

Dar-ul-Ifta

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
نحمده ونصلى على رسوله الكريم

LEASING IN ISLAM – (IJAARAH)

Juridical point of Leasing/Hiring in the light of Quraan

1. Elementary conception of leasing/Hiring.

قالت احداهما يا ابيت استأجره ان خير من استأجرت القوي الامين

One of the two women said, “O my father (Shu’aib, “On whom be peace”)’ Employ him’. Undoubtedly, the best employee is he who is strong and trustworthy”. [Al Qasas V: 26]

2. Cash down the wage to employee.

فجاءت احداهما تمشى على استحياء قالت ان ابي يدعوك ليجزيك اجر ما سقيت لنا
فلما جاءه وقص عليه القصص قال لا تخف نجوت من القوم الظالمين

Then one of the two came to him walking bashfully and said, ‘My father (Shu’aib, “On whom be peace”) invites you that he may give you wage for that you have watered our animals’. When Moosa (On whom be peace) came to him and related to him the story, he said, ‘fear not; you have been rescued from the oppressors’.

S: 28 Al Qasas V: 25

3. The employee shall be trustworthy as it is mentioned above. (S: 28 Al Qasas V: 26)

4. Determination of period in leasing/Hiring.

قال انى اريد ان انكحك احدى ابنتي هاتين على ان تاجرنى ثمانى حجج.....

He (Shu’aib, “On whom be peace”) said, ‘I intend that I may marry to you one of two daughters on the condition of such a dower that you may serve me for eight years..... S: 28 Al Qasas V: 27

5. The employee is competent to take wage or to not.

فانطلقا حتى اذا أتيا أهل قرية استطعما أهلها فابوا أن يضيفوهما فوجداهما جارا أن ينقض
فاقامه قال لو شئت لتخذت عليه اجرا

Again both (Moosa and Khidhr) went on till they came to the people of a village, they asked the villagers for food, out they refused to entertain them, then the two found a wall about to fall, he set it up right. Moosa said, ‘if you had wished, you could have taken a wage for it’. S: 18 Al Kahaf V: 77

6. It is preferred to not take wage from an orphan and powerless people.

In the above verse (No. 5), Sayyiduna Khidr “On whom be peace” had set up the wall, On that Sayyiduna Moosa “On whom be peace” said, “if you had wished, you could have taken a wage for it”. But Sayyiduna Khidr “On whom be peace” replied:

واما الجدار فكان لغلامين يتيمين في المدينة وكان تحته كنز لهما وكان ابوهما صالحا.....

As for that wall, it belonged to the two orphan lads of the city and underneath it was their treasure and their father was a noble man... S: 18 Al Kahaf V: 82

7. To employ a woman to suckle the baby and paying her the price agreed upon.

فان اراد افسالا عن تراض منهما وتشاور فلا جناح عليهما وان اردتم ان تسترضعوا اولادكم
فلا جناح عليكم اذا سلمتم ما آتيتكم بالمعروف واتقوا الله واعلموا ان الله بما تعملون بصير

And then, if both decide on weaning, by mutual consent and consultation, there is no sin upon both of them. Then, if you wish that your children should be suckled by nurses then, too, there is no blame on you; provided what was agreed is paid by you with kindness. And remain fearing Allah, and know that, surely, Allah observes what you do.

Juridical point of Leasing/Hiring in the light of Hadith:

1. To hire a pious and honest person.

عن ابي موسى الاشعري قال قال النبي صلى الله عليه وسلم
الخازن الامين الذي يؤدى ما امر به طيب نفسه احد المتصدقين

Narrated Abu Moosa Al Ash’ari, The Holy Prophet said, “The honest treasurer who gives willingly what he is ordered to give, is one of the two charitable persons (the second being the owner).”

2. To take the wage.

عن ابي هريرة عن النبي صلى الله عليه وسلم ما بعث الله نبيا الا ارعى الغنم فقال اصحابه
وانت؟ فقال نعم كنت ارعاها على قرار يطلاهل مكة

The Holy Prophet said, “Allah did not send any Prophet but he shepherded sheep.” His Companions asked him, “Did you do the same?” The Holy Prophet replied, “Yes, I used to shepherd the sheep of the people of Makkah for some Qirat.”

