

# Lesson 13

- **Distant Relatives**

## Islamic Laws of Inheritance

**Dr. Assaina Beary**

So far we covered the major heirs

1. **Fixed share Heirs** -12 in number
2. **Balance share heirs**

There is no difference of opinion for the above two groups

3. **Radd** – fixed heirs as balance heirs if group 2 are not there. Not all agree for this. It has been discussed.

In the **absence** of these heirs the following heirs are considered by some.

4. Distant blood relatives- in the absence of above 1 & 2
  - All blood relatives excluding 1&2 groups are included here.
5. Husband or Wife Radd
6. One who freed the slave
7. Successor by contract
8. Acknowledged kinsmen
9. One who was given 1/3 as waseeyat
10. Baithul maal

# Distant blood relatives

Distant blood relatives are also called as **other blood relatives**

## **Dhaviil Arhaam**

*all blood relatives not included in fixed heirs or balance heirs are included in this*

## Distant blood relatives

In the absence of fixed share heirs (except H/W) and balance heirs, other blood relatives become the heirs. Exception to this is presence of H/W as fixed heir. They do not get Radd. Even if H/W is there they do not get Radd hence the balance goes to other blood relatives. Only if other blood relatives are not there then the balance may go to H/W as Radd, before going to baithul maal.,

There is a difference of opinion among sahabees and scholars regarding inheritance of other blood relatives.

# Distant blood relatives

Two views.

- 1. They do not have inheritance rights.** Favoured by Aboobaker, Uthman Said, Suhri, Ousaai, Dawood etc. Zaid bn Thabith also of this opinion.  
**Shafei and Maliki** school of thought take this view
- 2. They get inheritance** – favoured by Ali, Umer, Abu ubaida al Jarrah, Muad bin Jabal, Abu al Darda, Ibn Abbas, Ibn Masoud.  
**Abu Hanifa, Ahmed bn hambal** take this view.

Both views are supported again by Quran and Hadeeth.

## Distant blood relatives

The evidence in support of the claim are.

لِلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ  
كَثُرَ نَصِيبًا مَّفْرُوضًا

There is a share for men from what is left by parents and those nearest related, and there is share for women from what is left by parents and nearest related, whether the property be small or large, a decided share.

**Sura a-nnisa 4:8**

## Distant blood relatives

The evidence in support of the claim are.

وَلِكُلِّ جَعَلْنَا مَوَالِي مِمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَالَّذِينَ عَقَدَتْ أَيْمَانُكُمْ فَأَتُوهُمْ نَصِيْبَهُمْ إِنَّ اللَّهَ كَانَ  
عَلَى كُلِّ شَيْءٍ شَهِيدًا

To every one We have appointed shares and heirs to property left by parents and relatives. To those also to whom your right hand was pledged give them due portion for truly God is witness to all things.

**Sura a-nnisa 4:33**



# Distant blood relatives

The evidence in support of the claim are.

النَّبِيِّ أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ وَأَزْوَاجُهُ أُمَّهَاتُهُمْ وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ  
مِنَ الْمُؤْمِنِينَ وَالْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَىٰ أَوْلِيَائِكُمْ مَعْرُوفًا كَانَ ذَلِكَ فِي الْكِتَابِ مَسْطُورًا

Blood relations among each other have close personal ties, in the decree of God than the brother hood of Muhajirs and believers. Nevertheless do ye what is just to your closest friends, such is the writing in the decree of God

**Sura al ahzab 33:6**

## Distant blood relatives

The evidence in support of the claim are.

وَالَّذِينَ آمَنُوا مِنْ بَعْدُ وَهَاجَرُوا وَجَاهَدُوا مَعَكُمْ فَأُولَئِكَ مِنْكُمْ وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ إِنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ

And those who accept faith subsequently and adopt exile and fight for faith in your company they are of you, But kindred by blood have prior rights against each other in the Book of God verily God is well acquainted with all things.

**Sura al anfal 8:75**

## Distant blood relatives

1. Sabithubn dahdaa'a when died Propeht(sas) enquired about his relatives. Abu lubaanathibn Abdul mundir was the only relative as his sister's son available. He was given the property.
2. Sahlubn haneef was killed. He did not have any inheritors or relatives except maternal uncle. Abu ubaidathabnul jarraah asked Umerul farooq. He said I heard the Prophet(sas) as saying One who does not have any protector Allah and His apostle are his protectors. One who does not have inheritors maternal uncle is his heir.

# Distant blood relatives

Argument Against distant relatives getting inheritance

1. There is no definitive evidence or mentioning of distant relatives in Quran or prophet's sunna. Hence distant relatives cannot be considered as heirs.
2. About father's sister and mother's sister Prophet (sas) said like this- Jibreel has informed me that both of them do not have any share in the property.

