

The impact of uncertainty (Gharar) upon the contract of "Ijarah" in the light of Islamic Shariah

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Received: 09th April 2021

Revised: 03rd June 2021

Accepted: 29th June 2021

Published: 15th July 2021

Abstract: The contract of "Ijarah" and uncertainty "Gharar" is undoubtedly a subject that includes various financial matters. In fact, in financial matters two things are needed to be avoided; one is "interest" and the second is uncertainty "Gharar", usually the concept of interest and the spirit of safety from it is found in the minds of the Muslims but there is unawareness about uncertainty "Gharar" and no measures are taken to be avoided it in financial matters. Just as uncertainty "Gharar" invalidates the sale and purchase agreement, it also affects lease agreements. Many of the "Ijarah" contracts in the market are such that they are not valid according to Islamic jurisprudence due to defects of uncertainty "Gharar", but their invalidity is not usually noticed. Therefore, there is a need to conduct research that will clarify to what extent uncertainty "Gharar" affects Ijarah. This article is to investigate this issue and the conclusion is that uncertainty "Gharar" does not invalidate the contract of lease "Ijarah" in all circumstances but trivial uncertainty "Gharar" found under certain conditions is tolerated and does not affect the validity of the contract but in some cases, the finding of uncertainty "Gharar" invalidates the lease

Introduction:

Contract of "Ijarah" (Uqd-e-Ijarah) and uncertainty (Gharar) is undoubtedly a topic that covers many aspects of financial affairs, but the fact is that within financial affairs there are two main things that need to be avoided, one is "interest" and the other is "Gharar". In general, the reality of usury and interest exists in

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the minds of Muslims and the desire to avoid it, but there is unawareness about uncertainty "Gharar" and there are no measures taken to avoid it even within financial matters.

. If it is investigated, it is invalid due to the finding of uncertainty (Gharar) in the contract of "Ijarah". For example, after buying something, selling it before taking possession of it (Bay Qabl Qabz) is illegal according to Islamic Shariah, but the markets are full of such non-Islamic contracts.

Similarly, there are hundreds of other cases prevalent in the markets and markets in which uncertainty "Gharar" is present in one form or another, so there was a need to conduct systematic research on this subject to ascertain the reality of uncertainty "Gharar". After becoming familiar with it, Muslims can adapt their affairs to the Shari'ah model.

Lexical Definition of "Ijarah":

"Ijarah" is a popular term in Islamic jurisprudence. It literally means "to give something in return for a deed".

According to the encyclopedia Jamal Abdul Nasir:

*"Ijarah is the name of wages."*¹

Allama Sharbini says:

*"Originally, the word "Ijarah" was used only for wages, but later it became known for the contract of "Ijarah."*²

Terminological Definition:

The concept of "Ijarah" is almost the same for four Imams (Abu Hanifa, Imam Malik, Shafi, and Ahmad bin Hanbal). That is, to obtain a specified and legitimate benefit of a thing in return for a specified wage is called "Ijarah". Different jurists have adopted different interpretations to explain this basic concept. Allama Nasfi from Hanafia has defined it as follows:

*The sale of a fixed profit in return for a fixed and known wage is called an "Ijarah".*³

Allama Dardeer of Malikiyya has defined "Ijarah" as follows:

*"Ijarah" is a Compensatory Contract for the benefit of something in exchange for something.*⁴

In Shwafe Allama Sherbeni defines "Ijarah" as follows:

*"Ijarah" is a contract that takes place in exchange for a definite, known, justifiable, and legitimate benefit.*⁵

In Hamabila Allama Bahoti states the definition of "Ijarah" as follows:

*A contract on a permissible, known benefit that is taken, bit by bit, from a known assetor described in debt, or a known deed in return for a known compensation.*⁶

From all the above definitions, it comes out that it is necessary to know "profit" and "compensation" within the "Ijarah", the reason for their being known and determined is obvious if the thing given in "Ijarah" does not have a profit or it's If the wages given in return are unknown, there is a strong fear of conflict between the parties. Therefore, in the "Ijarah" in which the profit or wages are unknown, the jurists have declared such "Ijara" as invalid but in addition to the above-mentioned conditions, the jurists have also mentioned the condition of "known and determined period", such as the definition of "known period" mentioned by Allama Zalai⁷ from Hanafia and Allama Dasuqi⁸ from Malikiyya.