3. To employ Non-Muslim in leasing.

عن عائشة واستأجر النبي و ابو بكر رجلا من بنى الدليل ثم من بنى عبد بن عدى هاديا الماهر بالهداية
قد غمس يمين حلف في آل العاصي بن وائل وهو علي دين كفار قريش فأمناه فدفعنا اليه راحلتيهما
وواعداه غار ثور بعد ثلاث ليل فأتاهما براحلتيهما صبيحة ليل ثلاث

فارتحلوا وانطلق معهما عامر بن فهير و الدليل الديلي
فأخذ بهم أسفل مكة و هو طريق الساحل

Narrated Aissha, The Holy Prophet and Abu Bakr employed a (Mushrik) man from the tribe of Bani Dail and the tribe of Bani Abd bin Adi as a guide. He was an expert guide and he broke the oath contract which he had to abide by with the tribe of Aal Aasi bin Waa'il, and he was on the religion of Quraish pagans. The Holy Prophet and Abu Bakr had confidence in him and gave him their riding camels and told him to bring them to cave of Thaur after three days. So he brought them their two riding camels after three days, and both of them (the Holy Prophet and Abu Bakr) set out accompanied by Aa'mir bin Fuhaira and the Daili guide who guided them below Makkah along the road leading to the sea-shore.

4. It is permissible to hire someone to work for a period “3 days or 3 months or 1 year” and when that period elapses they should carry out their contract.

ان عائشة زوج النبي قالت استأجر رسول الله صلى الله عليه وسلم ابو بكر رجلا من بنى الدليل هادي اخرينا
و هو علي دين كفار قريش فدفعنا اليه احلتيهما و اعداه غار ثور بعد ثلاث ليال
فاتاهما بر احلتيهما صبح ثلاث

Narrated Aisha, the wife of Prophet: Allah's Messenger and Abu Bakr hired a man from the tribe of Bani Dail as an expert guide who was a pagans follower of the religion of the pagans of Quraish. The Prophet and Abu Bakr gave him their two riding camels and took a promise from him to bring their riding camels in the morning of the third day to the cave of Thaur.

5. It is permissible for one to employ someone to repair a wall which is about to collapse.

حدثني أبي بن كعب قال قال رسول الله صلى الله عليه وسلم (فانطلقا حتى اذا أتيا اهل قرية استطعما اهلها
فابوا أن يضيفوهما فوجدافيهما جدارا يريد أن ينقض) (الكهف)
قال سعيد بيده هكذا و رفع يده فاستقام قال يعلى: حسبت ان سعيدا قال فمسحه فاستقام
(لو شئت لتخذت عليه اجر) (الكهف) قال سعيد أجزأ نأكله

Narrated Ubai bin Ka'b, Allah's Messenger said, “Both of them (Moosa and Khidr) proceeded on till they reached a wall which was about to fall.” Sa'id said, “(Khidr pointed) with his hands and the wall became straightened up.” Ya'la aid, “I think sa'id, He (Khidr) passed his hand over it and it was straightened up.” (Moosa said to him), “If you had wanted you could have taken wages for it.” Sa'id said, “Wages with which to buy food.”

6. Sin of him who withholds the wages of the employee.

عن ابي هريرة عن النبي صلى الله عليه وسلم قال “قال الله تعالى؛ ثلاثة أنا خصمهم يوم القيامة
رجل أعطى بي ثم غدر ورجل باع حر فأكل ثمنه ورجل استأجر أجيرا فأتى في منه ولم يعطه أجره

Narrated Abu Hurairah, The Holy Prophet said, “Allah said, “I will be an opponent to three types of people on the Day of Resurrection:

1. One who makes a covenant in My Name, but proves treacherous.
2. One who sells a free person (as a slave) and eats his price.
3. One who employs a labourer and takes full work from him but doesn't pay him for his labour.

7. Whosoever employed a labourer (and after completing the work) the labourer left the wages and went away. The employer invested that money in some way and increased it thereby, or whosoever invested somebody else's money in business and increased it thereby.

