

A Missing Person's Property

A missing person is one who has disappeared with no news of his whereabouts and it is not known whether he is alive or dead. We have discussed in the chapters on marriage and divorce about the rules applicable to his wife and her divorce after four years, and here we intend to discuss the distribution of his property as well as his right to inheritance if any relative of his dies during the period of his disappearance. It is obvious that the divorce of the wife after four years neither entails that his estate be distributed after this period nor that it shouldn't; rather, it is possible that the wife be divorced but the estate be not distributed because there is no causal relationship between divorce and death.

The schools concur that it is *wajib* to delay the distribution of his estate so that a period of time passes after which he is not expected to be alive,¹ and the specification of this period is the prerogative of the judge and differs with circumstances. When the judge gives a ruling announcing his death, the (surviving) relative nearest to him as regards inheritance at the time of this announcement will inherit him, but not any of his relatives who has died during the period of his disappearance.

If a relative of the missing person dies during the period of his disappearance in which there is no news of him, it is *wajib* to set aside his share, which will be considered like the rest of his property until his actual condition is known or until the judge rules announcing his death after the period of waiting.

¹. According to the authors of *al-Masalik* and *al-Jawahir*, the preponderant opinion among Shi'i fuqaha' is that the decedent's property will not be distributed until after confirming his death, either by *tawatur*, testimony, or by a report supported by indications capable of leading to such knowledge, or by the expiry of a period after which a like person does not generally stay alive.

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