . Indeed, Allah is ever Knowing and Wise.

Rights of Shares

Mirath (Inheritance)

Males who are can possibly inherit

- Sons.
- Sons of son however low it goes.
- Father of the deceased.
- Grandfather of the deceased however high it goes.
- Brother of the deceased.
- Son of the brother of the deceased.
- Uncle. i.e. brother of the father of the deceased
- Son of uncle, i.e. son of the brother of the father of the deceased
- Husband.
- Master who freed his slave.

Females who can possibly Inherit

- Daughter of the deceased.
- Daughter of the son of the deceased.
- Mother of the deceased.
- Grandmother of the deceased for both sides.
- Sisters, full, consanguine and uterine.
- Wife of the deceased.
- Freed slave (mistress) maulatunneamati.

These above are the only females who are going to inherit.

BARS OF INHERITANCE (IMPEDIMENT OF SUCCESSION)

There are certain factors which exclude some heirs from Inheritance:

- Potential heirs who are completely debarred from inheritance because of their past deeds or some attributes they possess.
- Potential heirs who become totally excluded because of closer relatives who are entitled to inherit before them.
- Potential heirs who are only partially excluded, their shares may be reduced on account of other beneficiaries.

1. Potential Heirs who are completely debarred are:

- Homicide – All Muslim Jurists agree that a **Murderer** shall not inherit. For example: A son who kills his father will not inherit.

There are different cases of murders among which are

- Qatli Al-Amd – Intentional Murder – these people will **NOT** inherit
- Qatl Al-Khata – Unintentional Murder – these people **MAY** inherit on the grounds of:
 - a) A mad person or a minor
 - b) Lawful Killing as a result of Jihaad
 - c) Killing in Self Defence
 - d) Justifiable killing according to the Shariah Law.

2. Difference in Religion:

- A Muslim cannot inherit from a Non-Muslim nor a Non-Muslim inherit from a Muslim

3. Slavery:

- All Muslims jurists agree that slavery is a bar to inheritance. Slaves do not inherit from their Masters nor would they be inherited after their Masters die – They go Free. Fortunately today the issue is non-existing.

FIXED SHARES - There are Shares that are Fixed. There are 12 in total:

4 Males :

- Father
- Father's Father (Grandfather for ever High it goes)
- Half Brother by the Mother (Shares the same Mother)
- Husband

8 Females:

- Wife
- Daughter
- Son's Daughter (However low it goes)
- Full Sister
- Consanguine Sister (Sister from Father's Side)
- Uterine Sister (Sister from Mother's Side)
- Mother
- True Grandmother (Mother's Mother)

Mirath (Inheritance)

These Shares are normally: $1/2$; $1/4$; $1/8$; $2/3$; $1/3$ and $1/6$

E.G

: Husband will inherit $1/4$ when his wife dies if they have Children

: Husband will inherit $1/2$ when his wife dies if they have NO Children

: Wife will inherit $1/8$ when her husband dies if they have Children

: Wife will inherit $1/4$ when her husband dies if they have NO Children

Mirath (Inheritance)

- : Mother of the deceased will inherit $\frac{1}{6}$ if their son/daughter has Children
- : Mother of the deceased will inherit $\frac{1}{3}$ if their son/daughter has NO Children
- : Daughter of 2 or more will share $\frac{2}{3}$ if there are no other male siblings
- : A (only) Daughter will inherit $\frac{1}{2}$ if there are no other male siblings
- : A Brother or a Sister will inherit $\frac{1}{6}$ each if there are no Ascendants or Descendants (No Parents & Children to inherit)
- : 2 or more Brothers & Sisters will share $\frac{1}{3}$ if there are no Ascendants or Descendants (No Parents & Children to inherit)

Share to parents

1. Share for the parents left from the property left behind from the son:
 - Each will get one-sixth $1/6$ of what the deceased has left behind IF deceased left behind a child.
 - If both parents are alive and there are also children, both mother and father take a sixth ($1/6$) each.
 - If one of the parent is alive; he or she takes a sixth ($1/6$) and rest goes to the child.