أن عبد الله بن عمر قال سمعت رسول الله صلى الله عليه وسلم يقول ثلاث من كان قبلكم حتى أوو المبيت إلى غار فدخلوه فانحدرت صخرة من الجبل فسدت عليها الغار فقالوا:
فانفجرت الصخرة ففخر جوايمشون.....

Narrated Abdullah bin Umar: I heard Allah's Messenger saying, "Three men from among those who were before you, set out together till they reached a cave at night and entered it. A big rock rolled down the mountain and closed the mouth of the cave. They said (to each other), 'Nothing could save you from this rock but to invoke Allah by giving reference to righteous deed which you have done (for Allah's sake only).' So, one of them said, 'O Allah! I had old parents (whom I used to provide milk first) and I never provided my family (wife, children etc.) with milk before them. One day, by chance I was delayed, and I came late (at night) while they had slept. I milked the sheep for them and took the milk to them. I waited for them and the bowl of milk was in my hand and I kept on waiting for them to get up till the day dawned. Then they got up and drank the milk. O Allah! If I did that for Your sake only, please relieve us from our critical situation caused by this rock.' So, the rock shifted a little, but they could not get out."

The Holy Prophet further said, "The second man said, 'O Allah! I had a cousin who was the dearest of all people to me and I wanted to have sexual intercourse with her but she refused. Later, she had a hard time in a year from amongst the famine years and she came to me and I gave her one hundred and twenty Dinars on the condition that she would not resist my desire, and she agreed. When I was about to fulfill my desire, she said: It is illegal for you to outrage my chastity except by legitimate marriage. So, I thought it a sin to have sexual intercourse with her and left her, though she was the dearest of all people to me, and also I left the gold I had given her. O Allah! If I did that for Your sake only, please relieve us from the present calamity.' So, the rock shifted a little more, but still they could not get out from there."

The Holy Prophet added, "Then the third man said, 'O Allah! I employed few labourers and I paid them their wages with the exception of one man who did not take his wages and went away. I invested his wages and I got much property thereby. (Then after some time) he came and said to me: O Allah's slave! Pay me my wages. I said to him: All camels, cows, sheep and slaves you see, are yours. He said: O Allah's slave! Don't mock at me. I said: I am not mocking at you. So, he took the entire herd and drove them away and left nothing. O Allah! If I did that for Your sake only, please relieve us from the present suffering.' So, that rock shifted completely and they got out walking."

8. It is permissible to take wage for Ruqya (i.e. Divine speech recited as a means of curing diseases).

عن أبي سعيد قال انطلق نفر من اصحاب النبي صلى الله عليه وسلم في سفر تسافروها
حتى نزلوا على حي من احياء العرب فاستضافوهم فأبوا أن يضيفوهم
ثم قال قدأصبتم اقسمو او اضر بو الى معكم سهما فضحك النبي.....

Narrated Abu Sa'id: Some of companions of the Holy Prophet went a journey till they reached some of the Arab tribes (at night). They asked the latter to treat them as their guest but they refused. The chief of that tribe was then bitten by a snake (or stung by a scorpion) and they tried their best to cure him but in vain. Some of them said (to the others), "Nothing has benefited him, will you to go to the people who resided here at night, it may be that some of them might possess something (as treatment)." They went to the group of the Companions (of the Holy Prophet) and said, "Our chief has been bitten by a snake (or stung by a scorpion) and we have tried everything but he has not benefited. Have you got anything (useful)?" One of them replied, "Yes, by Allah! I can recite a Ruqya, but as you have refused to accept us as your guests, I will not recite the Ruqya for you unless you fix for us some wages for it." They agreed to pay them a flock of sheep. One of them then went and recited (Surat Al-Fatiha): All the praises and thanks be to Allah, the Lord of the Aa'lameen (mankind, jinn and all that exists). And puffed over the chief who became all right as if he was released from a chain, and got up and started walking, showing no signs of sickness. They paid them what they agreed to pay. Some of them (i.e. the companions) then suggested dividing their earnings among themselves, but the one who performed the recitation said, "Do not divide them till we go to the Holy Prophet and narrate the whole story to him, and wait for his order." So, they went to Allah's Messenger and narrated the story. Allah's Messenger asked, "How did you come to know that Surah Al-Fatiha was recited as Ruqya? Then he added, "You have done the right thing. Divide (what you have earned) and assign a share for me as well." The Prophet smiled thereupon.

