

JURISPRUDENCE PROVISIONS RELATED TO EXPIATION FOR MANSLAUGHTER IN TRAFFIC ACCIDENTS

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ABSTRACT

The study dealt with the subject of jurisprudence provisions related to expiation for manslaughter in traffic accidents. The study talked about the definition of murder, its provisions, and its types; it also talked about the definition of traffic accidents and their types. Then the study dealt with the issue of the penalty for manslaughter in traffic accidents. The discussion was about the obligation of blood money and the denial of inheritance and a will, and about the obligation of expiation, then talk about the ruling on multiple expiations for manslaughter in traffic accidents. The study concluded that the expiation for manslaughter in traffic accidents does not vary; the study also concluded that expiation is not required for every traffic accident.

KEY WORDS: Traffic Accidents, Blood Money, Obligation

INTRODUCTION

Islamic law has made self-preservation one of the five necessities, as it forbids killing and makes it a major sin, and imposed retribution on the willful killer. But a person may err and accidentally kill someone else, in which case the killer is not punished with retribution, but rather he pays the blood money for this murderer, and the killer is required to offer expiation for the action that caused the killing of an infallible person, the expiation is the release of a Muslim slave, fasting for two consecutive months, for whoever does not find a slave to release; For God, Almighty says: “And whoever kills a believer by mistake - then the freeing of a believing slave”, then God Almighty says: “And whoever does not find [one or cannot afford to buy one] - then [instead], a fast for two months consecutively” (Surat An-Nisa': 92).

In our current era, God Almighty has honored us with the blessing of cars that facilitated the transportation of people, but the matter of these cars is not free of the risk of accidents that occur because of them, and these accidents may result in property damage, injuries, and deaths, and sometimes because of these accidents more than one person is killed. So, does the car driver that caused the accident have to offer expiation for every person killed because of this accident, or is he obliged to provide one expiation, and is expiation required for the driver in the first place for every accident caused by this vehicle? So, the study came to answer these questions.

STUDY IMPORTANCE

The importance of the study lies in the following:

A statement of the ruling on multiple expiations for manslaughter that results from traffic accidents in the event of more than one death.

A statement of cases in which expiation is required of the vehicle driver that resulted in a traffic accident.

STUDY METHODOLOGY

The study is based on the inductive approach and the comparative dialogue method.

Study plan

The study was divided into two main sections:

The first topic: The definition of murder and traffic accidents and their types. This topic has been divided into the following requirements:

The first requirement: The definition and ruling of murder

The second requirement: Types of killing

Third requirement: The definition of traffic accidents

Fourth requirement: Types of traffic accidents

The second topic: The penalty for manslaughter in traffic accidents. This topic has been divided into the following requirements:

The first requirement: The obligation of blood money

The second requirement: Deprivation of inheritance

The third requirement: Deprivation of a will

Fourth requirement: Obligation of expiations

Fifth requirement: Multiple expiations for manslaughter

THE FIRST TOPIC

Definition of murder and traffic accidents and their types

The first requirement: Definition and of murder and its rule

The first section: Definition of murder

First: in language:

He killed: he killed, killed him if he killed him with a blow, a stone, poison, or an illness, and I killed him with murder: that is, I took his soul, so he is dead.

Second: Idiomatically

The Hanafiyya defined murder as an act of people by which life ceases.

The Malikis defined it as the destruction of a person's soul.

The Shafi'i defined it as the act that destroys the soul.

The Hanbalis defined it as an act that causes the death of the soul.

According to the jurists, two things are noted on the definition of murder: killing is an act of creation, and the second is that killing is what led to death.

The second section: the rule of murder:

Five provisions apply to murder: obligatory, unlawful, hated, scarring and permissibility.

The obligatory killing is like killing the apostate if he does not repent, and the warrior if he does not surrender or give the tribute.

As for unlawful killing, it is like killing the infallible with no right.

The hated killing is like killing the invader, his unbelieving relative if he does not curse God and his Messenger.

As for scarring killing, it is like killing the invader, his infidel relative, if he curses God and His Messenger and kills other warriors.

As for permissible killing, such as killing the prisoner, he is given a choice, and some jurists believe that killing the prisoner may be obligatory, and he may be a delegate because the imam orders the killing of the prisoner to the interest.

And where the interest necessitated his killing, it is possible that his killing is obligatory if it does not result in corruption, and it is delegated if there is an interest in it is more likely to be abandoned, and it may be possible to kill the prisoner as an absolute duty, as the interest in killing him appeared.

The second requirement: types of killing:

Jurists have divided murder into three types, namely:

The first type: Intentional murder, which is when the killer deliberately strikes the killed person with a weapon or any similar thing that has a sharp limb that is cut and wound; because intentional and intent are not unresolved, and therefore the beating of a cutting, interruptive instrument as evidence of murder, which takes place in place of intentional.

