

Agent's Commission In The Balance Of Financial Transactions Jurisprudence Study

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Abstract

The study aimed at investigating the rulings of the commissioners from Islamic and secular perspectives. The study used the comparative descriptive methodology to investigate the targets in question. To gather the required data, a review of literature was administered. The study came to the conclusions that; first, both Islamic and secular laws agree that the commissioner is a person who is empowered to contract on behalf of someone else; second, both Islamic and secular laws agree that the commissioner's job is permissible; third, Islam disagrees with the secular law concerning some of the commissioner's contract terms. Islam makes a condition that the two parties engaged in a contract must be pubescent whereas the secular law stipulates that the contractors must be less than twenty years old. This is a sign of superiority of Islam since it allows the gifted pubescent to develop their commercial skills; fourth, Islam disagrees with the secular law concerning the pre-determination of pay. Islam stipulates that if the pay is not pre-determined, the contract shall be abolished and the commissioners deserves the pay of the like whereas the secular law does not consider this clause. This indicates the superiority of Islam as it uproots the causes of dispute. The study recommended that the legislators ought to reconsider the commercial act to go line un line with what Islam states.

Keywords: Commission - agent - balance - financial transactions - jurisprudence.

INTRODUCTION

All Praise is due to Allah, who has enabled whomever He desires good to gain understanding in the religion and by His bounty he guided whomever He willed of His creation to His path and the path of His Prophet (PBUH), and may God Almighty be pleased with his companions, his wives, his family, and those who follow him in goodness until the Day of Judgment.

Jurisprudence has a firm place among other Shari 'a sciences. It is one of the best sciences by consensus, by which we know what is lawful and what is prohibited, and by learning it, we seek to please the Lord of the world and avoiding destruction. With it, messengers were sent, and books were revealed. Therefore, it is one the best science to study and spent you time and your life.

The Islamic Shari 'a has never been limited to meeting the needs of all people, nor has it stood as an obstacle in the way of achieving an interest. Rather, its texts have expanded for all people in their different environments and customs, and over many centuries Muslim jurists have found solutions for every problem and crisis. d they have never stood helpless in

providing jurisprudential solutions in the light of the rules of Sharia and its tolerance.

Some financial transactions have begun to generate wide controversy over their concepts and their recent Sharia rules. Among these issues Agent's commission, sub-issues such as its relationship with the agency in general, and determining a certain percentage as the agency's fee.

Generally, the agency expresses the easiness and tolerance of Islam, and the removal of hardship from people. By virtue of their association with others, everyone may have rights or produce rights, either he directs it by himself, taking and giving, or by someone. not every person is able to direct his own business, accordingly Islam has given the permission to delegate someone else to carry his business out on his behalf.

Due to third parties may not accept dealing with the principal because, in his view, he is of recent origin in the commercial field and prefers to deal with what is known as Agent's commission due to his commercial value and his ability to implement the contract. The principal does not find a way to carry out his commercial operations except resorting to the commission agent to benefit from the credit

that the Attorney enjoys towards others. Hence, the issue of Agent's commission has been introduced in contemporary period.

In this regard, the research will be comparative jurisprudential research between the famous (the four) schools of jurisprudence, and this is the basis, with a look at the Egyptian Commercial Law (17 of 1999) to show the aspects of agreement, differences and differentiation in the matter of the commission agent.

Research problem: The current research problem is to seek to shed light on the agent's commission ruling and his fee. The research problem can be formulated in the following main question:

What is the ruling on commission agency? From this main question, some of the following sub-questions are branched:

- What is the concept of a commission agent? And its ruling, and what is the relationship between the concept of a commission agent and some closely related terms?
- What are the commission agency conditions, nature, and benefits? What are the rulings related to the commission of the agent in Islamic jurisprudence?

Research Objectives:

The research objectives are the following:

To clarify the concept of commission agent and its ruling, and the relationship of the concept of commission agent to some closely related terms.

To clarify the provisions related to the commission of the agent, and the legal ruling on the issue of determining a specific percentage for the agency on commission.

Research Methodology: The current research is based on the inductive analytical method.

Previous Studies: The researcher did not come across a study that combines the provisions of the commission agent in Islamic jurisprudence.

Research Plan:

The research consists of an introduction, two chapters, a conclusion and references:

Introduction: It includes the introduction, the research problem, the research objectives, the

importance of the research, the reasons for choosing the topic, the research methodology, the previous studies, and the research plan.

