Lesson 9

Calculation of shares:

○ **Grand Father's Share – Ali's Scheme**

Islamic Laws of Inheritance

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Prophet's(SAS) Hadeeth

Imran b.Hussain; A man came to the prophet & said my son's son has died, what do I get. Prophet(sas) said you get 1/6. When he turned away he called him and said you get another sixth. When he turned away he called him again and said the other sixth is an allowance.

Ahmed, Abu Dawood, Thirmidhi

True Grand father (TGF) is Grand Father with no female in between the person died and the grandfather. E.g.. Father's father (FF), or his father (FFF)…

Untrue Grand Father is a grand father with a female between the person died and the grand father. e.g. Mother's father (MF), his father (MFF) or father's mother's father (FMF)

Only True Grand Father is eligible

TGF = **GF with no female in lineage**

 e.g.: FF, FFF…

o   He is **substitute for F** - Inherits like F

o   **Substitutes for F** or **lower GF**

o   **Secondary Heir**

o   **Excluded by F**

o   **Collaterals** Excluded by GF one view

　　　　　　Get share with GF another view

Grand Father becomes a heir in the **absence of Father.**

Fixed share	Presence of male agnatic descendants S, SS...	1/6
Fixed + Bal	Presence of female agnatic descendants D, SD..	1/6+Bal
Residuary	No Descendants S, SS, D, SD	Bal

Learn and remember this well

GF differs from F on 3 occasions

1. GF does not exclude FM like F

2. GF does not affect M share when other heir is spouse With F,M & spouse: M will get 1/3 of balance after spouses share. But with GF, M will get 1/3 of total.

3. GF with collaterals (Brothers & Sisters)

    a) One view is collaterals are excluded by GF

    b) Other view – collaterals get share with GF

Learn and remember this well

The 3rd situation arises when GF gets either

1) **1/6 + bal** in presence of D / SD or

2) **Balance alone** when no Agnatic Descendants.

Br. & Sr. Excluded	Br. & Sr. get share
This view is reported from: ○ Aboobacker, ○ Ibn Abbas, ○ Ibn Zubair, ○ Abudarrda, ○ Ubaibin Kaa'ab, ○ Muad bin jabal, ○ Abu Moosa al Ashaari, ○ Ibn umer	Favoured by most companions of prophet, namely: ○ Zaid bin Thabith, ○ Ali, Ibn Masoud, ○ Students of Abu hanifa - Abu Yusuf & Muhammed
Accepted by **Imam Abu Hanifa**	Preferred by 3 Imams – **Shafei, Maliki, Hambali.**

The first view proposers argue that GF is identical to F

and excludes all collaterals

1.   Collaterals cannot be equated with GF, he is bound to provide sustenance to grand children unlike collaterals

2.   Gf inherits like F in dual capacity hence he acts like F and excludes collaterals

3.   Gf & collaterals are not equal - Gf excluded by F only but collaterals by F & S, SS.

4.   Gf is never excluded defacto but collaterals can be. e.g. H, M, 2D, Bf, Sf - verses * - H, M, 2D, GF

Argument in favour of second view.

1. GF and Br &Sr are related to deceased thr single person F.

2. Br. & Sr. are more in need of wealth than aged GF.

3. Entire wealth may go to GF 's sons after his death.

4. F and S both will get share together , So also GF and Br & Sr.

5. F verses collaterals is specifically mentioned in Quran but not GF & collaterals.

6. B & Sr are related to F directly but not to GF.

7. Collaterals share is mentioned in Quran and hence they are more in favour.

8. Gf is ascendant of F but B&Sr are descendants of F and hence more preferred.

o The problem arises due to absence of any specific provisions in Quran or sunnah of Prophet (s.a.s)

o Origin of this problem: During sahabi's time

o A person died leaving M, Sf, FF

o Seven solutions were put forward

o The case is known as Al Khuraqa (The Tatters = Torn)

GF & Collaterals

	M	SF	FF
1. Aboobacker R.A.	1/3	0 *	2/3
2. Ali R.A.	1/3	1/2	1/6
3. Zaid b. thabith R.A.	1/3 = 3/9	2/9	4/9
4. Ummer R.A.	1/6	1/2	1/3
5. Uthman R.A.	1/3	1/3	1/3
6. Abdullah b. Masoud R.A.	1/6	0 *	5/6
7. " "	1/4	1/2	1/4

The first view was accepted by Imam Abu Hanifa

The second view of simultaneous inheritance proposed by 5 people is accepted by

1. Imam Maliki

2. Imam Shafei

3. Imam Abu Yusuf

4. Imam Muhammed

Both are disciples of Abu Hanifa

Out of 7 solutions 1st one is accepted by Imam Abu Hanifa, 2nd and 3rd one are accepted by above 4 Imams and the others are discarded.

o Proposed by **Aboobacker R.A.**

o Accepted as Rule of Hanafi school inspite of opposition by his disciples.

o Brothers and sisters are completely excluded by GF like F

Rule of **Simultaneous inheritance**

1. Scheme of Ali R.A.

2. Scheme of Zaid B. Thabit R.A.

    Accepted by Shafei, Maliki & Hambali school

Basic principles are same and the GF is given option to elect more advantageous rule.