For murder to be considered intentional murder, two things are required:

The first is the intent, whereby the killer intends the act and the person, so he intends to kill and intends the same person who was killed, and therefore if he strikes a person because of play or etiquette, it is not intentional, but rather it is considered manslaughter.

The second: using a killing machine that often kills him, such as hitting him with a sword or stabbing him with a spear.

This includes repeated beating with a small piece of wood, for example, or for the dead person to do what is most likely to be done by that deed that it is destroyed, in sum, manslaughter is of two types, one of which is to hit it with a sharp object. It is something that cuts and enters the body, such as a sword and a knife, its meaning is that which is sharp and injures, and the second type is: killing with something other than sharp, which is most likely to happen when it is used, where this is premeditated murder.

The second type: semi-manslaughter, which is the intent to do and the person in a way that is not often destroyed by being damaged rarely, such as hitting him with a small whip, a small stick, or a small stone.

The Malikis differed in the semi-manslaughter, for among the majority of their jurists, headed by Imam Malik, there is no such kind of murder, but murder has two types: intentional and wrong there is a narration on Imam Malik that proves almost manslaughter.

The Malikis who denied semi-premeditated murder argued that there is no mediation between error and intent, that is, between intending to kill or not intending it, and as for those who say that there is semi-manslaughter, he said that the intentions are not known except by God, the Highest, but the ruling is by what appears.

The third type: manslaughter, which is that the killer does not intend the act, or intends it, but does not intend the person so that manslaughter may be in the same action, and it may be the perpetrator thinks: An example of a mistake in the same action is that he slides on a person and falls on him and kills him, or throws someone while he thinks that this person is hunting or a tree, for example, and it turns out that he is a human. An example of a mistake when the perpetrator thinks that he kills a person thinking that he is a warrior or an apostate.

Thus, it becomes clear that the difference between the three types is that the murderer in manslaughter intends to kill and he intends the person, and in semi-manslaughter, he intends to kill and the person but uses a tool that does not kill in most cases, and in manslaughter, the killer does not intend to kill, or he may intend it but does not intend to kill the person who was killed.

Third requirement: Definition of traffic accidents

There are many definitions of traffic accidents and the most prominent of these definitions:

A traffic accident is: "The incident in which the moving vehicle causes loss of life or damage to property without intent or a previous measure by any of the parties involved in the accident. Blame on this definition is to restrict accidents as being unintentionally or a previous measure. If the accident was intentional, would the incident not be described as a traffic accident regardless of the motive?"

The United Nations Economic Commission for Europe defined a traffic accident as an accident in which the following elements are available: that it occurs on the road open to public traffic, and that it results in injury, death, or damage, and that at least one of the moving vehicles takes part in it, and some of them added that the accident was not deliberate.

A traffic accident is: “Every incident that results in death, injury, or damage to public or private property due to the movement of a vehicle or its cargo on the road, and that is with or without intention or prior thinking.

The last definition is comprehensive, as it mentioned all the elements that must be met in an incident that can be considered a traffic accident, and differs from the first definition that it did not restrict the traffic accident to non-nihilism.

Fourth requirement: types of traffic accidents

According to the definition of traffic accidents and their elements, the types of these accidents vary according to the following considerations:

Death accident, which results in one or more persons' death, and positive laws differed if the injured person does not die directly because of the accident. If the injured person was removed from the scene while he was alive, and he died in hospital, in this case, the accident is considered an injury and not a death accident according to some laws. According to some countries' laws, this event is considered a death accident, even if the death did not occur directly, and from the countries that went to this America and Britain. In America, the accident, in this case, is deadly if the death occurred within a year from the date of the accident, and in Britain, the accident is considered a deadly accident if the death occurred within a month from the date of the accident, provided that there is a causation between the accident and the death.

Injury accident, which is an accident that results in injury to one or more persons, such as a fracture or injury to the injured

Damage accident, which is an accident that only results in damage to the vehicles involved in the accident or to public and private property

Second: Types of traffic accidents concerning willful and error

Willful road traffic accidents: They are the accidents committed by some individuals using vehicles with the intent to harm other people or their property, which means the availability of criminal intent in such accidents. This type of accident falls under the jurists' premeditated killing and takes its rulings because cars are certainly one of the modern killing machines.

Accidental traffic accidents, which are those accidents that do not have the character of intentional, where they happen by mistake without the will of any of the parties involved in the accident.

Most of the traffic accidents that happen are of this type, as they happen by mistake.

Third: Types of traffic accidents concerning participation and exclusivity

Traffic accidents in which one of the colliders is solely responsible is if the collision occurs with independent negligence, such as when a moving vehicle collides with a parked vehicle or a driver moves in the opposite direction and causes a vehicle to hit.

