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Question no 1: What is Qatal-e-Amad? When is Qatal-e-Amad liable to Qisas and when it's not and how Qisas is executed? Can Qisas be compounded or waived. (State your answer with relevant sections of PPC).

Answer:

Definition: Qatl means causing death of a person.

Types of Qalts defined in PPC 1860.

The following kinds of Qatl have been defined in Pakistan penal code constituting the offence of Qatl.

- 1) Qatl e Amd
- 2) Qatl e shibh amd
- 3) Qatl e khata
- 4) Qatl e bis sabab

Qatl e Amd

Definition of Qatl Amd has been provided under section 300 PPC which is as follows,

Who ever with the intention of causing death or with the intention of causing bodily injury to a person by doing an act which in ordinary course of nature is likely to cause death, or with the knowledge that his act is so imminently dangerous that it must in all probability cause death, causes death of such person is said to commit Qatl amd. The accused can only be held culprit if the injury is direct result and consequence of his death and the action or omission is an intentional murder which falling under definition of section 300 of PPC 1860. Ingredients of the offence are felonious and an injury causing the death. Mere the provisions of the law are not sufficient for constitution of the offence, and implication of the accused. The provision of 300 has provided for the murder of offence which are exclusively are falling under the provision of Qatl-i-Amd and have contemplated by offender with intention and knowledge. Any qatl which is committed under the Ghariat or sudden provocation caused by outcome of any event is also falling under definition of intentional murder.

Punishments of Qatl u/s 302 PPC

Three punishments have been provided under section 302 PPC are as follows,

- 1) Death as qisas
- 2) Death or imprisonment for life as tazir if proof provided in 304 PPC is not available
- 3) Imprisonment which may extend to twenty five years.

Concept of Qatl and qisas in Islam.

“Oh believers Qisas have been made obligatory on you in case of Qatl.

- If any one kills a human being except in Qisas or Fasad he will be treated as if he has killed the whole humanity”
- Human life and integrity is supreme in Islam and too much sanctity has been attached to it. The charge of common intention to murder in pursuit of a family vendetta at such stage as to whose shot proved fatal. The qatl-i-amd is punishable as Qisas, and if evidential standard is not fulfilled than punishment as Tazir up to twenty five years imprisonment.

Murder Reference to High Court

Punishment of death shall not be executed unless confirmed by the High Court under section 374 CrPC if passed by the session judge.

Following persons shall not be liable to qisas for qatl amd section 306 PPC

- 1) When the offender is minor or insane,

- 2) When he causes death of his child or grand child how low so ever,
- 4) When any wali of the victim is a direct descendent how low so ever of the offender.

Qisas for qatl amd shall not be enforced under section 307 if

- 1) The offenders dies before the execution,
- 2) When any wali waives or compounds under section 309 or 310,
- 3) When the right of qisas devolves on the offender as a result of death of wali of victim or right devolves on any other person who has no right of qisas against the offender,
- 4) It can be waived under section 309 PPC by an adult sane wali at any time with out compensation but it cannot be waived where wali is minor or where government is wali,

Waiver of Qisas: Adult sane wali may at any time wifes his right of Qisas under section 309 PPC with out any compensation .The wali who does not waive

shall be entitled to his share of diyat. It can not be waived on behalf of the minor and where Government is the Wali

Compounding of qatl amd

It may be compounded under Section 310 PPC by an adult sane wali at any time on accepting badl sulh which is mutual agreed compensation and may be any thing but female can't be given in badl sulh Moreover it can be compounded on behalf of the minor or by the Government but value shall not be less than diyat

Section 315 defines Qalt-i-shibh-Amd,

“Whoever with to cause harm to body, causes death of human being with the weapon which is not in ordinary course of nature likely to cause death. Number of injuries, nature, seat, part of the body is also determining factor in order to bring it in the category of Qatl e shibh amd. The punishment provided is diyat and imprisonment which may extend to twenty five years as tazir.

That act or omission is not often regarded as probable consequence of death. It is question of medical science to determine the fact rather employment of weapon has caused the death of that person as result of hit or striking of weapon on the body of person. The direct consequence of death as result of the weapon used to cause the death of that person is ultimate principle of criminology for putting criminal liability on the person for commission of the offence of Qatl. Non-

production of most natural and independent witness of occurrence only leads to presumption that Qatl-i-Shaib-and has been committed. The section is applicable to circumstance where the fighting has taken place out of sudden impulses without premeditation causing the death of human being and means or weapon used by offender do not cause the death of human ordinary course of life

Qatl-i-Khata

When any act or omission is done by mistake of fact or mistake of act causes the death of human being without any intention or knowledge is said to have committed the qatl-i-khata. The act must be mistake of fact not mistake of law and foresightedness of the person is important element in determination of the criminal liability. The provision of the section shall only be applicable to the action or omission which is done under sudden mistake of fact. The action which are done without premeditation or intention or having foresightedness cause the death of human can be placed under the provision dealing with Qatl-i-khata. The Qatl-i-khata has no relevance with the provision of the act which is done under sudden provocation. The qatl-i-khata is liable to diyat but if the commission of the Qatl-i-khata is committed under rash or negligence act the additional punishment of five years and in case of negligent driving it may extend to ten years.