1. In the presence of F.A.D.-D,SD normally Gf gets 1/6+bal. But with collaterals he takes either bal with
    Brother /Sister or 1/6 whichever is higher.

2. No Agnatic descendants Normally GF is eligible for bal.

    a) With Brothers. GF is considered as residuary with Bf/Bc in the absence of agnatic descendants. He is treated as Bf or Bc. Sisters here become residuaries by their male counterparts.

    b) No Brothers but with sisters If sisters with Gf without Br, they take their Quranic share if otherwise competent

TGF has 2 options. He takes one with higher share among 2 options

1. He takes his Fixed share of 1/6

2. Or he takes balance with Bf or Bc. Sf and Sc here become residuary with Bf and Bc

If Bf or Bc are not there sisters take their Quranic share.

o   Bf excludes Bc

o   With Bf Sf becomes residuary Like wise Bc with Sc

o   With Bf or Bc TGF may opt 1/6 or balance with Bf or Bc which ever is more
    advantageous

o   Sf without Bf will take Quranic share if no D/SD

o   Sf/Sc with D/SD no Bf/Bc then Sf/Sc goes for balance Gf takes 1/6

GF & Collaterals – Ali's Scheme

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	conditions	Share of Collaterals	TGF Share
Presence of D/SD	Bf (and Sf)	Take bal with GF. Bc and sc excluded by Bf	1/6 or bal with Bf and Sf whichever is higher
	No Bf but Sf +	Sf goes for bal. Bc (Sc) excluded.	1/6
	No Bf, Sf but Bc (with Sc)	Bc takes bal with GF	1/6 or bal with Bc and Sc whichever is higher
	No Bf, Sf, Bc, but Sc+	Sc goes for bal	1/6
No D/SD	Bf (and Sf)	Take bal with GF. Bc and sc excluded by Bf	1/6 or bal with Bf and Sf whichever is higher
	No Bf but Sf +	Sf takes her fixed share. Bc goes for bal with GF	1/6 or Bal with Bc(Sc) which ever is higher.
	No Bf, No Sf But Bc (with Sc)	Bc takes bal with GF	1/6 or bal with Bc and Sc whichever is higher
	No Bf, Sf, Bc, but Sc	Sc takes fixed share	1/6 or bal whichever is higher

GF & Collaterals – Ali's Scheme

conditions		Share of Collaterals	TGF Share
Bf (and Sf)		Take bal with GF. Bc and sc excluded by Bf	1/6 or bal with Bf and Sf whichever is higher
No Bf but Sf +	D/SD +	Sf goes for bal. Bc (Sc) excluded.	1/6
	No D/SD	Sf takes her fixed share. Bc goes for bal with GF	1/6 or Bal with Bc(Sc) which ever is higher.
No Bf, Sf but Bc (with Sc)		Bc takes bal with GF	1/6 or bal with Bc and Sc whichever is higher
No Bf, Sf, Bc, but Sc+	D/SD +	Sc goes for bal	1/6
	No D/SD	Sc takes fixed share	1/6 or bal whichever is higher

1. 2W, Bc, FF

a) <u>FF Fixed share of 1/6</u>

2W = 1/4, FF = 1/6, Bc = balance

2W = 6/24, FF = 4/24, Bc = 14/24

b) <u>FF takes balance with Bc</u>

2W = 1/4, Bc + FF = bal = 3/4, 3/8 each

2W = 6/24, FF = 9/24, Bc = 9/24

GF goes for advantageous option (b)

2. H, 2Bf, FF, Bc

a) <u>FF Fixed share of 1/6</u>

H = 1/2, FF = 1/6, Bf = bal, Bc = Nil

H = 3/6, FF = 1/6, Bf = 2/6, Bc = 0

b) <u>FF takes balance with Bf</u>

H = 1/2, 2Bf+FF = bal =1/2, (1/6 each, 2Bf=2/6 FF = 1/6), Bc = nil.

H = 3/6, 2Bf+FF (3 shares). One share is 1/3 of 1/2. 1/3*1/2 = 1/6.