Traffic accidents in which there are multiple parties involved, where the responsibility, in this case, falls on all the participants. For example, if the driver of a vehicle exceeds the legal speed on the road and collides with a pedestrian who crosses the road in places other than those designated for crossing, or without waiting for a traffic light or warning For car walkers. The jurists talked about this type of accident, so they required a guarantee for everyone. It came in Badaa'i al-Sanai ': "And if they all drive - that is, an animal - what is damaged by that, then the guarantee is upon them all because there is the cause of them all. And it says in al-Mughni: “And if a group participates in aggression, because of which something is destroyed, then the guarantee is on them.”

THE SECOND TOPIC

Punishment for manslaughter in traffic accidents

It was previously mentioned that traffic accidents happen willfully or accidentally, and in this section, we will talk about the penalty for accidents that happen by accident.

The first requirement: the obligation of blood money

Whoever accidentally kills another must pay blood money for this killed person.

The first section: Definition of blood money

In the language: blood money in the language is taken from the verb friendly, it is said: blood money is given to him, and it is said to so-and-so if he gives his blood money to his guardian.

The blood money is the right of the dead person, and it is money that is instead of the soul, and that money is called blood money naming the source.

Idiomatically

The Hanafi school defined blood money as money due for a felony in a person or party.

According to Sharia, the Maliki school defined it as money required when killing a human for his blood or wounding it, not with diligence..

The Shafi'i school defined it as money that is required of a crime against the free, in one soul or less..

The Hanbali school defined it as money that is paid to a victim or his guardian due to a felony..

The second section, the legality of blood money

The legitimacy of blood money is proven by the Qur'an, Sunnah, and consensus.

In the holy Quran: "And whoever kills a believer by mistake - then the freeing of a believing slave and a compensation payment [diyah] presented to his [i.e., the deceased's a] family [is required], unless they give [up their right as] charity." (An-Nisā: 92) and from the Sunnah: What was narrated that the Prophet, may God bless him and grant him peace, wrote Amr bin Hazm a book to the people of Yemen in which there are statutes, Sunnahs, and blood money, and he said: "And there are a hundred camels in the soul.". And the scholars agreed in the sentence on the necessity of blood money..

The second section: the amount of blood money

If the murderer was a male, there is no difference of opinion among the jurists regarding the obligation to kill a hundred camels, and as for the female, her ransom is on the half of the man's blood money. Because of the Companions 'unanimity on that, and because the woman is in her inheritance and her testimony is over half of the man, and because its utility is less than that of men.

The money from which the blood money is required

And he, may God bless him and grant him peace, protested, saying: "There are a hundred camels in the soul." According to Abu Yusuf and Muhammad, blood money is paid from camels, gold, silver, cows, sheep, and jewelry. They argued with what was narrated on Umar ibn al-Khattab's authority - may God be pleased with him - that he decided to pay blood money from these races with the presence of the Companions. It was narrated that when Umar was succeeded - may God be pleased with him - he rose up as a preacher and said: Not that the price of camels has increased, so Omar imposed a thousand dinars on the

gold people, and twelve thousand dinars on the people of paper, and imposed on the people of cows two hundred cows, and on the people of the sheep two thousand sheep, and on the people of two hundred pots.

Thus, the duty of blood money is one hundred camels, as mentioned previously, and in gold is a thousand dinars, and in silver is ten thousand dirhams, and in cows is two hundred cows, and of the sheep, there are two thousand sheep. According to the Shaafa'is, if the camels are present and the one who owes the blood money and who is entitled to it is equal to the value or other by mutual consent, that is permissible, and if one of them wanted to abandon the camels, the other would not be forced to do so, and if camels are not found in the place from which they must be collected, or they are found at more than the price of the same, then there are two sayings: The new: The duty is the value of the camel as much as it reached, and the old: it must be a thousand dinars or twelve thousand dirhams.

According to the Hanbalis, blood-money origins are camels, gold, paper, cows, and sheep. From gold a thousand weights, and from papers twelve thousand dirhams, and cows and jellies two hundred, and from a sheep two thousand, based on this, anything that the person who owes blood money brings from these assets is obligatory for the guardian of the dead man to take it, and he is not entitled to claim anything else, because they are principles in fulfilling a duty. One of them is sufficient, so the good is to whom it is obligatory, such as the attributes of atonement and the cash of Al-Gibran in zakat with dirhams..

There is a narration on the authority of Imam Ahmad that the origin of blood money is camels only, and based on this principle, for those who are obligated to deliver blood money, he must deliver it free from faults, and whichever one wants to abandon camels to others, the other has to forbid it, because the truth is specified in it, and it is deserved as the parable in ruined parables.

The third section: Who is charged with paying blood money

The jurists disagreed regarding the person responsible for paying blood money for manslaughter. There are two views: The first saying: The blood money for manslaughter is obligatory for the killer, and the rational person bears the blood money with him, the Hanafi school of thought has gone to this saying. and the Maliki school in the well-known among them, and they explained this as follows:

The basic principle is that blood money is obligatory for the killer. Because the reason for the necessity of the blood money is murder, and the killer found the killing, but the sane person bears with him to relieve him because he was killed by mistake.