Qatl-bis-sabab.

“When any person without having intention of causing death of person or harm does any unlawful act which becomes the cause of death of another person is said to have committed Qatl-i-bis sabab. The qatl-bis-sabab is murder without intention on the part of the accused, with the weapon or instrument which is neither regarded as the instrument

nor weapon. The element of unlawful must be there for constitution of the offence under heading of Qatl-bis-sabab. The accused should not have any intention or motive or premeditation plan for commission of offence and the circumstance evidence must negate the intention of the accused. The punishment of Qatl-bis-sabab is provided in section 322 which is liable to diyat. Qatl committed under compulsions If death caused under putting person instant fear of death or permanent impairing the organ with knowledge and foresightedness that act or omission constitute the commission of offence under section 303 of PPC 1860.

Punishment as Diyat: The diyat means the compensation awarded to the accused as punishment for commission of the offence specified in section 323 of PPC payable to heir of the victim. The value of the diyat should no be less than the value of thirty thousand six hundreds and thirty grams of silver. The value of silver shall be announced by the Government each year on the 1st of July. In cases of Qatl-i-Amd, diyat can be awarded where the offence committed is proved to be not liable to Qasis or where the Qisas is not enforceable. The consideration in such cases is badl-e-sulh as laid down in section 310 Of PPC 1860. The amount of diyat is to be disbursed amongst the heir of victim according to Shariah under section 330 PPC. In case where an heir forgoes his shares it shall not be recovered. It can be ordered to be paid in lump sum or in installment by the offender as provided under section 331 PPC; it is the discretion of the court. The offender's default to pay the amount will be liable to imprisonment.

Punishment as Tazir When evidential standard as provided in PPC and Qanoon shahadat order 1984 is not available; the court can award the punishment in Tazir for

commission of offence of Qatl. It includes punishment of imprisonment, forfeiture of property and fine. Award of Tazir has been left at the discretion of the court which must be exercised in a judicial manner and according to the facts and circumstances of the case.

Old law

Homicide means killing of a human being by a human being. It may be either lawful or unlawful.

Lawful homicide is further divided into

Excuse able homicide

For example: Death caused by misfortune or by accident or by child or by the person of unsound mind.

Justifiable homicide:

For example

A judge acting judicially or person justified by the law or in right of private defence.

Unlawful homicide:

Death by doing

- 1) An act with the intention of causing death

2) An act with the intention of causing such bodily injury as is likely to cause death
or

3) An act with the knowledge that the act was likely to cause death.

Culpable homicide is murder if the act by which the death is caused is done with the intention of causing death or It is done with the intention of causing such bodily injury as the offenders knows to be likely to cause to cause death of the person to whom it is caused or If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death or If the person committing act knows that it is so imminently dangerous that it must in all probability cause death.

Exceptions.

1) If the offender deprived of the power of self control by grave and sudden provocation.

2) If a person exceeds the powers given to him by law in self defence in good faith

3) Public servant acting for the advancement of public justice exceeds his powers with out any ill will

- 4) If it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel

When a person who is above the age of 18 years suffers death with his own consent.

Question no 2: Write a note on different types of Qatal in PPC With relevant sections of PPC.

Answer:

Introduction:

Preservation of life, religion, reason, lineage and property square measure main objectives of Islamic Law. For preservation of life, Islam has forbidden transgression against life. As murder may be a sort of transgression against life, so Islam has additionally forbidden commission of murder. To punish murderer and defend society from reoccurrence of this crime, Islam has provided severe punishments.

Definition of Qatl:

Qatl can be defined as causing death of a person by another person.

Relevant Provisions

Sections 300, 301, 302, 303A, 303B, 304, 305, 306, 307, 308, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322 of P.P.C. 1860.

Kinds of Qatl

Under Pakistan Penal Code, following different kinds of qatl have been described

- (i) **Qatl-i-Amd** : When a person intends to cause death or bodily injury to another person, does an act, which in ordinary course of nature is

likely to cause death or which is done with knowledge that his act is so imminently dangerous that it must in all probability cause death, and causes death of such person, he/she commits qatl-i-amd.