﴿۱۲﴾ وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ
 وُلْدٌ فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلَكُمْ الرُّبْعُ مِمَّا تَرَكَنَّ مِنْ
 بَعْدِ وَصِيَّةٍ يُوصِينَ بِهَا أَوْ دَيْنٍ وَلَهُنَّ الرُّبْعُ مِمَّا
 تَرَكْتُمْ إِنْ لَمْ يَكُنْ لَكُمْ وُلْدٌ فَإِنْ كَانَ لَكُمْ وُلْدٌ
 فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَتُمْ مِنْ بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا
 أَوْ دَيْنٍ وَإِنْ كَانَ رَجُلٌ يُورَثُ كَلَلَةً أَوْ امْرَأَةً وَلَهُ إِخٌ أَوْ
 أُخْتُ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ
 ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِنْ بَعْدِ وَصِيَّةٍ يُوصَى بِهَا أَوْ
 دَيْنٍ غَيْرِ مُضَارٍّ وَصِيَّةً مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ خَلِيمٌ

Mirath (Inheritance)

And for you is half of what your wives leave if they have no child. But if they have a child, for you is one fourth of what they leave, after any bequest they [may have] made or debt. And for the wives is one fourth if you leave no child. But if you leave a child, then for them is an eighth of what you leave, after any bequest you [may have] made or debt. And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth. But if they are more than two, they share a third, after any bequest which was made or debt, as long as there is no detriment [caused]. [This is] an ordinance from Allah , and Allah is Knowing and Forbearing.

Fathers share

- in the case where the father is coming with only mother and wife or husband, he will take the residuary after the share of the wife and the mother are given accordance with the doctrine of Umariyyataini.
- If there is nobody to inherit with him he will get the whole of the estate. The father also inherits $1/6 + R$ when there is a female issue.

Mothers share

- Mother will also get $\frac{1}{6}$ if there are children.
- She will get $\frac{1}{6}$ in the presence of 2 or more brothers and sisters even if they are uterine, full or consanguine, or mixed, but one alone will NOT restrict her to $\frac{1}{6}$.
- Mother will get $\frac{1}{3}$ of the residuary share in the case where she is coming with father and wife or husband.
- After taking the share of the husband or wife from the rest of the estate, she will get $\frac{1}{3}$ while the father will take rest on the basis of the doctrine of umariyyatani.

Shares to husband and Wives

1. When the wife dies, the husband takes half ($1/2$) of his deceased wife's property if she leaves no child.
2. If the deceased wife leaves a child, the husband only gets $1/4$
3. The female share is generally half of the male share. The widow gets $1/4$ of her deceased husband's property if he leaves no child
4. If he leaves children then the widow gets only $1/8$.

Mirath (Inheritance)

5. If the widows are more than 1, their collective share is $\frac{1}{4}$ if there are no children. But if there are children, their collective share is $\frac{1}{8}$ from which they divide equally.
6. Husband will receive $\frac{1}{2}$ of the estate of the deceased in the absence of male and female children or son or daughter. He will get $\frac{1}{4}$ in the presence of sons and daughters or sons of son or daughter of son.
7. The spouse will inherit each other subject to the following two conditions: firstly the contract of the marriage should be a valid one.

THOSE ENTITLED TO ½ (ONLY)

1. Husband
2. Daughter
3. Daughter on son
4. Full sister (Same mother, same father)
5. Sister from fathers side (CONSANGUINE)

CONDITIONS:

1. HUSBAND -

- A husband can inherit 1/2 ONLY in the absence of children. "Children" meaning either children of the deceased (son) or children of his sons (grand children)

2. DAUGHTERS -

- The absence of her brother, the absence of her sister to share with her (Only child)

3. DAUGHTER OF THE SON –

- The absence of her brother
- The absence of her sister (anyone to share with her)
- The absence of any male that is entitled to any inheritance that is high in preference to her to inherit (before her) i.e. if the sons/grandsons of the deceased inherit

4. FULL SISTER –

- The absence of her brother
- The absence of her sister (anyone to share with her)
- The absence of any male that is entitled to any inheritance that is higher in preference to her to inherit (before her) i.e. is the sons/grandsons of the deceased inherit)
- The absence of the father or grandfather

5. SISTER FROM FATHER'S SIDE

- The absence of her brother
- The absence of her sister (anyone to share with her)
- The absence of any male that is entitled to any inheritance that is higher in preference to her to inherit (before her) i.e. is the sons/grandsons of the deceased inherit)
- The absence of the father or grandfather
- The absence of a full brother or full sister

Mirath (Inheritance)

THOSE ENTITLED TO 1/8

- Wife & Wives

If the Husband dies and has children (sons/son of the son)

THOSE ENTITLED TO 2/3

- Daughters
- Daughters of sons
- Full sisters
- Sister from the fathers side (CONSANGUINE)

THOSE ENTITLED TO 1/3

- Mother
- Brother of the mother
- Grandfather

THOSE ENTITLED TO 1/6

- Parents
- Each parent will receive 1/6 if the deceased left children
- Mother
- If deceased has no children but has brothers & sisters then the mother will get 1/6