Preserving the killer is a duty on his sane if they do not memorize, they have neglected, and neglecting is a sin.

The killer kills in the back of his clan, so they were his participants in the killing.

The blood money is a lot of money, and obligating the killer to do everything is prejudice to him, so the wise person shares it to reduce it, and he deserves to be reduced because he is wrong.

Based on this saying that obligates blood money for the killer and the sane person, the Hanafi and Maliki went in saying that if the killer did not find someone to help him with the blood money, then it would return to him because the basic principle is that blood money is obligatory in the killer's money because the felony was found from him, but taking from the sane person by way of endurance, and if he does not have a sane person, the matter is returned to the original judgment. In another statement by the Hanafi and Maliki, the blood money, in this case, is the Bayt al-Mal, because the rational person must be the place of contention if he did not have a sane person, then his help was with the common people of Muslims, and the house of money was their money, so that was his saneness. if it was hard for him to tackle it, so it was upon him.

1. The second view: The blood money for manslaughter is obligatory for the sane person, and the killer cannot bear anything from it and Shafi'i, and Hanbali, Ibn Qudama, Al-Mughni, Vol. 12/19, the authors of this view quoted the following as evidence:
2. What was narrated by Abu Hurairah - may God be pleased with him - that two women fought from Hadhil, and she chopped one of them with a stone and killed her and her baby(fetal), the Messenger of God, peace, and blessings be upon him, decided to pay the blood money for the sane woman.
3. Felonies of error abound, and the human blood money is many, so its response to the offender with his money prejudices him, so wisdom demands that the rational person answer it as a way of comforting the murderer, and relief for him, to relieve him, he was excused in his action, and he is the only one to offer expiation.

The researcher's opinion: The researcher believes that the correct opinion - and God Almighty knows best - is the necessity of blood money for the sane person, and the killer cannot bear anything from it, for the following:

1. And there was an explicit text about that, which is the hadith of the two women who killed one of the other, so the Prophet, may God's prayers and peace be upon him, decreed the blood money for the murderer's sane.
2. According to some jurists, the murderer is subject to other punishments: expiation and deprivation of inheritance and wills; as will be mentioned below, these penalties are sufficient for him.
3. The rational person's obligation to pay blood money is just because the sane may gain because of the killing of one of its members, and the rule says the fine for the winning.

The fourth Section: How to pay blood money

The blood money is obligatory for killing, and the blood money is reduced in this case in three things, which are:

Age and capacity, so the blood money for the wrongful killing of a camel is paid in five, accompanied by its performer, according to the Hanafis and Hanbalis, she is twenty female "Makhad", twenty male "Mukhad", twenty female "Laboun", twenty "Haqqa", and twenty "Jaddaa". According to the Malikis and Shafi'i, twenty female "Mukhad", twenty female "Laboun", twenty male "Laboun", twenty "Haqqa", and twenty "Jadaa".

The difference between the two sayings is Ibn al-Labun and Ibn al-Mukhaad. According to the Hanafi and Hanbali, twenty Ibn Mukhad, and according to the Malikis and the Shafi'i, twenty Ibn Laboun instead of Ibn al-Mukhad.

The "Mahal", so the rational person bears it, and he said this as previously stated by the Malikis in the saying of the Shafi'i and the Hanbalis, and by the Hanafis and the Malikis in the saying that the murderer and the sane person bear.

Postponement: blood money is obligatory within three years, and this view was followed by the Hanafi, Shafi'i, and Hanbali Maliki, and it was concluded for this that money in manslaughter is required as a means of consolation, so it is not obligated immediately like zakat, and because every blood money that a rational person bears is obligatory, and what is not borne by rationality must immediately; because it is a substitute for the destroyer, so the damaged one is required immediately, like the values of the waste, and the difference that the rational person bears; It must be consoled, the postponement was required to reduce the one who bore him, and he was amended from the original in the postponement, as it was modified from the original in his obligation to not the perpetrator.

The fifth section: thickening blood money:

The jurists stated that the blood money for manslaughter is to be reduced, and they explained, as mentioned above, the matters in which the blood money is reduced, on the other hand, the Shafi'i and Hanbali jurists stated that the blood money for manslaughter thickens in cases, and they clarified the matters in which the blood money increases.

First: The cases in which the blood money for manslaughter increases:

1. The occurrence of murder in the Haram and the Ihram, and what is meant here is the Haram, the Sanctuary of Mecca. So, the blood money becomes more severe in this case, whether the murderer and the killed were in the Haram, or one of them was there.
2. That the killing takes place during the sacred months, namely: Dhu al-Qa'dah, Dhu al-Hijjah, Muharram, and Rajab, and Ramadan is absolutely not attached to it.
3. That the dead person is a close relative of the killer, such as the sister and mother, if he is a relative who is not forbidden, then the blood money does not intensify according to the correct one in the Shafi'i school of thought.