# Distant blood relatives

Distant relatives are divided into 4 classes in order of priority.

First in order excludes the next in order.

**A. Descendants** - daughter's children and son's daughter's children and their descendants.

**B. Ascendants** - False grandfathers and false grandmothers.

**C. Descendants of parents.**

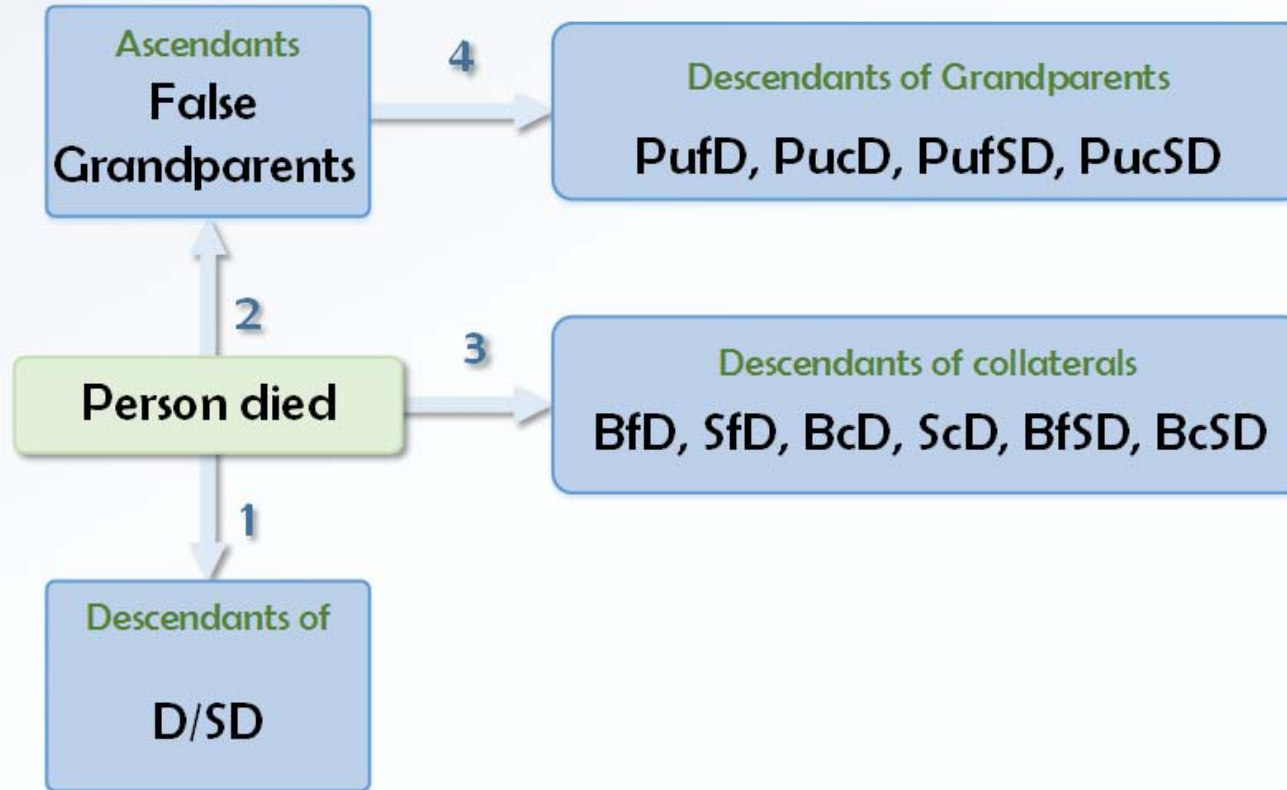
BfD., BcD., Bu/Su S/D BfSD, BcSd., SfS/D, ScS/D

**D. Descendants of Grand parents –**

PufD., PucD, PuUs/d, PufSD, PucSd, PA, MU, MA...

# Easy to remember

## DISTANT BLOOD RELATIVES



# Distant blood relatives

The 4 classes of distant relatives are arranged in order of priority. Within each group the order is based on following principles.

1. Nearer in degree excludes more remote.
2. If degree is the same then children of sharer/ residuary are given preference
3. When equal in degree and the status (all of them or none of them children of sharer or residuary) then they inherit simultaneously.
4. When equal in degree and status the rule double share to male is applied.

# Distant blood relatives

## Class 1 of distant relatives

The 1st class includes

1. Children of daughter and their descendants
2. Children of son's daughter and their descendants.



# Distant blood relatives

Share allotment among the 1st class.

The above principles are applied.