The First Chapter: It deals with the concept of commission agency in jurisprudence, the difference between commission agency and some closely related terms, and the conditions of commission agency, its nature, and its benefits.

The second Chapter: It deals with the general provisions of commission agency and determining of this commission

- Conclusion

- Search references

The First Chapter

The concept of commission agency and the difference between it and some closely related terms, the commission agency ruling, its conditions, nature, and benefits.

The current Chapter deals with the concept of a commission agent in jurisprudence and law, the difference between a commission agent and some closely related terms, the ruling on commission agency, its conditions, and its nature.

The First Topic

The concept of commission agency (Power of Attorney)

The first section: Defining the concept of the agent linguistically and technically.

First: the concept of agent linguistically:

The term commission agent is composed of two words: (agent) and (commission): the agent Linguistically is the one who carries out a person's order, so he is named after him; Because {his client has} entrusted him to carry out his command, and I entrusted the matter to him, and both from the door of a promise, and as a trustee, I delegated it to him, and I was satisfied with him, and the agent is an doer of the action; because he is entrusted to him, and he is in the sense of a subject if he is in the sense of the keeper [61] [31].

Second: The concept of the agent in the jurisprudential terminology: He is the one who is responsible for what has been delegated to him in matters of Legal contracts [8][67].

Based on this definition, it becomes clear that the agency has one pillar, which is offer and acceptance. The offer is from the principal, as if he says: I entrusted you with this, or do this, or authorized you to do such and such. Acceptance from the agent was like saying: I accepted and the like. It is not necessary for acceptance to be verbal or in saying, but it is by deed. If the agent is aware of the power of attorney and proceeds with the disposal entrusted to him, this is considered acceptance. The agency is not required to offer and acceptance to be on the same time, but it is enough to know the agency and direct action [10][28][62][69][70].

Third: The concept of the agent in the commercial law: He is the one who has been delegated by others to take over the matter on behalf of his client. It requires the validity of his initiation of the authorized behaviour by himself.

Or he is the one who concludes the deal in the name and for his principal. Therefore, the rights and obligations that arise from the contract are added to the principal who made an attorney.[64][85].

It turns out that there is an agreement on the jurisprudential and legal sides in the concept of agency. The agent - in each of them - is a person who acts on behalf of another person in carrying out certain tasks that the first determines for the second. However, there is a difference between the jurisprudential side and the legal side in the form of agency. The law requires that the agency (Power of Attorney) be in writing; Verbal agency is not valid. While Islamic jurisprudence does not require this. The verbal agency is valid as well as the written Power of Attorney.

The second section: the concept of commission Linguistically and technically:

First: Definition of Commission Linguistically: a modern word that was not mentioned in the old dictionaries and was expressed in some contemporary dictionaries as the amount that the broker or the negotiator takes as a reward for carrying out a transaction [63][66].

Second: Commission in the jurisprudential terminology: it means what is paid to the worker as a wage for doing something in the

form of a percentage of the value of the commercial deals that he concludes or contributes to their contract for the benefit of the institution or what the broker or negotiator takes as a fee for executing transactions of buying or selling securities, and the commission is usually based on the value of the deal or the number of shares to be traded[65][67][82].

Third: Commission in commercial law: It is a reward for services provided or products sold, and it is a means of rewarding sales personnel. The commission is often calculated on the basis of the percentage sold [7][47].

This shows that there is a convergence between the jurisprudential and legal sides in the concept of commission. The commission is an agreed-upon fee for work done by the agent.

The third section: the concept of the commission agent in the jurisprudential and legal terminology:

First: The concept of the commission agent in the jurisprudential terminology: He is the entrusted person with the implementation of the agency, and he is the one who is entrusted with the matter of the permissible contracts, or who is authorized to act., provided that his will is effective for the existence of guardianship by delegation from the owner to him on behalf of the owner, so he executes as if the principal had done it by himself [8][67].

Second: The concept of a commission agent in legal terminology: a contract whereby the agent undertakes to carry out some legal actions in his personal name for the benefit of principal in return for a commission.

The concerned person is the one who is delegated with several cases or the completion of a work or an act or a group of actions or deeds, provided that the rights and obligations that arise are added to the principal who has delegated him. [46][48][52].

