

## **Al-Muwatta Hadith (Hadith 43.6)**

### ***The Blood-Money for the Foetus***

Yahya related to me from Malik from Ibn Shihab from Said ibn al-Musayyab that the Messenger of Allah, may Allah bless him and grant him peace, gave a judgement that the compensation for a foetus killed in its mother's womb was a slave or slave-girl of fair complexion and excellence. The one against whom the judgement was given said, "Why should I pay damages for that which did not drink or eat or speak or make any cry. The like of that is nothing." The Messenger of Allah, may Allah bless him and grant him peace, said, "This is only one of the brothers of the diviners." He disapproved of the rhyming speech of the man's declaration.

Yahya related to me from Malik that Rabia ibn Abi Abd ar-Rahman said, "The slave of fair complexion and excellence is estimated at fifty dinars or six hundred dirhams. The blood-money of a free muslim woman is five hundred dinars or six thousand dirhams."

Malik said, "The blood-money of the foetus of a free woman is a tenth of her blood-money. The tenth is fifty dinars or six hundred dirhams."

Malik said, "I have not heard anyone dispute that there is no slave in compensation for the foetus until it leaves its mother's womb and falls still-born from her womb . "

Malik said, "I heard that if the foetus comes out of its mother's womb alive and then dies, the full blood-money is due for it."

Malik said, "The foetus is not alive unless it cries at birth. If it comes out of its mother's womb and cries out and then dies, the complete blood-money is due for it. We think that the slave-girl's foetus has a tenth of the price of the slave-girl."

Malik said, "When a woman murders a man or woman, and the murderess is pregnant, retaliation is not taken against her until she has given birth. If a woman who is pregnant is killed intentionally or unintentionally, the one who killed her is not obliged to pay anything for her foetus. If she is murdered, then the one who killed her is killed and there is no blood-money for her foetus. If she is killed accidentally, the tribe obliged to pay on behalf of her killer pays her blood-money, and there is no blood-money for the foetus."

Yahya related to me, "Malik was asked about the foetus of the christian or jewish woman which was aborted. He said, 'I think that there is a tenth of the blood-money of the mother for it.' "

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## **Al-Muwatta Hadith (Hadith 43.6a)**

### ***Injuries For Which There is Full Blood-Money***

Yahya related to me from Malik from Ibn Shihab that Said ibn al-Musayyab used to say, "The full blood-money is payable for cutting off both lips, but when the lower one only is cut off, two-thirds of the blood-money is due for it."

Yahya related to me from Malik that he asked Ibn Shihab about the one-eyed man who gouged out the eye of a healthy person. Ibn Shihab said, "If the healthy person wants to take retaliation from him, he can have his retaliation. If he prefers, he has blood-money of one thousand dinars, twelve thousand dirhams."

Yahya related to me from Malik that he heard that full blood-money was payable for both of a pair of anything in a man that occurred in pairs, and the tongue had full blood-money. The ears, when their hearing departed, had full

blood-money, whether or not they were cut off, and a man's penis had full blood-money and the testicles had full blood-money.

Yahya related to me from Malik that he heard that the breasts of a woman had full blood-money.

Malik said, "The least of that are the eyebrows and a man's breasts."

Malik said, "What is done in our community when a man is injured in his extremities to an extent that obliges payment of more than the amount of his full blood-money, is that it is his right. If his hands, feet, and eyes are all injured, he has three full blood-moneys."

Malik said about the sound eye of a one-eyed man when it is accidentally gouged out, "The full blood-money is payable for it."

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### **Al-Muwatta Hadith (Hadith 43.6b)**

#### ***The Blood-Money for an Eye whose Sight is Lost***

Yahya related to me from Malik from Yahya ibn Said from Sulayman ibn Yasar that Zayd ibn Thabit used to say, "When the eye remains but the sight is lost, one hundred dinars are payable for it."

Yahya said, "Malik was asked about cutting off the lower lid of the eye and the bone around the eye. He said, 'There is only ijthihad in that unless the vision of the eye is impaired. He is entitled to an amount that is compatible to the extent the vision of the eye has been impaired.'"

Yahya said that Malik said, "What is done in our community about removing the bad eye of a one-eyed man when it has already been blinded and still remains there in its place and the paralyzed hand when it is cut off, is that there is only ijthihad in that, and there is no prescribed blood-money."

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### **Al-Muwatta Hadith (Hadith 43.6c)**

#### ***The Blood-Money for Head Wounds***

Yahya related to me from Malik that Yahya ibn Said heard Sulayman ibn Yasar mention that a face wound in which the bone was bared was like a head wound in which the bone was bared, unless the face was scarred by the wound. Then the blood-money is increased by one half of the blood-money of the head wound in which the skin was bared so that seventy five dinars are payable for it.

Malik said, "What is done in our community is that the head wound with splinters has fifteen camels." He explained, "The head wound with splinters is that from which pieces of bone fly off and which does not reach the brain. It can be in the head or the face."

Malik said, "The generally agreed on way of doing things in our community, is that there is no retaliation for a wound to the brain or a belly wound, and Ibn Shihab has said, 'There is no retaliation for a wound to the brain.' "

Malik explained, "The wound to the brain is what pierces the bones to the brain. This type of wound only occurs in the head. It is that which reaches the brain when the bones are pierced."

Malik said, "What is done in our community is that there is no blood-money paid on any head wound less than one which lays bare the skull. Blood-money is payable only for the head wound that bares the bone and what is worse than that. That is because the Messenger of Allah, may Allah bless him and grant him peace, stopped at the head wound which bared the bone in his letter to Amr ibn Hazm. He made it five camels. The imams, past and present, have not made any blood-money payable for injuries less than the head wound which bares the bone."

Yahya related to me from Malik from Yahya ibn Said, that Said ibn al-Musayyab said, "For every piercing wound

in any of the organs or limbs of the body, one third of the blood-money of that limb is payable."

Malik related to me, "Ibn Shihab did not think and nor do I, that there is a generally agreed on way of doing things regarding a piercing wound in any of the organs or limbs of the body, but I think that there is ijtiḥad in the case. The imam uses ijtiḥad in it, and there is no generally agreed on way of doing things in our community about it."

Malik said, "What is done in our community about the wound to the brain and the wound which splinters the bone, and the wound that bares the bone is that they apply only to the head and face. Whatever of that occurs in the body only has ijtiḥad in it."

Malik said, "I do not think the lower jaw and the nose are part of the head in their injury because they are separate bones, and except for them the head is one bone."

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that Abdullah ibn az-Zubayr allowed retaliation for a head wound which splintered the bone.

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## **Al-Muwatta Hadith (Hadith 43.6d)**

### ***The Blood-Money for Fingers***

ibn Abi Abd ar-Rahman said, "I asked Said ibn al Musayyab, 'How much for the finger of a woman?' He said, 'Ten camels' I said, 'How much for two fingers?' He said, 'Twenty camels.' I said, 'How much for three?' He said, 'Thirty camels.' I said, 'How much for four?' He said, 'Twenty camels.' I said, 'When her wound is greater and her affliction stronger, is her blood-money then less?' He said, 'Are you an Iraqi?' I said, 'Rather, I am a scholar who seeks to verify things, or an ignorant man who seeks to learn.' Said said, 'It is the sunna, my nephew.' "

Malik said, "What is done in our community about all the fingers of the hand being cut off is that its blood-money is complete. That is because when five fingers are cut, their blood-money is the blood-money of the hand: fifty camels. Each finger has ten camels."

Malik said, "The reckoning of the fingers is thirty-three dinars for each fingertip, and that is three and a third shares of camels."

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