Second: matters that increase the blood money for manslaughter

Al-Shafi'i said that the blood money for manslaughter thickens the method of performance, so it pays a hundred camels of three: thirty "Jadaa", thirty "Haqqa", forty successors of any pregnant woman, the blood money remains obligatory on the sane person and postponed in the event of a thickening.

It should be noted that blood money is increased in addition to the previous cases in the case of intentional and semi- manslaughter, so in manslaughter, blood money is required for the perpetrator, it is triangular, and the case is not postponed. As for semi- manslaughter, the blood money is only thickened in one matter, which is its obligation to be triangular, but the rational person bears it, and it is paid in delay..

Some jurists have argued that the blood money for manslaughter is not thickened, neither in previous cases nor in others., they quoted many evidences for that, the most prominent of which are:

1. The blood money is measured against expiation, so they said that the expiation was not aggravated by time or place, so blood money is measured against it, so it does not increase in time or place.
 - a. The answer to that is when the expiation was not increased deliberately, it was not thickened by these reasons. As for the blood money, when it was increased deliberately, it became stronger with these reasons.
2. The measurement of the sanctuary of Mecca over the sanctuary of Medina, so when the blood money is not thickened in the sanctuary of Medina, which has a sanctity, it does not thicken the same in the campus of Makkah.
 - a. The answer to that is the jurists who said that the blood money for wrongful killing in the sanctuary of Mecca is to be increased, and they differed in the campus of Medina, and some of them have made the blood money worse in the campus of Medina, and on this basis, the evidence for this evidence is waived.
3. The measurement of the sacred months is based on the month of Ramadan, so when the blood money is not thickened in the sacred month of Ramadan, it does not thicken as well during the sacred months.
 - a. The answer to that measures the sacred months over the month of Ramadan, with a difference, because the sanctity of the month of Ramadan pertains to worship without killing. The sanctity of the sacred months pertains to murder, so the blood money has become thicker in the sacred months and does not thicken in the month of Ramadan.
4. The forbidden uterus measurement is based on proportions, so when it does not thicken the honor of lineage, it does not thicken the forbidden womb either.
 - a. The answer to that is that measuring the uterus forbidden for those with proportions is not valid. Because the sanctity of the uterus is stronger; Because of its inheritance and alimony.
5. Manslaughter is lighter than intentional killing, so why the sanctuary, the womb, the mahram, and the sacred months have an increase in the effect of intentional killing, so it is more appropriate that it does not have an increased effect in manslaughter.
6. The analogy of murder is based on adultery because it is obligatory to kill it sometimes and not at other times. When the ruling on adultery is not thickened by the rule of time, place, and womb, the ruling on murder does not become strong.
 - a. The answer to that is when the ruling for adultery does not differ according to the different notables, the ruling does not differ according to the place and time, and as for murder, when its ruling differs between the notables, it may differ according to the place and time.
7. If the ruling on murder becomes more severe in time, place, and the forbidden womb, then if the killer combines these three cases, he must double the aggravation with them.

The researcher's opinion: The researcher believes that the correct opinion - and God Almighty knows best - is not to increase the blood money for manslaughter in the cases mentioned by the Shafi'is and Hanbalis; this is because the evidence that required blood money for manslaughter, whether in the Holy Qur'an or the noble Prophet's sunnah, did not differentiate between one case and another, the most inferred by those who say it is the act of the Companions, may God be pleased with them, this is their jurisprudence, and their unanimity has not been conveyed on this issue, so the issue remains jurisprudence, and it is used in the original issue, which is the absence of a text in the Qur'an and Sunnah regarding the aggravation of the blood money for manslaughter.

The second requirement: Deprivation of inheritance

The jurists differed regarding the succession of the murderer by mistake, according to two sayings:

The first saying: The murderer shall be deprived of his inheritor's inheritance if he kills him by mistake, and the Hanafi adopted this saying, Shafi'I, and Hanbali, and they quoted for that with the following: The saying of the Prophet, may God bless him and grant him peace: "A murderer does not inherit anything.", the hadith did not differentiate between intention and error; the killing was found directly and unlawfully from this killer, as for directness, there is no doubt about it, and as for prohibition, because the act of error is a felony, it is permissible to be held accountable for rationality, and the evidence is God Almighty's saying: "*Our Lord, do not impose blame upon us if we have forgotten or erred*". (Al-Baqarah: 286)

The rule in depriving the killer of the inheritance is that the killing that prevents the inheritance is guaranteed murder, that is, the one to which retribution or expiation is related, whatever is not related to retribution or expiation, such as murder for reason or punishment, does not require deprivation. Because depriving the inheritance is a punishment, it is related to what the punishment relates to, which is retribution or expiation, as for the saying of the Prophet, may God bless him and grant him peace: "A murderer has no inheritance," it is intended to kill by aggression..