The order of priority becomes.

Children of sharer	Children of distant relations
1. DD,DS	
2. SDD, SDS	3. DDD, DDS, DSD, DSS
4. SSDD, SSDS,	5. DDDD, DDDS, DDSD, DDSS, DSDD, DSDS, DSSD, DSSS, SDDD, SDDS, SDSD, SDSS

# Distant blood relatives

When the claimants are of equal degree two situations can arise

- a) Only the claimants differ in sex but the intermediaries are of the same sex.  
Here simple rule double share to male is applied.
- b) Intermediaries also differ in sex. In this case there are two opinions among hanafi scholars, based on two students of Abu Hanifa.

## Distant blood relatives

- As per Imam Yusuf the difference in the sex of the intermediaries is not taken into account.
- As per Imam Mohammed the difference in the sex of the intermediaries is also taken into account as well as the number of branches the actual claimants represent is taken into consideration.

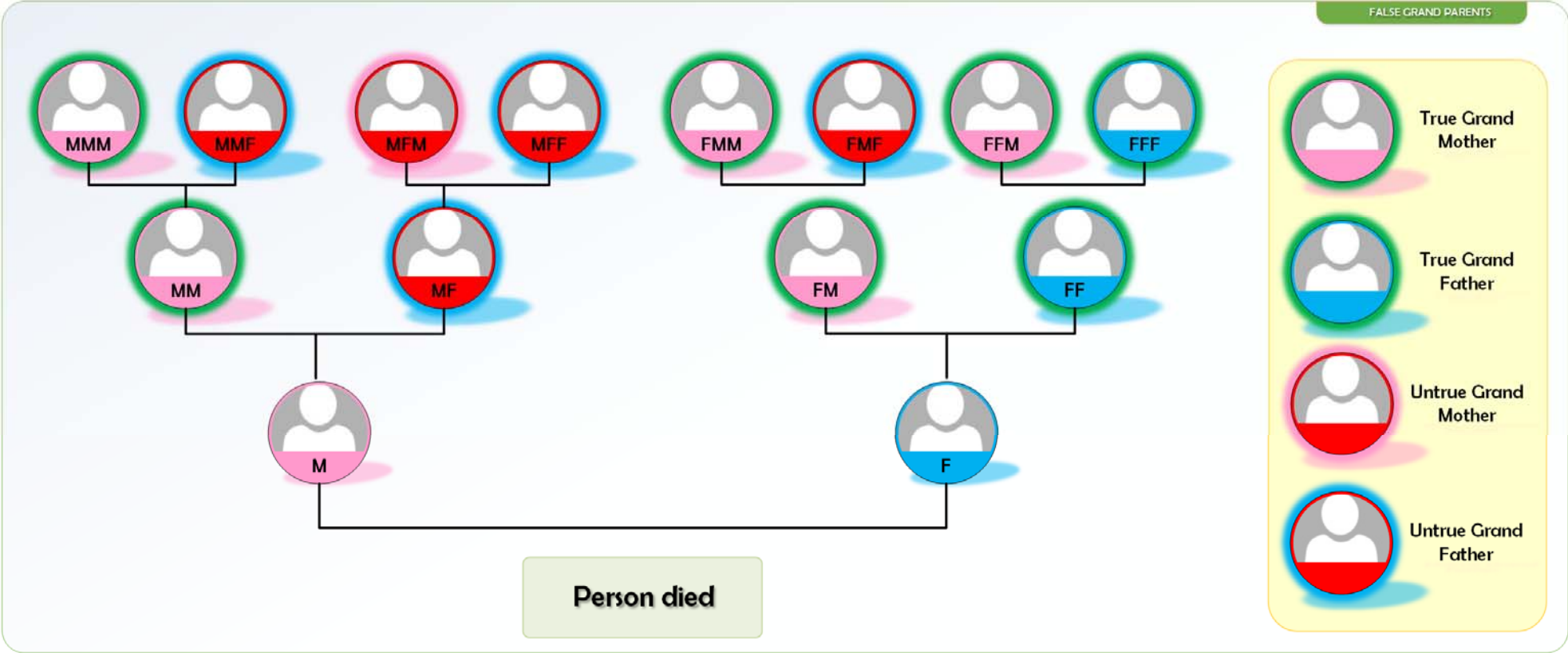
# Distant blood relatives

**Class 2 of distant relatives.** Ascendants of the deceased.

These become eligible in the absence of 1st Class

- a) False grandfathers
- b) False grand mothers.

# False Grandparents



# Distant blood relatives

The order is based on following principles.

