

Q # 08: Define and differentiate between Qatl-e-Amd and Qatl-e-Shiba-e-Amd, along with their respective punishments.

1) Introduction

- The major object of law is to protect the life of citizens of society from offenders. Qatl means causing death of a person. It is the killing of human being by a human being. When someone intentionally causing death of other person by using deadly weapons, after knowing that his act is very dangerous and it can cause death, it is called Qatl-e-Amd. When someone have intention to cause bodily injury to other by doing an act but injured person died without mens reus, it is called Qatl-e-Shibe-Amd. Qatl can be lawful or unlawful, Lawful Qatl have been divided into three categories. Accidental, justifiable and Excusable.

2) Meaning of Qatl

- The word Qatl is an Arabic word which means “to Kill , to put death”

3) Definition of Qatl

- Unlawful killing of one human being by another human being by an unlawful act

4) Kinds of unlawful Qatls

Following are four major types of unlawful qatls provided and defined in the Qisas and diyat ordinance.

1. Qatl-e-Amd

- When someone intentionally causing death of other person by using deadly weapons, after knowing that his act is very dangerous and it can cause death, it is called Qatl-e-Amd

➤ **Punishment for Qatl-e-Amd**

Following are the punishments for whom, who commits Qatl-e-Amd. Details are as under:

- 1) Punished with Death as Qisas
- 2) Punished with Death as Tazir
- 3) Imprisonment for life as Tazir, the term of imprisonment can be 25 five years but not less than 10 years
- 4) No clause will apply if offence of Qatl-e-Amd is committed **on the name of honour**

➤ **Example**

- A shoots Z, with the intention of killing Z, and if Z dies, A will be liable for Qatl-e-Amd

2. Qatl-e-Shiba-Amd

- When someone have intention to cause bodily injury to other by doing an act but injured person died without mens reus, it is called Qatl-e-Shibe-Amd

➤ Punishment for Qatl-e-Shiba-e-Amd

Following are the punishments for whom, who commits Qatl-e-shiba-e-Amd. Details are as under:

- 1) He will be punished as Diyat
- 2) Punished with imprisonment, the term of imprisonment can be 25 years

➤ Example

- A attacks B, with a stick which cannot become cause of death of B. if B dies as a result of such attack. A will be liable for Qatl-e-Shiba-e-Amd

3. Qatl-e-Khata

- When someone caused death of a person either by mistake of act or by mistake of fact, and have no intention to cause the death or cause harm of a person, is called Qatl-e-Khata

➤ Punishment for Qatl-e-Khata

Following are the punishments for whom, who commits Qatl-e-Khata. Details are as under:

- 1) Where the death of a person is caused by negligent act, accused will be punished with imprisonment with the term of 5 years as tazir
- 2) Where the death of a person is caused by negligent driving, accused will be punished with imprisonment with the term of 10 years as Tazir

➤ Example

- If A shoots a deer to hunt, but mistakenly bullet hits a person standing nearby deer and person dies. A will be liable for Qatl-e-Khata

4. Qatl-e-Bis-Sabab

- When someone caused death of a person without any intention to cause death or harm to other, but accused does unlawful act which becomes a cause of death of other person, it is called Qatl-e-bis-Sabad

➤ **Punishment for Qatl-e-Bis-Sabab**

Following are the punishments for whom, who commits Qatl-e-Bis-Sabab. Details are as under:

1) One who commits qatl-e-Bis-Sabab shall be liable to Diyat only

➤ **Example**

- If a person A unlawfully digs a pit in the way without any intention to death or harm to other, and any person B falls in it and dies, A will be liable for Qatl-e-Bis-Sabab

5) **Essentials elements of Qatl**

Following are essential elements of Qatl. Details are being given as under

- 1) There must be death of human being
- 2) Weapon may be used under some circumstance
- 3) Such death must be caused by doing an act
- 4) Act should be unlawful or dangerous
- 5) There must be intention to death under some circumstances
- 6) There should be mistake of fact or mistake of act
- 7) Knowledge about act that, it is likely can cause death

6) **Differences between different types of Qatl**

Following are the differences between different types of Qatl. Details are as under.

1. **As to intention**

- **Qatl-e-Amd**, accused intentionally caused the death of person
- **Qatl-e-Shiba-Amd**, accused unintentionally caused the death of person
- **Qatl-e-Khata**, accused unintentionally caused the death of person
- **Qatl-e-Bis-Sabab**, accused unintentionally caused the death of person

2. **As to Mens Rea**

- **Qatl-e-Amd**, Mens rea is an essential element in qatl-e-am which needs to be proved by prosecutor
- **Qatl-e-Shiba-Amd**, Mens rea is an essential element in qatl-e-shiba-amd which needs to be proved by prosecutor
- **Qatl-e-Khata**, No mens rea is required to be proved
- **Qatl-e-Bis-Sabab**, No mens rea is required to be proved

3. As to Punishment of Qisas

- **Qatl-e-Amd**, the punishment of Qisas is available for Qatl-e-AMD
- **Qatl-e-Shiba-Amd**, the punishment of Qisas is not available for for Qatl-e-Shiba-e-AMD
- **Qatl-e-Khata** the punishment of Qisas is not available for Qatl-e-Khata
- **Qatl-e-Bis-Sabab**, the punishment of Qisas is not available for Qatl-e-Bis-Sabab

4. As to Punishment of Diyat

- **Qatl-e-Amd**, the punishment of Diyat is not available for Qatl-e-AMD
- **Qatl-e-Shiba-Amd**, the punishment of Diyat is available for Qatl-e-Shiba-e-AMD
- **Qatl-e-Khata**, the punishment of Diyat is available for Qatl-e-Khata
- **Qatl-e-Bis-Sabab**, the punishment of Diyat is available for Qatl-e-Bis-Sabab

7) Conclusion

- Under Pakistan Penal Code, different kinds of punishments have been defined for different kinds of Qatls by doing an unlawful act by offender. Law determines whether the act has been committed intentionally or unintentionally, lawful or not, and committed by mistake of fact or by mistake of act, after all determination, court decides the punishment for accused in order to prevent the society from offender and commission of such act in future