

## Several questions about insurance and interest

By

Justice Maulana Muhammad Taqi Usmani

With footnotes by Ustaaz, Ahmed Fazel Ebrahim

**Q. (1)** Is it Jaa'iz (permissible) to take an insurance policy from a conventional insurance company to cover our employees against liability in the following circumstances:

Injuries that may be suffered by workers (company employees) due to accidents in the course of their work.

Within the company's premises.

Whilst travelling in the company's vehicles.

Injuries that may be suffered by innocent parties involved in accidents within the company's premises or in company vehicles.

In the case of motor insurance it is a statutory requirement that vehicles owners must obtain an insurance policy to cover third party risks and the company complies with this requirement. This is the only form of insurance cover that the company now takes.

**(2)** Is it jaa'iz to take out an insurance policy to cover the anticipated medical expenses of the employees of the company?

**(3)** Most companies offer to meet the medical expenses of the employees of the company?

**(4)** There are circumstances in which the bank charges us interest when our current account goes into overdraft due to circumstances outside our control---mainly due to non-realization of cheques issued to us by our debtors.

Is it jaa'iz (permissible) for us to recover such interest from the debtor concerned?

**(Rafiq Qasim, Colombo)**

**A. (1)** The permissibility or otherwise of an insurance policy depends on the nature of the insurance scheme and on the terms and conditions of the transaction. Leaving aside the mutual insurance schemes, all the insurance policies available with the traditional insurance companies that run on commercial basis have an element of interest or qimar or both. Hence, they are not allowed in Shariah. So, it is not permissible to taken an insurance policy from a conventional insurance company in any one of the first four situations mentioned in your question. The prevalent third party insurance also does not

conform to the rules of Shariah. However, being a necessary legal requirement for the use of a motor car, it is allowed on the basis of necessity only in those countries where this kind of insurance is compulsory.

(2) The same reply is also applicable here.

(3) A company may create a mutual insurance fund of its own for this purpose.<sup>1</sup> It is not permissible, in Shariah, to take a policy from a traditional insurance company.

(4) If the interest is charged by the bank without your knowledge or without your having entered into an agreement with them for an interest bearing transaction, you cannot be held responsible for the sin of paying interest. At the same time, you cannot claim the amount of interest from your debtor because in that case you will be deliberately entering into a transaction of interest.<sup>2</sup>

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<sup>1</sup> Footnote by Ahmed Fazel Ebrahim: He implies that contributions made, by the employees or the employers or both, should be used to establish an investment fund on Shariah principles to allocate for medical needs.

<sup>2</sup> Footnote by Ahmed Fazel Ebrahim: There is also a Shari'ah principle that states "You should not harm others and neither be harmed by others – *laa darar wa laa dhiraar*. Thus, the bank account holder suffers a material loss because the person / party given the cheque did not fulfill his/their obligation to ensure that the cheque is accepted by the bank and thus allows a transfer of money into the account of the party that deposited the cheque. This would not have taken place if the cheque was met. Thus, the account holder, because of other payments made from the account, based on the acceptance of the deposited cheque, then possibly find themselves to have taken a bank overdraft or used a credit facility. They are thus charged interest. Some banks charge a fee for cheques which are deposited into an account but do not get accepted for payment and transfer into such an account. In both cases, I would not view charging the client from whom the cheque is received to be unlawful. In the first case because the interest payment that you have to make to the bank has not been intentional and has been due to the breach of another party who must amend the loss they have caused you even if such a loss is interest-based. In the second case, where the cheque is rejected by the bank because the party who holds the cheque account has not had sufficient funds or any other reason, and the bank charges a non-acceptance fee, the party providing the cheque must be held liable for the financial loss caused to the depositor of the cheque. If the view of Mufti Taqi is adopted, you are still obliged to meet the interest payment due at the bank. Although it is not deliberate, neither are you deliberately charging the cheque provider with the interest due since the liability of the interest stemmed from his breach and not from your act. This is a personal view and Allah knows best.