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Ms. \_\_\_\_\_,  
F-7, Islamabad

**Your Question : What are my rights in Inheritance Law being only Daughter**

### **LEGAL ADVICE**

#### **YOUR APPLICABLE ISSUE IS :**

1. Which is the applicable law in Pakistan to decide Muslim Female Inheritance in case of only daughters/daughter of the deceased?
2. What share these only daughters/daughter of the deceased are entitled to legally in Pakistan ?

### **HISTORY OF INHERITANCE LAW IN PAKISTAN**

Focusing specifically on Punjab in 1948, the year after independence a law was promulgated namely Punjab Muslim Personal Law (Shariat) Application Act, 1948.



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The said law was repealed in 1962 by The West Pakistan Muslim Personal Law (Shariat) Act, 1962, this Act is now a valid source for the Inheritance law still prevalent in Pakistan and all the Inheritance of Muslims have to be governed by this Act of 1962 to be in for corners of law and Islam.

Lately In 2009 the Honorable Supreme of Pakistan has held that the West Pakistan Muslim Personal Law (Shariat) Application act (V of 1962) will apply in case of Muslim Inheritance. Bashir Ahmed Vs. Abdul Aziz 2009 SCMR 1014 attached herewith as **ANNEXURE A.**

### **RELIANCE ON STATUTE**

That to determine the Inheritance of female Muslim in Pakistan the applicable law is West Pakistan Muslim personal Law (Shariat) Application Act, 1962, which entails in Section 2 as;

“ Notwithstanding any custom or usage, in all question regarding succession (whether testate or intestate), special property of female..... shall be the Muslim Personal Law (Shariat) in case where parties are Muslims”.

It is clearly stated in above law that in case of female inheritance or any other inheritance in-between the Muslims, the Shariat will be applicable, and the source of Shariat is Holly Quran. The Relevant verses of the Quran are as follows ;



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**Chapeter 4, Sorah Nisah, Verse No. 11 (Arabic Translation to URDU has been gained from the Dr Mufti Ghulam Sarwar Qadri, Advisor to Federal Shariat Court), according to the Urdu translation of the said verse;**

“One man share is equal to two women, and if women are two or more they are entitled to 2/3 share in property, and if the women is alone than she gets half of the property”

According to the Holly Quran if daughters are left from deceased they will get 2/3 of the property equally after leaving the share for their mother, and,

If the Daughter is alone she will get  $\frac{1}{2}$  of the property after leaving the share for the property for her mother and funeral expense/debt serving. And after the death of the mother the said only daughter or daughters will get the mother share, therefore, eventually the daughters/daughter get the whole property of the mother and the father as well according to their respective share.

In Holly Quran it has not be written that the share transfer to the Father’s brother or nephew in case of daughters/daughter left by deceased neither it is written in any law in Pakistan.

The Mohammadan Law is book originally written by D.F.Mulla and for Pakistan edition it is been reproduced by Dr. M.A.Manan, published by PLD in 1995, which is not a law and is totally against the Shariah and the applicable laws in Pakistan. And have no value in presence of latest Supreme Court Verdicts.



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### **RELAINCE ON CASE LAW**

The Relevant Case laws is as follows;

**Mst. Sarwar Bibi Vs. Mst. Anwar Bibi, Before Justice Muhammad Sair Ali (Lahore High Court Lahore), 2004 MLD 1136.**

“Inheritance—Original owner of the property died leaving behind only one daughter and two daughters of his deceased brother---Inheritance mutation was sanctioned in favor of only daughter of the deceased wherein one half share out of estate of deceased was granted to her as sharer and remaining one half was granted to her on return of the residue in absence of any residuaries—Daughters of the deceased brother of original owner, claimed residue one half after satisfaction of the share of daughter of original owner as the sharer---Validity—In the present case, there being no residuaries, **only daughter of deceased owner was held entitled by the Board of revenue to one half as sharer and residue one half on the right or reverter or Return**---Only Daughter of deceased owner under hanafi Law of Inheritance was entitled to inherit from the estate of her deceased father one half share as the sharer and the remaining one half share as the residue in absence of residuaries---**Daughters of the deceased brother of deceased original owner being distant kindreds, were not entitled to claim share in presence of sharer/only daughter of original owner**---Inheritance mutation was validly sanctioned in favor of only daughter of original owner”.



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Judgment Copy is attached herewith as **ANNEXURE B.**

The same above has been held in Supreme Court in case of Ibrahim and four others Vs. Rehmat Ali and six others PLD 2002 SC 471. And in 2007 MLD 33 **ANNEXURE B.**

Therefore, it is clear from the above case laws that the daughters/daughter left by a deceased person will get the whole share in property half as legally and half as Reverter/return, as the Mother share also goes to the daughters one day. And the cousins/Deceased's brother family is not entitled to any share even if they are all females.

### **CONCLUSION**

On the Reliance of above, we can conclude that the Female Muslim Inheritance will be governed by the West Pakistan Muslim Personal Law (Shariat) Application Act, 1962, and according to said Act the shariat will be followed to decide inheritance which is the Holly Quran.

The Holly Quran have expressed in clear words that daughters left by a deceased will get 2/3 of the property after leaving share for their mother. The only daughter in such case will get half of the property after leaving share for her mother and funeral/debt serving expense.



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The Superior Courts in Pakistan have consensus on it that, in case of daughters/daughter left by deceased, such female get all the property without passing any share to any other relative except their mother, the mother share will eventually be transferred to the same females at last, the Court have said 'Only Daughter (daughters) of deceased owner ----- was entitled to inherit from the estate of her deceased father one half share as the sharer and the remaining one half share as the residue in absence of residuaries" (2004 MLD 1136), wherein the Courts in Pakistan transferring the all share to a female as the mother share has at last to come to her.

The Mohammadan Law is a book written by D.F.Mullah, re-written for PLD by Dr. M.A. Mannan in 1995 and is not a law and needs to be corrected by the publisher, copy of this Legal Opinion be also sent to PLD so that the lawyers should not be misguided.

Therefore, on base of above discussed the females are entitled to full share of the property even if have no brother and none of their property pass to their cousins, any

Order passed in contravention of this, is illegal an against the spirit of Islam and prevalent laws in Pakistan. Please see the evidence attached and relevant Quran verse as discussed above (Quran copies have not been attached due to its sacredity.



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