9. The wages of one who has the profession of cupping.

عن ابن عباس قال احتجم النبي صلى الله عليه وسلم وأعطى الحجام أجره

Narrated Ibn Abbas: When the Holy Prophet was cupped; he paid the man who cupped him his wages.

10. The earnings of prostitutes and other forbidden job.

عن أبي مسعود الأنصاري أن رسول الله صلى الله عليه وسلم نهى عن ثمن الكلب ومهر البغي وحوان الكاهن

Narrate Abu Mas'ud Al Ansari: Allah's Messenger prohibited (from taking) the price of a dog, the earnings of a prostitute, and the charges taken by a sooth-sayer.

IJAARAH (LEASING/HIRING)

1. Definition of Ijaarah

(a) Literal Meaning

وهي لغة اسم للاجرة

Literally Ijaarah means "Al-Ujrah" (remuneration or to reward).

(b) Technical Meaning

The great Scholar, Sheikh Badr Al-Deen A'inee explained the definition of Ijaarah in the following words in his book "Umdat ul Qaari fi Sharh Al-Bukhari":

- i. Transaction of benefits in exchange of something. *
- ii. Ownership of benefits in exchange of something. **
- iii. Earning of specified benefits in exchange of fixed wage. ***

(بيع منفعة معلومة باجر معلوم) *** (تمليك المنافع بعوض) ** (عقد المنافع بعوض) *

2. Terms of Al Ijaarah

i. Sane person (العقل)

That means an insane person and non understandable minor cannot be an agent of Ijaarah, nor an employer (Mujeer) neither an employee (Musta'jir).

Being adult is not necessary in Ijaarah, it means that an understandable minor may be an employer or employee, the transaction will be valid but the permission of his guardian will be required otherwise it will be pending till the permission.

ii. Ownership (الملك والولاية)

That means the Mujeer is the owner and has the full authority in the transaction.

iii. Consignment and Delivery (التسليم)

That means the Musta'jir (employer) consigns and deliver the thing to Mujeer (employee) for the transaction.

iv. Fixed Wage (v). & Fixed benefit (اجر معلوم ع منفعة معلومة)

The wage and the benefit shall be fixed and specified, the both are necessary just to avoid dispute and strife.

If the Mujeer (employer) has employed someone without fixing his wage/salary, so this agreement is invalid.

Furthermore, if someone says that I am renting one of those two houses/cars etc..., so this deal is also invalid due to non specification.

vi. Time of work (بيان المدة)

The time and period of work shall be specified for the employer/worker. For example, you have hired a house, so you have to tell the hirer the time and period of work, such as a work contract/agreement.

To shepherd animals or to rent a car, van, lorry, bus, house, apartment etc.... it is necessary to specify the time and period of work.

vii. Place of work (بيان المكان)

The place of work also shall be specified for the employer/worker. For example, you have rent a car, so you will have to tell him the limited place etc...

viii. Liable work (استيفاء القدرة)

That means the kind of work shall be might for the worker/employer. For example, someone employed a servant for a work then after he ran away. So this is incorrect.

Furthermore, the kind of work shall be in an afford position in the Shariah Law. For example, to do Ijaarah in wrong matters (Sin, crime, guilt etc...) are inaccurate. So the Ijaarah must be legal and lawful.

ix. Non obligatory (غير الوجوب والفرضية)

That means the transaction of Ijaarah is not obligatory on the selected person.

x. Benefit (المنفعة المقصودة)

The goal of Ijaarah is the benefit only.

Note: In the transaction of Ijaarah, No other term must be involved where it goes against, otherwise Ijaarah will be invalid as per Shariah Law.

4. Condition “Rukn” of Ijaarah

There are two conditions “rukun” of Ijaarah.

- (a). Ijaab (to claim)
- (b). Qubool (to accept)

5. Regulation “Hukm” of Ijaarah

Mujeer (employee) will be the holder of wages and Musta’jir (employer) will be the holder of benefits.

Jazaakallah

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