Whereas the legislator considers Commission Agency is a commercial act to which the general provisions on the commercial agency apply; Because the agent operates in his own name and under a commercial title, and he carries out his work in a professional manner and takes a fee for the work he does in all this

in a legitimate manner. However, other legislators considered commission agency a commercial act when it was carried out in the form of contracting, as stipulated in this (Article 150-166 of Trade Law No. 17 of 1999 AD).

According to this, the commission agent - whether an individual or a company - contracts with third parties in his personal name, but for the account of the person he entrusted with concluding the contract. The agent performs this task in return for obtaining a fee or a commission, and for this reason he is called the commission agent [39][46][48][49][52][53].

The Second Topic

The difference between a commission agent and some closely related terms

Commission agency is not the only form of mediation that you may see in commercial life.

There are other people from trading intermediaries who are different from the commission agent. The most important of these are the commercial agent, the broker, and others, as we will show in the following:

First: The Ordinary Attorney: The Attorney in the regular Power of Attorney performs the work in the name of his principal and for the account of the principal, while in the commission agency the agent performs what is entrusted to him in his own name but for the account of his principal [10] [28] [38][49][69].

Second: The commercial agent: he is the agent distributing for his own account, the agent distributing for the benefit of a foreign company, or for the benefit of a merchant who has a main center outside the country, and other agents who deal with similar work, including advertising agents [38][73].

Third: Contracting Contract: The commission agent contract agrees with the contracting contract in terms of their mention of the work performed by the agent or contractor for the benefit of other Party, but they differ in that the work in the agency contract is a legal action, while in the contracting contract it is normal work. On the other hand, contracting Contract is always with a fee, and the fee is not subject to the discretion of the judge. As for the agency in general, it is without remuneration, if it is with remuneration, then it

is subject to the discretion of the judge according to Articles (709) of the Egyptian Law. the contract of contracting is a necessary contract, while the agency contract is not necessary in terms of origin and principle. The Attorney acts on behalf of the principal if he works in his name, while the contractor does not work except in his name only: that the agency ends with the death of the Attorney or the principal. While the contracting contract does not end with the death of one of its parties, unless the personality of the contractor is subject to consideration according to the provisions of the contract [15][27][42][69][84].

Fifth: **Brokerage**: commission agency differs from brokerage, which is considered a single trading business, the broker's mission is limited to bringing two people closer to conclude a specific deal, and thus the broker is not considered a party to the deal. As for the commission agent, he concludes the deal in his own name and for the account of his principal, and thus he is the broker. He is the person who carries out the mediation process between the two contracting parties, who are two unacquainted persons, in order to contract in return for an amount of money, which is usually a certain percentage of the value of the deal (commission) [9] [15] [45] [46] [53] [84].

- The general rule in combining the Agency's contract with any other contract:

if he combines the agency contract with any other contract, the rules of both the agency and the other contract must be applied, as long as there is no conflict between them [15] [84].

The Third Topic

Commission agency conditions, nature, and benefits

This requirement deals with the issue of the conditions that must be met by a commission agent in Islamic jurisprudence and commercial law. It also deals with the issue of the nature of the commission agency contract, in both the jurisprudential and legal aspects. It also deals with the benefits of this contract. This is detailed as follows:

First: Terms and conditions of commission agency in Islamic jurisprudence:

There are certain Terms and conditions that must be met in the commission agent, and the

one entrusted in it in Islamic jurisprudence. This is illustrated as follows:

First: Terms and conditions of the agent (Attorney): Several Terms and conditions are required for the agent, the most important of which are:

1- To be sane, i.e. has the eligibility to conclude contract, so the insane and uncircumspect minor is not valid. As for Circumspect minor, his power of attorney is valid according to the Hanafis, whether he is authorized in trade or interdicted. And he stipulated this condition; Because the agent takes the place of the client in the statement, he must be one of the people of the discernment, and the eligibility of the discernment is only by reason and discernment.

The Shafi'is, Malikis, and Hanbalis said: The agency of the boy, the insane, and the fainted is not valid; Because each one of them is not accountable, so it is not valid for him to act for himself [34] [43] [69].

2- The agent intends to execute the contract, not to be joking, and to know the agency in general, and if he appoints a man to sell his book, and the agent sells it to a man before he knew about the agency, it is not permissible to sell it, until the principal or the agent approves it after knowing the agency; The agent's knowledge of the agency is established verbally or in writing to him, or by sending a messenger to him, or by informing two men or one man, whether he is just or not, and the agent confirms him, and this condition is for the Hanafis [28] [54] [69].