The narration on Imam Ahmad's authority that killing prevents inheritance in any case, whether it was deliberate or wrong, and whether it was guaranteed or not, and this took the appearance of the hadith that forbids the killer from inheriting. So the hadith did not differentiate between guaranteed and unsecured killing, and because he is a murderer, so it is like a boy and a madman.

That killing can reply this, it is permitted, so it did not prevent the inheritance, as if he fed and watered it by his own choice, and that led to its spoilage, and because if the inheritance was deprived in this case, that would have resulted in abstaining from establishing the obligatory limits and fulfilling the legitimate rights..

The second saying: The killer is not deprived of the inheritance of his inheritor if he kills him by mistake, but the killer does not inherit from the blood-money of the dead man, and the Maliki adopted this saying

The response to this is that he who does not inherit from blood money does not inherit from another, such as a murderer, a person who goes against religion..

The researcher's opinion: The researcher believes that the correct opinion - and God Almighty knows best - is that the killer is wrongly and not deprived of inheritance, this is because the texts of the Sharia state that the error is raised, as in the Almighty saying: "*Our Lord, do not impose blame upon us if we have forgotten or erred*." (Al-Baqarah, 286), And in his saying, may God bless him and grant him peace: "God has set about error and forgetfulness on behalf of my nation, and what they compelled against it". However, it is required that the murderer proves with evidence that he killed his successor by mistake, and

the evidence here is the witnesses or the murderer's confession before his death that he was killed by mistake, and the murderer's statement is not taken without evidence.

The third requirement: Deprivation of a will

A will is a name for what the testator required with his money after his death. The fuqaha' differed regarding depriving the murderer of the will if he killed the testator, according to the following sayings:

The first saying: that the devisee is deprived of the will if he kills the testator, even if it is wrong, and this has gone to the Hanafi saying, and Shafi'i say, and Hanbali in narrating, for that, they quoted the following evidence:

The heirs are offended by placing the will in the murderer, which leads to the uterus's cutting.

That unlawful killing is a great felony, and it calls for rebuke in the most eloquent way.

That manslaughter is murder like premeditated and semi-intentional killing, so it is permissible to be blamed for it with reason.

The will is the sister of the inheritance, rather the inheritance is more certain than the will, and the murderer has no inheritance.

The second saying: The bequest is valid for the killer if he kills the one who was recommended to him, and Hanbali in another saying, they measured the will on the gift; Because it is an ownership contract.

The third saying: A murderer is not deprived of a will if the testator knew before his death because of his murder, that is, that the recommended person knew that the one who recommended him was the one who struck him by mistake or intentionally, and the will for wrongful killing is in money and blood money, but if the testator did not know the reason that Zaid had beaten him and did not know that he was the one who struck him and recommended something to him, then there are two interpretations regarding the validity and absence of his commandment to him, and the Maliki adopted this saying.

The researcher's opinion: The researcher believes that the correct opinion - and God Almighty knows best - is the validity of the killer's will if he kills the testator by mistake, because the will, as the jurists said, does not differentiate from the inheritance, and the Sharia as mentioned in the matter of inheritance has been lifted the mistake from the person, including wrongful killing, but the killer is required to prove that his killing of the testator was by mistake, the researcher finds the strength of this opinion in particular in the case mentioned by the Malikis of the validity of the will if the testator knew that the testator was the reason for his murder, in this case, the approval of the testator is counted, and the will is valid.

The fourth requirement: The necessity of expiation

The fuqaha' are unanimously agreed that atonement is obligatory for one who accidentally kills another. among the most prominent evidence for the legality of expiation:

1. God Almighty said: "And whoever kills a believer by mistake - then the freeing of a believing slave" (An-Nisā, 92), The noble verse required expiation on the murderer by mistake, the noble verse required expiation on the murderer by mistake.
2. What was narrated by Ibn Al-Asqa ', he said: We came to the Prophet, may God's prayers and peace be upon him, is a friend of ours who required the fire to be killed, so he said: "Free a slave from him, and God frees every member of it from the fire".
3. Expiation is required whether the murdered is male or female, young or old, free or a slave, a Muslim or an infidel, and it is obligatory for the infidel because he is a human being, but the infidel is required not to be a warrior, because expiation is required for every infallible murderer,

and as for the one who is not infallible, such as the warrior and the perpetrator, the expiation is not required by killing him.

The second section: What is expiation

The expiation for a wrongful killing is the freeing of a believer's slave, so whoever cannot find a slave must fast for two consecutive months, so whoever is unable to fast, it is not rewarding for him to be fed, so he waits for the ability to fast or the necessity of freeing a slave, and the Hanafi adopted this. The Maliki, and Shafi'i in the most obvious And Hanbali in a narration, they justified their saying that God Almighty did not mention anything other than emancipation and fasting, and it is not permissible to exchange atonement because it is based on the text without analogy.

