

Dr. VIPIN KUMAR SINGH
ASST. PROFESSOR.
SUBJECT -MUSLIM LAW

LL.B. IV SEMESTER & BALL.B. IV SEMESTER

Mehar

In Muslim law of marriage, mehar is essential. In a way it adds to the prestige of wife. It may be money or immovable property.

In Abdul Khadir Vs Salima, the court upheld the right of the wife to mehar if the marriage had been consummated.

1. **Nature** . The claim of the wife or widow for the unpaid portion of Mehar is an unsecured debt. It is an actionable claim. It is due from the husband or his estate. She may recover or the heirs may recover, If the husband refuses to pay prompt dower the guardian may refuse to send the minor wife to the husband's place.

The wife may refuse to the husband, his conjugal rights. After consummation the husband cannot refuse to pay the mehar.

2. **Legal Status** : Mehar is not only the right of the wife, it adds to her prestige and saves her in times of distress, or on divorce or death of husband. Further, it acts, as a check on the power of husband's right to "talak". Mehar may be definite "fixed" or indefinite ("not fixed").

Definite : Mehar may be fixed orally or in writing (meharnama); it may be fixed, before, during or soon after marriage.

indefinite : Generally mehar is fixed as above, but if not so fixed at the time of marriage, the wife may get the amount fixed through court.

Mehar may be any amount; or immovable property or usufruct of property like rent etc. Any increase in amount or property is allowed but reduction is void.

3. Two kinds'.

Prompt mehar and deferred mehar.

Prompt mehar: Husband agrees to pay immediately, as per marriage contract. If he so agrees, it becomes payable when the wife demands. She may claim the amount with interest or refuse consummation.

Deferred Mehar: In the marriage contract, the amount or property is fixed as mehar, but if it is to be given when marriage is dissolved or on the happening of a contingent event, it is called deferred mehar. If wife dies, her heirs may claim, the mehar. On husband's death or divorce, she may sue and recover.

4. Widow's Right to Retention

Mehar is a personal right of the widow. As such she has a right to hold the property until the amount is fully paid. This is called the right to retention of property.

The leading case is **Mina Bibi Vs. Chowdri Ahmad:**

H died leaving his wife W who took possession of H's property. After a few years, some heirs of H filed a suit for their share in the property.

The trial court decreed possession of property to the heirs, but fixed certain sums to be paid by them to W towards her mehar. No money was paid. W gifted the property to K. **Held gift was bad.** But, W had the right to retain the property until the mehar amount was fully paid. As she had .gifted, she has no possession, Hence, heirs need not pay.

5. Essentials of Right to Retention ;

(i) Wife should be in possession of property with consent of husband.

(ii) She may exercise this right against the heirs of the deceased husband, (iii) She is entitled to the use or benefits of property like rents etc., when she is in possession.

(iv) She has no title to property ; hence she cannot transfer or sell.

The Supreme Court in **Kapur Chand Vs Khader Unnissa** has held that the widow has no right to transfer or sell the property,