3 - The agent is appointed either in proportion or by reference to him, so he has appointed one of two men, the agency is not valid due to ignorance. And to be aware of his principal by describing him or by his fame.

The Malikis required three conditions in the principal and the agent: freedom, majority, and puberty, so it is not valid to delegate power of attorney between slaves and the free, nor between the foolish and the interdicted, nor between boys or between them and adults. And Shafi'is required that the agent should be of justice if he was an agent on behalf of the judge or on behalf of the guardian in the sale of money under his guardianship [23] [28] [51] [69].

Terms and conditions of the subject of the attorney: It is required for the subject of the attorney to be known to the agent or unknown, without obscene ignorance, unless the one who is appointed is released, as if he says to him: Buy for me whatever you want, and it is also required that he be able to represent [30] [40] [70].

Terms and Conditions of Commission Agency in Commercial Law:

A contractor's contract of commission in his name may result full eligibility, whereas completion of eligibility is not required in the regular agency. However, it is sufficient for the commission agent to have the commercial capacity, because the assumption is that the commission agent is a merchant, so the commission agent is responsible for executing the contract subject to the agency in the face of others because he alone acquires the capacity of the contracting party, and he has accepted to bear the risks of this contract [27] [46].

Article 11-122-13-14 of Egyptian Trade Law No. 17 of 1999 stipulates that those who have reached the age of twenty-one years are fully qualified to practice trade.

Although the commercial law agrees with Islamic jurisprudence in some of the agency conditions, especially in the requirement of reason, intention, and appointment in the two contracting parties, but it differs from Islamic jurisprudence in the age condition. While Islamic jurisprudence stipulates that the two contracting parties reach puberty, the law stipulates that the two contracting parties reach the age of one and twenty full years. Thus, Islamic jurisprudence is distinguished from commercial law in this matter. The law stipulating that the contracting parties reach twenty-one years of age means depriving those below this age who have reached the age of puberty from practicing commission agency, given its importance in enhancing commercial dealing skills, especially among young people.

The Nature of the Commission Agency Contract in Jurisprudence and Law:

What is meant by the form of the commission agency contract is whether this contract is a gifts contract, or a property contract. The question arises about the nature of this contract

in Islamic jurisprudence and commercial law. This is highlighted in the following points:

First: The nature of the commission agency contract in jurisprudence: The agency contract in general according to the jurists is considered a consensual contract, and it is valid verbally and in writing and the like, and the basic principle in it is that it is a donation contract. Therefore, if they agree on a fee, the fee must be agreed upon, but if the contract does not stipulate a fee, then the agent has no fee according to the Majority of jurists. The agent was not one of those who serve for a fee, he was a volunteer, and he does not have the right to claim the fee [11] [23] [25] [29] [62] [30].

Second: The nature of the commission agency contract in the commercial law: The commercial nature is what distinguishes the commission agency from contracting under a pseudonym. Commission agency is a commercial contract in application of the general standard of commercial work. It is not subject to the provisions of the commercial law unless it is carried out by the commission agent on a legitimate basis. The commercial characteristic that we mean in this regard is not limited to determining the extent to which the commission agency is subject to the provisions of the commercial law, but it is an element of conditioning the commission agency [46] [85].

The agency contract in general is one of the mutual consent contracts in principle, but if the subject matter of the agency is a formal disposition, then its legal form must be available, and this is what stipulated in most civil laws. The agency contract is one of the donation contracts, unless it is expressly or implicitly stipulated in it, and one of the effects of that also is that the basic principle in the agency is that it be without a fee, and if it is with fee, these fees are subject to the discretion of the judge, and this is what was stipulated in civil laws such as Article (700-709) of the Egyptian Civil Code.

Thus, it becomes clear that the agency contract in Islamic jurisprudence is a contract of donations, while the law considers it a contract of compensation. It is clear that the advantage of considering this contract as a donation contract, this means that the person appointed is rewarded for the agency for the seek of God Almighty, and thus he will have gained the

reward of this world and the Hereafter, if he sincerely intends and works for the seek of God Almighty. As for compensation contracts; The transaction is on a purely worldly basis, as the wage is calculated in return for the commission, and there is no consideration for the reward in the Hereafter.