And the Shafi'is said and the Hanbalis in a narration that the murderer is wrong if he does not find a slave to free it and is unable to fast, he must feed sixty poor person analogy with the expiation for zihar and intercourse in the month of Ramadan. Because if the feeding is not mentioned, it is mentioned in its counterpart, so it is measured by it.

The researcher's weighting: the researcher believes that the correct opinion - and God Almighty knows best - is that the killer doesn't need to be fed by mistake when there is no slave to free or the ability to fast, because the basic principle with regard to feeding is the text as mentioned by the jurists, and since it is not stipulated for feeding, there is no reason to respond. The researcher believes that liberation and fasting are sufficient for the expiation for wrongful killing due to the presence of other punishments for the wrongful killer, such as blood money, deprivation of inheritance, and wills for those who say that they are deprived of them. Thus wrongful killing is separated from zihar and intercourse in the month of Ramadan because the latter two have no penalty except expiation, so the feeding was when the neck was not present and the ability to set free.

The third section: Who is obliged to offer expiation:

The fuqaha' differed as to who is obligated to offer expiation for manslaughter. There are three statements:

The first saying: Expiation is required of the rational adult Muslim murderer, and therefore it is not obligatory for the infidel, the insane, and the boy, because the unbelievers are not addressed by laws that are acts of worship, and an expiation is an act of worship, and the boy and the madman do not address the laws in the first place, and the Hanafis have said this.

The second saying: Expiation is required for the free murderer who is a Muslim, even if he is a boy and a madman, and therefore expiation is not obligatory for the servant and the infidel.

The third saying: Expiation is obligatory for the murderer, whether he is a Muslim or an infidel, a sane or a boy or a madman, a free man or a slave, a Muslim or an infidel. Because it is a financial right related to killing, so it is attached to them as blood money, and prayer and fasting are two physical acts of worship, this is financial, so it is more like alimony for relatives. The expiation for an oath is related to words, and they are not told, and this relates to deeds, and their action is verified, and it is related to what is not related to saying, and as for the unbeliever, it will be a punishment for him like the hudud., and Hanbali, on the authority of Imam Ahmad, there was a narration that the infidel does not have to offer expiation.

If expiation is required for the killing of the boy and the insane, the guardian is freed from their money as he pays zakat and al-fitr from it, and he does not fast on their behalf under any circumstances.

The researcher's opinion: The researcher believes that the correct opinion - and God Almighty knows best - is the obligation of expiation for the murderer, regardless of his

condition, Muslim or non-Muslim, free or slave, boy or insane. This is because expiation, as the jurists said, is a financial right related to the murder. Likewise, her response to these is taking into account the interests of the slave; Especially in its response to the insane and the unbeliever; Because they are not obliged to offer expiation except for manumission. Because they are not addressed to fasting, and the interest is more evident in the requirement that the liberated neck is secured, as stated in the noble verse: *“And whoever kills a believer by mistake - then the freeing of a believing slave”* (An-Nisā, 92).

The fifth requirement: Multiple expiations for manslaughter:

Traffic accidents in many cases result in the death of more than one person, so does the killer, in this case, have to offer expiation for each killed, or is he obliged to offer one expiation for all the dead?

Those who follow the sayings of the jurists find that they have researched this issue in the past and present, and to know the ruling in detail, the researcher will present the most well-known sayings on this issue so that after that, he can know the correct saying on this issue.

It came in the best demands of al-Nawawi: “If they collided and died, each of those who collided with his estate must have two expiations, one for killing himself, and the other for killing his owner, for their participation in the destruction of two souls. “It is also said: “And if two pregnant women collided and died with the two fetuses, each one of her estates was obliged to make four expiations, for their participation in the destruction of four souls.” And it also came: “And if two ships collided with the action of their companions and sank with what is in them, then the two passengers collide.”.

It says in Mughni al-Muhtaj al-Sharbini: “Two pregnant women collided when they delivered their fetuses and died. So, in the legacy of each of the bearers, there are four expiation, according to the correct view on the basis that atonement is obligatory for the killer himself, and it is indivisible because they participated in the destruction of four souls.”.

In "Kashaf Al-Qinah" to Al-Bahooti he says: "And if he kills a group of participates in killing them, he must offer expiation for their numbers, such as a reward for hunting and blood-money.”.

And it came in Al-Insaf by Al-Mardawi and Kitab Al-Furoo 'by Ibn Muflih: “And if he killed her, and she cast two fetuses or more, it was said: expiation, and it was said that there is a multiplicity, so he paid like him in a fetus and his mother”.

It is clear from these texts that the Shafi'i and Hanbali jurists differ in the ruling of multiple expiations for killing more than one person. The correct view among the Shafi'is is that the killer is required to offer expiation for each killed. The murderer requires only one expiation.