FF = 1/6, 2Bf = 2/6, 1Bf = 1/6, Bc = 0

Fixed share 1/6 and balance with Bf is the same 1/6

3. M, Sf, Bc, FF

a) <u>FF Fixed share of 1/6</u>

M = 1/6, Sf = 1/2, FF = 1/6, Bc = bal

M = 1/6, Sf = 3/6, **FF = 1/6**, Bc = 1/6

b) <u>FF takes balance with Bc</u>

M = 1/6, Sf = 1/2, Bc + FF = bal = 2/6,

Bc = 1/6, **FF = 1/6**.

Fixed share 1/6 and bal with Bc is the same 1/6

4. W, Sf, Bf, FF, Bc, Sc

a) <u>FF Fixed share of 1/6</u>

W = 1/4, FF = 1/6 Sf+Bf = bal, Bc,Sc=nil (Bf excludes)

W = 3/12, FF = 2/12 Sf+Bf = bal = 7/12 Bc, Sc=nil

W = 15/60 FF = 10/60 Sf+Bf = 35/60

b) <u>FF takes balance with Bf & Sf</u>

W=1/4, Sf+Bf+FF=bal=3/4, Bc, Sc=Nil

Sf + Bf + FF = 1 + 2 + 2 = 5 share fractions for balance 3/4

1 share = 1/5 x 3/4 = 3/20

Sf = 3/20, Bf = 6/20, FF = 6/20. Bc,Sc = nil

W = 5/20, Sf = 3/20, Bf = 6/20, FF = 6/20, Bc,Sc = 0

W = 15/60 Sf = 9/60 Bf = 18/60 FF = 18/60 Bc,Sc = 0

Balance with Bf and Sf is more hence TGF goes for option (b)

5a) SD, Bf, Sf, FF, Bc

a) <u>FF Fixed share of 1/6</u>

   SD = 1/2, FF = 1/6, Bf + Sf = bal, Bc = Nil

   SD = 3/6, FF = 1/6, Bf + Sf = 2/6, Bc = 0

b) <u>FF takes balance with Bf & Sf</u>

   SD = 1/2, Bf + Sf + FF = bal = 1/2, Bc = 0

   Bf + Sf + FF = 2 + 1 + 2 = 5 shares for balance 1/2

   One share=1/5 x 1/2 = 1/10

   Sf = 1/10, Bf = 2/10, FF = 2/10 = 1/5

Here 1/5 is greater and hence GF goes for option 2

5.b)Same as 5 a but 2Bf (SD, 2Bf, Sf, FF, Bc)

a)   FF Fixed share of 1/6

SD = 1/2, FF = 1/6, 2Bf + Sf = bal, Bc = Nil

SD = 3/6, FF = 1/6, 2Bf + Sf = 2/6, Bc = 0

b)   FF takes balance with Bf & Sf

SD = 1/2, 2Bf + Sf + FF = bal = 1/2, Bc = 0

2Bf + Sf + FF = 4 + 1 + 2 = 7 shares for balance 1/2

One share = 1/7 x 1/2 = 1/14

Sf = 1/14, 1Bf = 2/14, FF = 2/14 = 1/7

Here 1/6 is greater and hence GF goes for option (a)

6. 2W, FM, 2Bc, 2Sc, FF

a) FF Fixed share of 1/6

   2W = 1/4, FM = 1/6, FF = 1/6 2Bc+2Sc = bal

   2W = 3/12, FM = 2/12, FF = 2/12, 2Bc+2Sc = 5/12

   2Bc+2Sc = 4 + 2 shares for balance. 1 share = 5/12 x 1/6 = 5/72

   2W = 18/72, FM = 12/72, FF = 12/72, Bc = 10/72, Sc = 5/72

   2W = 24/96, FM = 16/96, FF = 16/96, Bc = 13.33/96, Sc = 6.66/96

b) FF takes balance with Bc & Sc

   2W = 1/4, FM = 1/6, 2Bc+2Sc+FF = 7/12,

   1 share = 1/8 x 7/12 = 7/96, 2Bc = 28/96, 2Sc = 14/96, FF = 14/96

Here 16/96 is greater and hence GF goes for option (a)

ربنا تَقَبَّلْ مِنَّا إِنَّكَ أَنْتَ السَّمِيعُ الْعَلِيمُ

وَتُبْ عَلَيْنَا إِنَّكَ أَنْتَ التَّوَّابُ الرَّحِيمُ

اللهم اغفر لنا، يا أرحم الراحمين

ربنا آتنا في الدنيا حسنة وفي الآخرة حسنة وقنا عذاب النار

ربنا ظلمنا أنفسنا وإن لم تغفر لنا وترحمنا لنكو نن من الخاسرين

اللهم صلِّ وسلِّم وبارك على عبدك ورسولك محمد سيد الأولين والآخرين، وعلى آله وصحبه أجمعين