Benefits of commission agency: The commission agent has several benefits, including: He helps the principal (the Assignor) in concluding deals without effort and hardship in conducting them, as well as providing the non-contractor with the effort of investigation, also from the benefits the principal may not want to be known by the non-contractor for any reason. So, he authorizes commission agent to carry out the transaction as a seller or buyer without letting others know that it is in the interest of the principal, not the principal. [48].

The Fourth Topic

The ruling of commission agency

First: The ruling on commission agency in Islamic jurisprudence:

Dr. Wahba Al-Zuhaili says: The agency is valid with or without pay, according to the agreement of the jurists. Because the Prophet, may God's prayers and peace be upon him, used to send his workers to collect charities and make them a commission [33][59][60], and for this reason his cousins said to him: "If you sent us to collect these charities, we would pay you what people pay, and a share of what people afflict." [36] That is, the commission, and because the agency is a permissible contract, the agent is not obliged to carry it out, so it is permissible to take the fee for it, and if the agency is without a fee, then it is known from the agent. [10] [11] [28] [34] [35] [69] [70] [71] [72].

So the agent's work is legitimate based on the permissibility of the agency, as the agency is legitimate by Quran, the Sunnah, and the consensus.

As for Quran: The Almighty said: (So send one of you with this coin of yours to Medina) Surah Al-Kahf: Verse 19.

The verse indicated: an indication of the influence of the agent's work, because the one they were sent with was their agent [2].

As for the Sunnah: 'Urwa b. Abul Ja'd al-Bariqi said that God's Messenger gave him a dinar to buy a sheep for him. He bought two sheep for him, sold one of them for a dinar and brought him a sheep and dinar. So God's Messenger invoked a blessing on him in his business dealings, and he was such that if he had bought dust he would have made a profit from it. [30] [33] [58] [60].

Evidence of the hadeeth: The hadeeth indicates the permissibility of deputizing by the act of 'Urwah and the approval of the Prophet, may God's prayers and peace be upon him [18].

As for the consensus: the jurists agreed that if the agent carries out something of what he was entrusted with, it is executed [56].

Although the agency contract is a legitimate contract in general, this legitimacy is not absolutely. There are a number of controls that must be met, including: Favoritism is prohibited in dealing with those from whom the commission is taken. By adding more to the second party, the buyer for the sake of commission (the increase in the commodity). It prevents deception, misleading, fraud, and lying.

These controls come under the consuming of people's money unjustly, and God Almighty has forbidden the consuming of money unjustly. Allah Said "Do not consume one another's wealth unjustly" from the verse (Al-Baqarah 188):

Unjustly is a term that includes deceit, lying, and many other types of falsehood. The legitimate alternative is to stipulate that the commission is due on the seller or the purchaser as a commission that he takes from him.

Also, the work of the agent has limits that must be adhered to: everything in which the representation is permissible in terms of rights is permissible in which the agency is permissible, such as buying and selling, collecting debts, litigation in claiming rights, and so on [41].

Second: The commission agency ruling in commercial law:

The agency contract (Power of Attorney) in law is a permissible contract. The agency contract, in general, is a permissible contract in principle, but only if it fulfills the controls

specified by the law. The principle in agency is that it is without pay, and if it is paid, these fees are subject to the discretion of the judge. This was stipulated in Articles (700-709) of the Egyptian Civil Code [27].

Second Chapter

General provisions for the commission of the agent, and determining the commission of the agent

The current research deals with the provisions of the commission agent, and determining the commission of the agent in Islamic jurisprudence and commercial law. This is addressed in two Sections:

The first Topic

General provisions for agent commission

The first subsection: the jurisprudential adaptation of commission agency:

The commission agent receives a fee in exchange for carrying out the orders of his principals, in addition to the other work that they perform on behalf of the agents, and the commission agency (by receiving - fees) takes the rule of rents, so the agent deserves the commission by handing over what he has been entrusted with to the principal, and he is not entitled to anything from the commission until he delivers it to him. If the delivery is missed, he is not entitled to anything due to missing the condition [12] [22] [51] [69].