In our opinion, there is no need to mention the limitation of "known period", but one disadvantage of imposing this limitation would be that many cases of "Ijarah al-Amal" would be excluded from the definition of "Ijarah", like a person telling a baker that a Bake the loaves of 40kg flour, his wages will be one hundred rupees, then this contract is permissible by agreement, although there is no mention of "period" in it, and usually the period is not specified in such cases.

On the contrary, the consideration shows that the benefit of imprisonment of "known period" is obtained under "known profit" in such a way that "known profit" should be interpreted in such a way that it is common to know the profit even through action. It is like asking a baker to bake a loaf of 40kg flour, In return for this, you will be given a wage of one hundred rupees or known through the term, like asking a laborer (laborer) to work from morning to evening in the construction of this house, in return, you will be given a hundred rupees as labor. . Both these cases are permissible. In the first case, the profit is determined by "process" while in the second case, the profit is determined by determining the "duration". Therefore, even if only "benefit known" is imposed in the definition, the desired benefit will be achieved. There will be no need to impose imprisonment for a specified period separately and that imprisonment is included in the

definitions we have mentioned. However, some jurists did not mention the limitation of "known" with benefit.⁹ In our view, those definitions are not applicable.

However, a question arises here that the jurists have specified that even if the period is not specified, the contract of "Ijarah" becomes invalid, as Allama Haskafi writes:

*The contract of "Ijarah" is invalidated by irregular terms, such as the omission of the thing or rent or period or act.*¹⁰

It is clear from the said statement that to exclude "illegal Ijarah" from the definition, just as it is necessary to mention the determination of "wages" and "profits", it is also necessary to mention the determination of the period.

The answer may be that it means that in the cases of the contract of "Ijarah" in which it is necessary to mention the period. If the period is not mentioned in them, then the contract of "Ijarah" will be invalid, because in these cases the benefit is not fixed. After all, in such cases, the determination of benefit was based on the determination of the period.

The answer is supported by the statement of Allama Ibn-e-Qudama:

*If the contract of "Ijarah" occurs over a period of time, it must be known, such as a month and a year, etc and there is no disagreement about this as far as we know.*¹¹

It is known from the above text that the period is mentioned in some contracts of "Ijarah" and not in some others. However, in cases where the benefit becomes unknown by not mentioning the period, it is necessary to mention it specifically and it is also supported by the above text of Allama Haskafi that he had mentioned the ignorance of both period and process in the causes of illegitimacy which indicates that in some cases the ignorance of profit is due to the ignorance of the period while in some cases the ignorance of the process makes the profit unknown, so it is known that It is not necessary to mention the period in every contract of "Ijarah" but in some contracts it is, and in those contracts where it is necessary if the period is not specified there, the contract of "Ijarah" will become invalid.

Lexical Definition of uncertainty (Gharar)

"Gharar" is an Arabic word,¹² it literally means to deceive,¹³ to give false hope.¹⁴

There is a famous Arabic proverb:

أنا غرر منك

This phrase is said when someone is deceived by someone, the same meaning is also mentioned in Misbah Al-Lughaat¹⁵ and Al-Qamoos Al-Jadeed.¹⁶

Qazi Ayyaz says that "Gharar" refers to something whose appearance is desirable while its interior is repulsive and undesirable.¹⁷

The result of this meaning is that "Gharar" is the name of deceiving others, because the thing that appears to be good in appearance, the buyer will gladly buy, but in reality, it will contain internal flaws and defects that will deceive him. So Allama Ibn Athir has explained it, he says:

*"Gharar" is that the appearance of a thing impresses and its interior is undesirable, so the buyer is deceived by its appearance because he does not know its interior.*¹⁸

In the Holy Quran, the word "Gharar" is also used in the meaning of "deceit". As Allah(SWT) says:

" يَا أَيُّهَا الْإِنْسَانُ مَا غَرَّكَ بِرَبِّكَ الْكَرِيمِ " ¹⁹

O man! What deceived you about your Lord?

In addition, "Gharar" also comes in the meaning of "risk", risk means a person putting himself or his property in danger, in Al-Manjad:

"Putting yourself in danger is called "Gharar"²⁰."