1. Nearer in degree excludes more remote.
2. If degree is the same then those related through sharer are given preference
3. When equal in degree and the status (all of them or none of them children of sharer) then they inherit simultaneously. If both from paternal side and maternal side are present then paternal side is given  $\frac{2}{3}$  and maternal side  $\frac{1}{3}$ .
4. When equal in degree and status and on the same side the rule double share to male is applied.

# Distant blood relatives

Order	Related to sharer	Not Related to sharer
MF		
	FMF, MMF	MFF, MFM

# Distant blood relatives

Order		share
<b>MF</b>		whole
<b>FMF,MMF</b>	a) FMF + MMF	FMF = 2/3 paternal side , MMF = 1/3
	b) FMF only	whole
	c) MMF only	whole
<b>MFF,MFM</b>	a) MFF + MFM	MFF = 2/3, MFM = 1/3 both maternal but male gets double
	b) MFF	whole
	c) MFM	whole



# Distant blood relatives

The fourth generation of False grand parents are a remote possibilities and if they are there same principles are applied. It is not discussed here.

# Distant blood relatives

**Class 3 of distant relatives.** Descendants of parents

These become eligible in the absence of 1st & 2nd Class

The following is not in order.

- a) Full brother's daughters and their descendants
- b) Consanguineous brother's daughters and their descendants
- c) Uterine brother's children and their descendants
- d) Full brother's son's daughters and their descendants
- e) Consanguineous brother's son's daughters and their descendants
- f) Sisters (all three) children and their descendants

# Distant blood relatives - Order

The order is based on following principles.

1. Nearer in degree excludes more remote.
2. If degree is the same then those related through residuary are given preference
3. If all of them are either children of residuary or all are not children of residuary then full blood excludes consanguineous and consang excludes uterine. within each group they equally divide.
4. When equal in degree and status and on the same side the rule double share to male is applied.

# Distant blood relatives

If all of them are either children of sharer or residuary or all are not children of sharer or residuary then they equally divide. Here again there are two schemes like in class.

1. Again Imam Yusuf feels Uterine descendants share double share to male but as per Imam Mohammed uterine descendants share equally. As per Yusuf claimants take the share without considering intermediaries.
2. But in Mohammed's scheme the preceding generations are allotted shares as per their Quranic or balance shares and then divided among claimants. Hence Radd is possible if preceding generations are of fixed share origin.

# Distant blood relatives

**Class 4 of distant relatives.** Descendants of grandparents

These become eligible in the absence of 1st, 2nd & 3rd Class

These are not in order

- a) Full Paternal Uncle's daughters & son's daughters and their descendants
- b) Consanguineous Paternal Uncle's daughters & son's daughters and their descendants
- c) Uterine Paternal Uncle's children and their descendants
- d) Full Paternal Aunt's children and their descendants
- e) Consang. Paternal Aunt's children and their descendants
- f) Uterine Paternal Aunt's children and their descendants
- g) Maternal uncles and aunts (full, consang, uterine) and their descendants

# Distant blood relatives

1. Nearer in degree excludes more remote
2. If same degree children of residuary are preferred
3. If all of them are either children of residuary or all are not children of residuary then they equally divide
4. If claimants are equal and on both sides paternal side is given  $2/3$  and maternal side  $1/3$ .
5. On each side full blood is preferred over consanguineous, consanguineous is preferred over uterine. This preference is restricted to only one side, it cannot cross over to the other side and exclude on other side.
6. When all the above are same then male gets double share

## Distant blood relatives

- Again there are differences in Imam Yusuf's scheme and Imam Mohammed's scheme.
- Imam Mohammed does not agree uterines to be excluded by full or consanguineous
- Imam Mohammed's allotment also differs in relation to the sex of the intermediaries like in class 1 and 3. Also Uterines share equally

## الْحَمْدُ لِلَّهِ

رَبَّنَا تَقَبَّلْ مِنَّا إِنَّكَ أَنْتَ السَّمِيعُ الْعَلِيمُ

وَتُبَّ عَلَيْنَا إِنَّكَ أَنْتَ التَّوَّابُ الرَّحِيمُ

اللهم اغفر لنا، يا أرحم الراحمين

رَبَّنَا آتِنَا فِي الدُّنْيَا حَسَنَةً وَفِي الْآخِرَةِ حَسَنَةً وَقِنَا عَذَابَ النَّارِ

رَبَّنَا ظَلَمْنَا أَنفُسَنَا وَإِن لَّمْ تَغْفِرْ لَنَا وَتَرْحَمْنَا لَنَكُونَنَّ مِنَ الْخَاسِرِينَ

اللهم صلِّ وسلِّم وبارك على عبدك ورسولك محمد سيد الأولين

والآخرين، وعلى آله وصحبه أجمعين