The second subsection: the effect of the agent's lease: the agent's lease on commission is valid due to the presence of guardianship by delegating the owner to him on behalf of himself, so he executes it as if the agent did it himself, and he may rent from the son of the principal and his father; Because the principal has that due to the difference in their ownership, as well as the agent [11]

Subsection Three: Agent Commission Terms:

If the agency is by a commission, then in order to be entitled to a reward in Islamic jurisprudence, the following are required:

- 1- The work entrusted to him is well-known, with which it is possible to fulfill the agency.
- 2- The Fee must be of a known amount.

- 3- The rent should not be part of the one assigned to him, and if it were, the agency would be invalidated and the agent would be entitled to a similar fee.

Imam al-Mawardi said: Agency is fee with or without a fee, and the fee is not permissible unless it is known. If he said: I have appointed you to sell this garment on the condition that he made you a tenth of its price, or one dirham out of every hundred dirhams of its price, that would not be valid due to ignorance of the amount of the price, and he has the same fee.

- 4- The agent implements the agency in a correctly Accordingly, the fee is forfeited if the agent violates his principal in a way that renders the agency invalid. If he gives him grain to sell and he buys better quality, then the agent replaces it with something better than it of the same kind, then the agent's work is usury, so he has implemented the agency in a corrupt way and he does not deserve a fee, because the authorization to sell is absolute [25] [50] [51] [62] [69].

In commercial law, the agent's commission requires several conditions, including:

Carrying out and maintaining the entrusted work in accordance with the principal's orders. The intent of this is to determine the extent of the commission agent's negligence. The commission agent also investigated the accuracy of the seller, as well as in collecting information about the market in which the commercial operation is practiced. (Article 166 of Trade Law No. 17 of 1999 AD).

Commitment to maintain what he was entrusted with: It is considered a basis that falls on the commission agent. The commission agent is not obligated to insure the goods unless the principal requests him to do so, and the insurance is at the principal's expense [44] [83].

- Commitment not to take the deal for himself: the commission agent may not take the deal for himself because he will outweigh his interest over the interest of the principal, except with the express permission of the agent. Article (156 F 1) stipulates this.
- Obligation to submit a statement of account: the commission agent is obligated to provide a statement of account for the

transaction or operations that he submitted during his work as a commission agent, and it also includes all expenses and shows the credit and debit side, and the statement of account must be supported by documents[27].

Thus, the jurisprudential side differs from the legal side in this issue. Islamic jurisprudence stipulates that the commission fee should not be from the person entrusted with it. This is to avoid the causes of conflict that may arise as a result. While the law does not require such.

The subsection Four: Whenever the agent's commission is required:

The Hanafi, Maliki, Shafi'i, and Hanbali jurists agreed that if the agency takes place in the form of a lease, both the agent and the principal are obligated once the contract is concluded.

The agency according to royalty, it doesn't obligate one of them before the initiation, and it obliges the one who makes it. if it is not for fees or royalty, so it occurred without compensation, it does not obligate the principal or the agent, and if it is not stipulated, and the agent is one of those who work for a fee, then he has the same reward, otherwise not. (Article 926) Article 926) [10] [24] [29] [50] [70].

- So, the agency fee is due in the same contract in Islamic jurisprudence, and whether or not the desired result is achieved, as long as the agent has fulfilled what is required of him according to what is agreed upon. And this is the balance of justice by which things are straightened.

The subsection Five: If the agency is for a fee and the agent waives his fee:

If the agency is for a fee and the agent waives his fee and works for free, , or as a donation, then he works originally in the agencies: it is to be unpaid for good cooperation. This type of work does not need to proceed, but it can be abandoned by the agent at any time. his is the view of the Hanafis, Malikis, and Hanbalis [23] [34] [41] [50].

Note: In the agency with a fee, the principal may stipulate that the agent not withdraw himself from it except after a limited period, otherwise he would not have been compensated[41].

- If the fee is Ignored, it does not mean a donation, rather the fee is estimated according to local or national custom. Article (78) stipulates that ((works and services related to the commercial activity of the trader, and provided to others, shall be for fees unless proven otherwise, and these fees shall be determined according to custom, and if there is no such thing, the court shall determine the fees.

The subsection Six: Whenever the agent's fee can be Ignored:

The majority of jurists are of the opinion that the fee of the employee is Obligatory, and the loss of the property is not guaranteed except by trespass or negligence. Because it is under his custody, whenever he does something, he becomes recognized by it. if the work of the employee did not deserve the wages because of the destruction of the thing because of it, because he did not deliver the work [28] [71].

