

89708 - Rate of maintenance for children if they are in their mother's custody

the question

My wife and I got divorced and I have four children, a son aged 8, a daughter aged 4.5, a daughter aged 3 and a baby boy aged nine months. What is the rate of maintenance?
Please note that their mother is well off.

Detailed answer

Firstly:

Maintenance of children is a duty of the father, according to scholarly consensus, whether he remains married to his wife or divorces her, and whether the wife is poor or rich. She is not obliged to spend on the children when their father is still alive.

The woman who has been given a revocable divorce (first or second talaaq) must be given maintenance and accommodation during the 'iddah, but when her 'iddah ends, if she is not pregnant, she is not entitled to that.

In the event that custody of the children is given to a divorced woman, then the children's maintenance must be paid by their father, and a mother who is breast-feeding may request payment for breastfeeding the child.

Maintenance of children includes providing accommodation, food, drink, clothing and education, and everything that they need, on a reasonable basis, depending on the husband's circumstances, because Allah says (interpretation of the meaning):

“Let the rich man spend according to his means; and the man whose resources are restricted, let him spend according to what Allah has given him. Allah puts no burden on any person beyond what He has given him. Allah will grant after hardship, ease”

[al-Talaaq 65:7]

This varies from one country to another and from one person to another.

If the husband is rich, then his spending should be in accordance with his wealth, and if he is poor or of moderate means, then he should also spend in accordance with his situation. If both parents agree on a certain amount of money, whether it is a little or a lot, that is up to them, and in the case of dispute the one who should decide concerning that is the qaadi (judge in a sharee'ah court).

Secondly:

It is permissible for a divorced woman to ask her husband for payment for breastfeeding the child, according to scholarly consensus.

Ibn Qudaamah (may Allah have mercy on him) said: Breastfeeding of the child is to be arranged for by the father only, and he should not force the mother to breastfeed him if she is divorced. We do not know of any difference of opinion concerning that. End quote from al-Mughni (11/430).

He also said: If the mother wants to breastfeed in return for payment, she has more right to do it, whether the father can find someone to breastfeed for free or not. Al-Mughni (11/431).

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said: As for payment for breastfeeding, she is entitled to that according to scholarly consensus, as Allah says (interpretation of the meaning):

"Then if they give suck to the children for you, give them their due payment" [al-Talaaq 65:6]. (Al-Fatawa al-Kubra 3/347).

And Allah knows best.