

Question 2378) - Is there any scenario according to Imaam Abu Hanifah RAH. where the beneficiary can receive more than a third?

A: It is not allowed except in three cases - Mahabah [partiality]* Si'ayah [striving]* and Mursalah* [unrestricted dirhams].

* For example, a man has two slaves. One is worth 1,100 and the other is 600. He leaves a bequest that the one be sold to someone for 100 and the other to someone else for 100. The first has thus gained 1000 and the second 500. If there is no other wealth in the estate and the heirs do not consent, they will share in a third of 1500 as follows - the first gets pays 100 plus two-thirds of 1000 and the other 100 plus a two-thirds of 500.

* A man has two slaves nothing else. He bequests that they be freed. The one is worth 1000 and the other 2000. If the heirs agree they will be freed in total, if not then from one third which is worth 1000. The one worth 2000 will be freed from the estate to the extent of two-thirds of 1000 and will earn to reimburse the rest of his 2000. The one worth 1000 will be freed from the estate to the extent of a third of 1000 and will earn to reimburse the extent for the rest of his 1000.

* A leaves a bequest of 2000 Dirhams for one man and 1000 for another. One third of his known estate is 1000. Each is entitled to his full share on the possibility that there is more to the estate, although at the moment each will only two thirds of 1000 and a third of 1000 respectively.

~ al-Quduri ~