As for other than the majority, they are the Malikis and the two Hanafi companions, they see that the joint hired person is the guarantee, and he guarantees the damaged thing, even without transgression or negligence [75].

Accordingly, if the work of the employee has an apparent effect such as sewing and dyeing, then the fee must be delivered by handing over the required work, Because the effect that was contracted upon, which is the cloth becoming, for example, sewn, was not delivered, and the exchange corresponds to that effect, so it was like what was sold.

if the work of the employee does not have an apparent effect on the property, such as the porter or the navigator, then the fee must be paid as soon as the work is completed if the property is not delivered to its owner; Because the fee is for the same work, so if the term of the lease ends, he has finished the work, and he has handed over the property to its owner, so fees can't be canceled by damage.

The fee of the commission agent is canceled if he dies, because the agency to hire is an agency to buy benefits, so it becomes like the agency to buy assets, so he becomes a lessee for himself and then becomes a lessor to the principal, which is the meaning of our saying: The one who is appointed to hire is the one who represents the owner [28].

The fee is canceled if the agent violates his principal with a strong violation that makes the agency corrupt [25] [29].

The subsection Seven: Dismissal of the Commission Agent:

Agency is one of the permissible contracts because it is from the point of view of the principal permission, and on the side of the agent it is a benefit, and both of them are not necessary. If it is valid for the principal to terminate the power of attorney contract, then it is valid for the agent as well as the principal to dismiss him [43].

The commission agent is also dismissed if one of the following is occurred:

The first: to say to him in the face of I dismissed you from the agency.

The second: to dismiss him in the event of his absence and inform him of the news, and that news is true by one who said it, and he is informed by two men or a man of justice.

The third: If the principal is completely insane.

Fourth: Cheating his client and taking possession of his opponent, he may dismiss him. Therefore, only a trustworthy person is appointed to take care of the interest of the principal and for this reason the Shafi'is said: If the agent knows that the one whom the principal appoints to him is an immoral person, he is dismissed.

if the principal appointed a trustworthy man, but he became a traitor, then the Hanbalis and Shafi'is went to dismiss his traitorous agent, because leaving him to act with his betrayal was waste and negligence, and the agency requires a trustworthy trust, and this has become dishonest, so he must be removed from the agency.

The fifth: if he apostates, and the sixth: if he dies [15] [51] [76] [72].

The Second Topic

Set a commission for the agent at a certain percentage

The first section: Set a commission for the agent at a certain percentage in Islamic jurisprudence

Determining a commission for the agent at a certain percentage according the provisions of fees and the jurists discussed to explain the

agent's fees and determine them according to the sayings:

The first saying: The majority of Hanafi, Shafi'i and Hanbali jurists said that it is not permissible to specify the fee for the person entrusted with it.

The second saying: The saying of the Malikis, and there is detail in it, as they differentiated between whether the unknown to pay, so it is not permissible, and it is not valid, and if the estimated fees is part of the production, it is known [23] [72]

The third saying: It is the opinion of the Hanbalis, who said that it is absolutely Lawful [70].

Evidence and Discussions

Evidence for the first opinion: the saying of the majority who said: the inadmissibility of specifying the fee for the person entrusted with it: from the Sunnah and reason:

As for the Sunnah: "The Prophet (Peace be upon him) prohibited studding the stallion." [16] [32] [33].

The hadeeth indicates that selling and renting a stallion's Sperm is forbidden. Because he is not established, nor is he known, nor is he able to deliver him like him, the determination of the fare in relation to the one entrusted with it [80].

The Hadith was Discussed: it is a weak narration that does not support the argument, because its chain of narrators includes Hisham bin Kulaib, and he is a man who differed over it [3].

The response: It is possible to reply that the hadeeth has an the authenticity of its source, and its narrators are trustworthy, the men of the two sheikhs other than Hisham [20] [21].

According to Reason: As for what is reasonable: they said that the rent in this case is specific, and that it is not possible to deliver it at the time of the contract, just as it is not in the responsibility until it is said: What is in the responsibility is present, or in the judgment of the existing one. The fee is unknown, as it is not known what came out of the leather, or the flour, or anything else [23].

Evidence for the Second Opinion, who said that it is absolutely permissible: according to Reason: They said that specifying the agency's

fee (commission) at a specific percentage is considered a counterpart to paying his money to the one who trades in it with a part of the profit, and this is not deceitful, nor dangerous, nor gambling, nor ignorance, and it is not considered as eating People's money is wrong [6].

