

Muslim Law
Mehtar

Mohammad Parvej
Institute of law
Jiwaji University

Introduction

In this article i.e. Remission of Mehar, we will deal with the rights of a woman to remit a mehar. Firstly, [Mehar](#) is a custom which is a vital part of a Muslim marriage between the parties to the marriage. The mehar is the right of a woman which cannot be waived off before the marriage through a pre-contract or a pre-condition to the marriage.

This is the right of the wife, and it solely rests upon her decision how she prefers to dispose-off the property or the sum of money of the mehar. Therefore, it asserted that the right to the mehar of the wife cannot be infringed or taken away from her.

I. Remission by wife

Once the mehar has been given to the wife then she holds the authority upon the sum of money or property transferred to her by the virtue of mehar. Now, the decision lies upon the woman how she would like to utilise it. She can choose to remit the mehar to her husband, his family or her maternal home.

This remission has no bar. Meaning it would not be invalid to transfer the mehar or gift the mehar she received by the virtue of her marriage. She can even gift it to her husband with the feeling of love and affection and shall not affect the validity of the transfer or gift.

And this transfer shall not in any way or under any circumstance hold the husband liable to pay back or return the mehar once remitted. However, under circumstances where the wife or the woman has transferred or gifted the property or sum amount by way of coercion or undue influence and it is proved before the court of law by way of evidence. Then by the virtue of the judgment passed by the court, the husband may have to return or refund the remitted mehar.

Furthermore, the woman holding the right of mehar also has the right to remit the mehar as she pleases to. She can remit it in a deferred manner or as a whole as well.

II. Remission of Mehar by a widow

The remission of mehar by the widow whose husband has died is a very crucial act. On one hand it very clear that remission of the mehar is in the hands of the woman who was transferred the mehar is the first place by the virtue of marriage.

The woman whose husband has died, in his funeral the widow can choose to remit the property or whatever she has received as a part of the mehar to her husband. But also, there comes the issue of the mental stability of the woman.

The woman whose husband has just passed away is obviously not in the mental state of mind to make serious and complicated decisions. Especially under such mental stress. However, it is believed that since she is the rightful owner of the Mehar it shall be her responsibility and her decision to dispose of off the property as she would like it to be.

Essential Conditions

- **Indian Majority Act**

The Muslim woman who is below the age of 18 cannot take the decision to gift or transfer the mehar to any person. The basic requirement for the woman is to be a minimum of 18 years of age. It is also required for the woman to be in a healthy state of mind. That means an insane, lunatic or a minor woman cannot choose to be transferred or gift the mehar.

Under such circumstances, the guardian of the woman is supposed to take responsibility and then it becomes their call to dispose-off the property. Also what needs to be asserted is that the mehar is supposed to be transferred keeping in mind the well-being of the woman and the act should be in her interest and her interest.

Mehar remission is 'freedom' because it relinquishes a right to property. Under the rule, such release is not valid unless there is written permission from the woman herself.

- **Absolute or conditional remission**

Either absolute or conditional mehar remission. Remission is conditional if the wife abandons her right to do something instead. Therefore, a wife may relinquish her mehar claim on condition that the husband pays her Rs. 100 per month as a special allowance up to a fixed period.

After the husband's death, the widow's right to do is exercisable against the husband's legal heirs. A widow may remit her mehar claim against such legal heirs either fully or conditionally.