Among the contemporary fatwas on this issue is the fatwa issued by the General Fatwa Department in the Hashemite Kingdom of Jordan, as it was stated in this fatwa that the expiation is multiplied by the number of those killed in traffic accidents, whoever caused the killing of the group must pay blood money and offer expiation for each killed.

Among the contemporary jurists who have issued fatwas on this issue is Ibn Uthaimin - may God Almighty have mercy on him - who required the murderer to offer expiation for every person killed in car accidents. In his letter "Rulings on Car Accidents" he mentioned that if a passenger who rode with the driver was injured by choice, the accident is not without four cases:

The first case: that it is a transgression from the driver, by way of representation but not limited to, such as speeding the car at a speed that is the cause of the accident, or hitting the brakes forcefully unnecessarily, and the accident occurs because of that trespass.

The second case: that it is negligence on the part of the leader, and the difference is that transgression is not justified, and failure is neglecting what is necessary, by way of representation but not limited to, such as being careless in closing the door, or in packing the wheels, or in fixing something that needs to be repaired, so the accident happens with this Complacency.

In these two cases, the obligation of atonement is required of the leader, which is to free a slave for every infallible human soul who died with it, if he does not find it, then fasting for two consecutive months does not break his fast except with a legitimate excuse such as travel, sickness, or the like. It is also necessary to guarantee the loss of money for the leader and to guarantee the blood money for his sane.

The third case: for it to be at the disposal of the leader who wants to be safe from danger, for example, but not limited to such as facing him with something that he fears harm by colliding with him, or he comes out on him from the right or the left in a way in which he is unable to stand and deviates from avoiding the danger, and the accident will occur.

The fourth case: if it was without a cause thereof, by way of representation but not limited to, such as when the tire of a car exploded, or that a bridge collapsed with it, the defect of which was not evident.

In these two cases, nothing entails the obligation of expiation or guarantee, because in the first case, an honest person is doing what he must do to try to avoid danger because he is a philanthropist. There is no way for the doers, and in the second case, he is trustworthy, and no transgression or negligence occurred from him, so he does not have to do anything because it was not from him that caused this accident.

The researcher's weighting: The researcher believes that the correct opinion - and God Almighty knows best - is that the killer is only obliged to offer one expiation if he causes the killing of more than one person in a car accident, for the following:

1. That expiation is required to expiate the murderer's sin, and if the killer causes the killing of more than one person, except that the sin is one, then the murder took place by one action, so one expiation is sufficient for him, and we do not forget that the killing was by mistake, the basic principle is that he is not liable, so the expiation was.
2. The duty of expiation is to free a believer's slave, then fast for two consecutive months when there is no slave to free, and in our current age there is no slave, and therefore the killer will demand to fast for two consecutive months, in some accidents, a large number of people die, sometimes reaching dozens, as in bus accidents, and the number may reach hundreds, as in train accidents. So, in this case, we say that the one who caused the killing is required to fast for two consecutive months for each dead? If we oblige him to do this, he will be overburdened and God Almighty says in his dear book: "*Allāh does not charge a soul except [with that within] its capacity.*" (Al-Baqarah, 286), therefore, the duty - and God Almighty knows best - is the necessity of one expiation for all the dead, and even if the release of a slave is available, multiple expiation is a burden for the murderer.

The research confirms that the driver does not bear responsibility for every traffic accident that occurs. Therefore we tell him that you are obligated to offer expiation, such as speeding up the accident's cause, or it happened by negligence, such as negligence in fixing a malfunction that may cause an accident. Still, if the accident occurred without transgression or negligence, then no expiation is required, such as when an animal suddenly goes out onto the road and tries to avoid it, and an accident occurs, or the tire of the car explodes, and an accident occurs because of that, in this case, he is not obligated to offer expiation or blood money.

CONCLUSION

The study reached the following most important results:

1. In Islamic law, murder is of three types: premeditated murder, semi-intentional killing, and manslaughter.

2. The five provisions apply to murder in Islamic law: obligatory, deplorable, inviolable, hateful, and permissible.
3. The murderer must make a reduced risk of blood money that is paid in five, and in three years, and it is paid by the rational person in one saying according to the jurists, and in another saying that the rational person and the murderer bear it.
4. The preponderant opinion does not entail depriving the murderer of the inheritance if he killed his successor by mistake.
5. The preponderant opinion does not entail depriving the killer of the will if he kills the testator by mistake.
6. The murderer must mistakenly offer expiation, which is freeing a believer's slave and fasting for two consecutive months for someone who did not find a slave, and the killer does not have to feed sixty poor persons if he did not find a slave or was unable to fast for two consecutive months.
7. In traffic accidents, the killer is required to make one expiation in the event of multiple deaths.
8. No blood money or expiation is required for the vehicle's driver in every accident caused by this vehicle, and if the accident did not occur due to the aggression or negligence of the driver of the vehicle, then blood money and expiation are not required for him.

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