We discussed this reasoning: that your analogy is differ , because speculation is considered to be a type of partnership, while agency for a fee differs from it, This constitutes a confusion between the common proportion of the company's acceptance, and the specific portion (fare) in which the company may not.

Evidence for the Third Opinion: which differentiates between whether the ignorance is able to pay, then it is not permissible, and it is not valid, and if the fare is estimated by a part of the production, it is known, then it is permissible: Reasonable:

- They said: The agent's entitlement to wages for doing something is something unknown, such as Sale purchase in a lump, and it may or may not happen, and this is something that is not valid, such as giving the Leather as wage to the butcher, because he is not entitled to it except after the removal, and it may come out intact, or cut off. As they said: If the estimated fee is Part of the production is known, so the contract is permissible, and the worker has his estimated share, and that is like giving wheat to someone who makes it flour in a specific amount of flour and so on [72] [74].

The Chosen Opinion: After presenting the sayings and evidence, it appears that determining the fare in advance is not permissible for what includes apparent deception, and this is the saying of the majority.

It Is Possible to Combine the Sayings: But if it is agreed in this matter that the fare is described in the responsibility, then this is permissible, and Ibn al-Qayyim included it among the permissible tricks [6].

Effect of disagreement: Shows in the stabilization of the amount of the salaried agent's commission and whether or not it is due to the pricing provision [1] [14] [19] [26] [28] [37] [80].

Section Two: Agent Commission in Commercial Law:

In the Commercial Law: Determination of commission or fare through agreement between the parties. If there is no agreement, it is due to the business custom in the labour market. If there is no custom, the judiciary is required to determine the amount of commission or fare [4].

- It is clear from the foregoing that there is an agreement between the law and Islamic jurisprudence on the issue of the Agency's fare in advance.

CONCLUSION

The conclusion includes the most important research findings and recommendations. This is highlighted as follows:

First: the search results:

According to above mentioned, the research attempted to shed light on the issue of the commission agent in terms of its concept, its relationship to some closely related concepts, the ruling on commission agency, and the ruling on determining the fee for this agency. The research has yielded many results, most notably the following:

First: The jurisprudence and Statutory law has agreed on the concept of a commission agent. The commission agent in Islamic jurisprudence is the one who is entrusted with the implementation of the agency, and he is the one who performs what has been delegated to him from the matters of permissible contracts, or the one to whom he has delegated disposal, or the one who has been appointed as the self in the disposal. Whereas, the commission agent in commercial law is the person who has been delegated by someone else to handle the matter on behalf of his client. It requires the validity of his initiation of the authorized behavior by himself.

Second: The jurisprudence and Statutory law has agreed on the commission agency ruling. Islamic jurisprudence permitted commission agency under conditions set by Islamic jurisprudence. The commercial law also permitted this transaction under conditions specified by the law.

Third: The jurisprudence and Statutory law has agreed on in the matter of determining the commission fee in advance, in order to avoid the causes of discord that may arise between the two contracting parties.

Fourth: The jurisprudence and Statutory law differ in some of the commission agency conditions. Whereas Islamic jurisprudence required puberty in the contracting parties, While the commercial law stipulated that the contracting parties reach twenty-one Gregorian years. This reflects the distinction of Islamic legislation based on the fact that it provided the opportunity for talented people who have reached puberty and under twenty-one to hone their commercial capabilities at an early age.

Fifth: The jurisprudence and Statutory law differ in the impact of determining the commission agency fee in advance. According to the most correct Islamic jurisprudence, if the fare is not determined in advance, the contract is invalidated, and its effects do not follow from it, and the agent deserves a similar fee. While the contract is valid in law, and effective and legally in force. This confirms the distinction of Islamic jurisprudence in its endeavor to avoid the causes of dissension before its signs appear, thus protecting society from bickering.

Second: Research Recommendations:

The current research recommends more future studies in the comparison between the commission agency in Islamic jurisprudence, and the commercial law that applied in many Islamic countries.

Statements on open data, ethics and conflict of interest [85-89]

1. Data can be accessed by contacting the authors [90-94].
2. No agreements of any type were needed as all participant students were enrolled in a course that researchers of the study were teaching [95-99].
3. The authors declare that they have no conflict of interest [100-102].

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