From the above-mentioned details, it is known that "Gharar" is used literally in three senses:

1. Beguile, Deceive, Cheat, Delude
2. Lure, Entice, Tempt
3. Uncertainty, Danger, Peril, Jeopardy, Hazard

Terminological Definition:

In jurisprudential terms, "Gharar" refers to a matter whose outcome is unknown. It is defined as the English word (Uncertainty). Different jurists have explained this meaning in different ways. Below are the definitions of "Gharar" according to different jurists. Allama Sarkhsi says:

*"Gharar" is a matter whose end is hidden.*²¹

Allama Ibn al Humam says:

*"Gharar" is a matter whose outcome is hidden from you.*²²

Allama Kasanisays:

*It is called a case based on risk in which both existence and non-existence are equal, that is, there is doubt (in the sale or not).*²³

Allama Dasoqisays:

*"Al-Gharar" is the hesitation between two matters, one thing is the achievement of the purpose and the other is the opposite.*²⁴

Allama Qarafisays:

*The reality of "Gharar" is that it is a matter in which, one does not know whether the sale will take place or not, like birds in the air and fish in water.*²⁵

Imam Malik has explained the same thing in another way in Al-Mu'ata, he writes:

The sale of what is in the stomachs of females from women and animals is also included in "Risk" and "Gharar" because he does not know whether a child will be born or not, if it is born, it is not known whether it will be beautiful or ugly and whether it will be perfect or imperfect, whether it will be male or female and the price gets change from these factors.²⁶

The result of all the above definitions is that "Gharar" refers to a matter whose outcome is uncertain. However, this concept has been explained by Allama Ibn Batal most simply and excellently, because the meaning of uncertainty is easily understood from these words. However, the definition given by Allama Sarkhsi is the most comprehensive. The word of this meaning (Uncertainty) has been used in English.²⁷

The effect of uncertainty "Gharar" in "Ijarah" and legal judgment according to comparative jurisprudence

According to the four imams and jurists, the contract of "Ijarah" is a valid and legitimate contract, while Hasan Basri, Abd al-Rahman bin Al-Asim, Ibn 'Alaih, Allama Qashani, Allama Nahrwani, and Allama bin Kaisan think that the contract of Ijarah is not permissible. That is to say since it contracts a benefit that is currently extinct, it has the first aspect of uncertainty "Gharar". Ibn Qadama writes:

*The scholars of every era and every city have a consensus that the contract of "Ijarah" is permissible, however, it is narrated on the authority of Abd al-Rahman bin Al-Asim that he said that this contract is impermissible because there is uncertainty "Gharar" in it.*²⁸

By it, he means that it contracts on profits that have not yet been generated.

Allama Ahmad al-Murtaza writes:

*.The legality of the contract of "Ijarah" is proved through the Holy Qur'an, Sunnat of the Holy Prophet (PBUH) and unanimous consensus of the Islamic Jurisprudents. However Allama Hasan Basri, Abdul Rehman bin Asim, Niharwani, and Ibn-e-Kesan have denied its legality because it is a sale of extinct.*²⁹

But most Islamic Scholars have denied this concept. According to Allama Ibn-e-Qadama that the contract of "Ijarah" is proved through Islamic jurisprudence due to dire need, however, it is not credible that "Gharar" is found in "Ijarah" because in "Ijarah", the contract is based on the profit and it is not possible to occur contract after the profit has been generated, because the profit ends as soon as it is generated, so it is necessary to occur the contract before the profit comes into existence.

As in sale agreement in advance (Bai Salam), is contracted before the things come into existence, so Ibn Qadama says.

It is not correct, it is not contrary to the holding of the consensus which has prevailed in the cities. And what he has mentioned about uncertainty "Gharar", he has not paid attention to what we

have mentioned of the dire need, because the contract on the benefits is not possible after its existence. After all, it is destroyed by the passage of time, The contract of "Ijarah" must have occurred before profit existence like a sale agreement in advance payment.³⁰

Allama Ahmad al-Murtaza answers as follows:

*Because the profit at the time of need is also like Physical assets (Aayan) and the opposition of those who disagree is not valid because the consensus of the people before them is valid and it cannot be hypothesized in the presence of the holy text.*³¹

Allama Ibn Rushd al-Hafid says taking another approach to the answer:

*Although the profits are extinguished at the time of contract within Ijarah, their receipt is dominant and the Shariat considers the profits to be dominant or both their receipt and non-receipt are equal.*³²

It is clear from the above description that there is no aspect of uncertainty "Gharar" in contact of "Ijarah" and it is not correct to assume the term "Gharar" by presuming the extinction of profit on the sale. Especially for the reason that the assets are such things that can be found at the time of sale, but still, if they are not present but are extinct, then it is a presumptive requirement to order invalidity on this matter while the existence of profit in the contract of "Ijarah" is not possible at the time of contract, therefore, declaring its existence as necessary at the time of contract and ordering the sale of "extinct items" on "Ijarah" in the absence of profit is not known as valid speculation.

