

PAKISTAN
Penal Code

299. Definitions. In this Chapter, unless there is anything repugnant in the subject or context,

(e) "diyat" means the compensation specified in section 323 payable to the heirs of the victim;

(1) "ta'zir" means punishment other than qisas, diyat, arsh or daman; and

323. Value of diyat. (1) The Court shall, subject to the Injunctions of Islam as laid down in the Holy Qur'an and Sunnah and keeping in view the financial position of the convict and the heirs of the victim, fix the value of diyat which shall not be less than the value of thirty thousand, six hundreds and thirty grams of silver.

(2) For the purpose of subsection (1), the Federal Government shall, by Notification in the official Gazette, declare the value of silver, on the first day of July each year or on such date as it may deem fit, which shall be the value payable during a financial year.

330. Disbursement of diyat. The diyat shall be disbursed among the heirs of the victim according to their respective shares in inheritance:

Provided that, where an heir foregoes his share, the diyat shall not be recovered to the extent of his share.

331. Payment of diyat. (1) The diyat may be made payable in lump sum or in installments spread over a period of three years from the date of the final judgment.

(2) Where a convict fails to pay diyat or any part thereof within the period specified in subsection (1), the convict may be kept in jail and dealt with in the same manner as if sentenced to simple imprisonment until the diyat is paid full or may be released on bail if he furnishes security equivalent to the amount of diyat to the satisfaction of the Court.

(3) Where a convict dies before the payment of diyat or any part thereof, it shall be recovered from his estate.

338. Isqat-i-Haml. Whoever causes a woman with child whose organs have not been formed, to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman, or providing necessary treatment to her, is said to cause 'Isqat-i-haml'.

Explanation: A woman who causes herself to miscarry is within the meaning of this section.

338-A. Punishment for isqat-i-haml. Whoever causes isqat-i-haml shall be liable to punishment as ta'zir:

- (a) with imprisonment of either description for a term which may extend to three years, if isqat-i-haml is caused with the consent of the woman; or
- (b) with imprisonment of either description for a term which may extend to ten years, if isqat-i-haml is caused without the consent of the woman:

Provided that, if as a result of isqat-i-haml, any hurt is caused to the woman or she dies, the convict shall also be liable to the punishment provided for such hurt or death, as the case may be.

338-B. Isqat-i-Janin. Whoever causes a woman with child some of whose limbs or organs have been formed to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman, is said to cause isqat-i-janin.

Explanation. A woman who causes herself to miscarry is within the meaning of this section.

338-C. Punishment for 'isqat-i-janin'. Whoever causes isqat-i-janin shall be liable to:

- (a) one-twentieth of the diyat if the child is born dead;
- (b) full diyat if the child is born alive but dies as a result of any act of the offender; and
- (c) imprisonment of either description for a term which may extend to seven years as ta'zir;

Provided that, if there are more than one child in the womb of the woman, the offender shall be liable to separate diyat or ta'zir as the case may be, for every such child:

Provided further that if, as a result of isqat-i-janin, any hurt is caused to the woman or she dies, the offender shall also be liable to the punishment provided for such hurt or death, as the case may be.

338-D. Confirmation of sentence of death by way of qisas or ta'zir, etc. A sentence of death awarded by way of qisas or ta'zir, or a sentence of qisas awarded for causing hurt, shall not be executed, unless it is confirmed by the High Court.

338-E. Waiver or compounding of offences.

(1) Subject to the provisions of this Chapter and section 345 of the Code of Criminal Procedure, 1898 (V of 1898), all offences under this Chapter may be waived or compounded and the provisions of sections 309 and 310 shall, mutatis mutandis, apply to the waiver or compounding of such offences:

Provided that, where an offence has been waived or compounded, the Court may, in its discretion having regard to the facts and circumstances of the case, acquit or award ta'zir to the offender according to the nature of the offence.

(2) All questions relating to waiver or compounding of an offence or awarding of punishment under section 310, whether before or after the passing of any sentence, shall be determined by trial Court:

Provided that, where the sentence of qisas or any other sentence is waived or compounded during the pendency of an appeal, such questions may be determined by the appellate Court.

338-F. Interpretation. In the interpretation and application of the provisions of this Chapter, and in respect of matters ancillary or akin thereto, the Court shall be guided by the Injunctions of Islam as laid down in the Holy Qur'an and Sunnah.

338-H. Saving. (1) Nothing in this Chapter, except sections 309, 310 and 338-E, shall apply to cases pending before any court immediately before the commencement of the Criminal Law (second Amendment) Ordinance, 1990 (VII of 1990), or to the offences committed before such commencement.