Essential Ingredients of Qatl-e-Amd Under Section -300 of P.P.C

The essential ingredients of the definition of Qatl-i-Amd as provided in the Pakistan Penal Code are as follows

- Causing death of a human being
- Such death must be caused by doing an act
- With the intention of doing bodily injury to that person
- The act in the ordinary course of nature is likely to cause death.
- With the knowledge that the act is so imminently dangerous that it must in all probability cause death

Illustrations

“A” shoots “Z” with the intention of killing him. “Z” dies in Consequences “A” commits this offence.

Punishment Against Qatl-i-Amd

Followings punishments can be awarded against commission of Qatl-i-Amd.

(i) Death as Qisas

A person, who commits Qatl-i-amd, can be punished with death as Qisas.

Qisas

Qisas means ‘to copy the other’ or ‘to follow the path followed by other’ or ‘to act like the act of another’. The basic principle of Qisas is similarity. If similarity of injury is not

possible Qisas may not be enforce. In Qatl-i-Amd the difference between punishment of Qisas and punishment of death lies in the mode of execution of sentence.

(ii) Death or Imprisonment For life:

The punishment of death or imprisonment for life as tazir especially when proof against commission of such qatl is not available through voluntary and true confession of convict before a court competent to try such qatl according to Article 17 of Qanun-e-Shahadat.

(iii) Imprisonment, which can extend to twenty five years.

When punishment of Qisas is not applicable against commission of qatl-i-amd according to Injunctions of Islam, a person, who commits qatl-i-amd, can be punishment with imprisonment, which can extend to twenty-five years.

(ii) Qatl Shibh-i-Amd

When a person intends to cause harm to body or mind of any person, and causes death of that person or death of any other person by means of a weapon or an act which in ordinary course of nature is not likely to cause death, he/she commits qatl-shibh-i-amd.

Explanation

A in order to cause hurt strikes Z with a stick which in ordinary course of nature is not likely to cause death, Z dies as a result of such hurt, A shall be guilty of Qatl-i-Shibh-i-Amd.

Essentials of Qatl-i-Shibh-i-Amad

Following are the Essentials of Qatl-i-Shibh-i-Amad.

- Causing death of a human being
- Harm to the body or mind of any person must be intended

- Death may of a person who is intended to be harmed or of any other person
- Weapons may be used to inflict such intended harm

Death may also be caused by any other act which in the ordinary course of nature is not likely to cause death

Punishment For Qatl-i-Shibh-i-Amd Under Section 316 of P.P.C

(a) Diyat and Imprisonment

A person, who commits qatl-i-Shibh-i-Amd, is liable to diyat and can also be punished with imprisonment which may extend to twenty five year as tazir

Qatl-i-Khata

When a person does not intend to cause death of a person or cause harm to a person, and causes death of such person either by mistake of act or by mistake of fact, he/she commits qatl-i-Khata.

Explanations

- A shoots at a deer but misses the target and skills Z who is standing by A is guilty of Qatal-i-Khata.
- A shoots at an object to be deer but it turns out to be a human being A is guilty of Qatl-i-Khata

Essential ingredients of Qatl-i-Khata Under section 318 of P.P.C

In order to hold a person liable to Qatl-i-Khata following essential must be shown

- Death of a human being caused
- There was no intention
 - (i) To cause death
 - (ii) Nor any intention to cause bodily harm

- **Death is caused either**
 - (i) By mistake of fact
 - (ii) By mistake or act

Punishment of Qatl-i-Khata under section 319 of P.P.C

(i) Diyat and Imprisonment

A person who commits qatl-i-Khata, is liable to diyat.

(ii) Punishment for Qatl-i-Khata by Any Rash or negligent Act other than Rash or Negligent Driving

A person, who commits qatl-i-Khata by any rash or negligent act, which is other than rash or negligent driving, he/she is not only liable to diyat, but is also punished with imprisonment, which can extend to five years as tazir.

(iii) Punishment by Rash or Negligent Driving

A person, who commits qatl-i-Khata by rash or negligent driving is not only liable to diyat, but is also punished with imprisonment, which can extend to ten years.

Qatl-i-Bis-Sabab

When a person does not intend to cause death of another person or cause harm to another person, and does any unlawful act, which becomes a cause of death of this another person.

Essentials ingredients of Qatl-i-Bis-Sabab

Following are ingredients

The death of a human being is caused

There was no intention

- (i) To cause death, or

(ii) Cause bodily harm to the deceased

- An unlawful act is done by the offender
- Such unlawful act becomes the cause of death of the deceased

Punishment for Qatl-i-bis-sabab under section 322 P.P.C

Section 322 provides that whoever commits Qatl-i-Bis-Sabab shall be liable to Diyat only.

Conclusion

To conclude, it can be stated that one of basic aims of Islamic law is to preserve human life. To curb offences like qatl against human life. Islam has provided retributive and compensatory punishments. Through such punishments, offenders of qatl are not only punished, but reoccurrence of such offence is also checked.