Effects of uncertainty "Gharar" upon "Ijarah"

The validity of uncertainty "Gharar" in the "Ijarah" will be discussed to:

- Impact of uncertainty "Gharar" in contract form (Segha-e-Aqd)
- Impact of uncertainty "Gharar" in the subject-matter of contract (Mahal-e-Aqd)

Impact of uncertainty "Gharar" in contract form (Segha-e-Aqd)

The difference between the effectiveness of Uncertainty "Gharar" in the form of a contract of "Ijarah" and the effectiveness of uncertainty "Gharar" in the form of a contract of sale is that neither the hanging of the sale is permissible nor to attribute it to the future, while the hanging (on another act) of the contract of "Ijarah" is not permissible, but it can be attributed to the future.³³ And one of the contracting parties can say to the other that our contract of "Ijarah" will be held from such and such a month, while this cannot be done in the case of a sale, because the ownership in the sale is simultaneously transferred, while in the case of "Ijarah" the profits of a leased object are transferred from time to time.

It comes to know that uncertainty "Gharar" is found in both the mentioned cases of sale. Whereas in one case of "Ijarah", there is uncertainty "Gharar" but in the other case, the element of uncertainty "Gharar" is not included, therefore it is permissible. Allama Qarafi writes about not accepting the hanging of both the sale and contract of "Ijarah":

*The third category is those cases that accept conditions but do not hang like sale and "Ijarah". Therefore, their hanging is not valid, for example, a person says that if "A" came, I sold this thing to you or gave it to you on "Ijarah", and the reason for its invalidity is that the transfer of ownership is hung on consent and consent is found in determination while there is a contradiction between determination and hanging (on another act).*³⁴

Allama Haskafi says while mentioning the justification of "Ijara" towards the future:

*And the benefit is also known by specifying the period, such as housing for such a period or giving on agriculture for such a period, whatever that period may be and how long it may be, and even if it extends to the future as if a person says: I have leased this thing to you from tomorrow.*³⁵

Allama Ibn Qudama says:

*It is not necessary for a contract of "Ijarah" that its period begins with the contract, but if a person contracts to start the "Ijarah" from the fifth year even though he is still in the third year, or in the month of Muharrum, the contract starts from Rajab. According to Shawfi, this contract is valid and this is the opinion of Imam Abu Hanifah.*³⁶

However, Shufa' has divided Ijarah into two types:

1. "Ijarah" Ali Al-Ain (Giving something on rent "Ijarah").
2. Ijarah Warida Ali Dhamma (Taking responsibility of a person for a certain action).

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According to them, it is correct to attribute to the future in Ijarah Warida Ali Dhamma (Taking responsibility of a person for a certain action), but it is not correct in "Ijarah" Ali Al-Ain (Giving something on rent "Ijarah"). So AllamaNawi says:

It is permissible to delay the profit in "Ijarah fi-dhammah"(Taking responsibility of a person for a certain action), as if a person says, "I take it upon myself to carry your goods, and I will take them to Makkah at the beginning of such and such a month," but it is not permissible to attribute "Ijarah Ali-ul-Ayn"(Giving something on rent "Ijarah"), towards the future.³⁷

Its reason is stated that liability is a sort of debt, which accepts delay but it may not be correct in physical assets.³⁸

opinion of Allama Ibn-e-Hazam

Allama Ibn Hazm's opinion is that attribute of any kind of "Ijarah" towards the future is not permissible, but it is necessary that as soon as the contract is completed, the lessee immediately gets the right to use the thing, and there should be no delay.

Allama Ibn Hazm writes:

It is not permissible to stipulate the delay of the rented thing or the delay of the work rented for two parties or more. This is because it is a condition that is not in the Book of God, so it is void.³⁹

In his point of view, there is an uncertainty "Gharar" found in it by imposing a condition of delay, no matter how short time the condition is for, but if there is a delay without making a condition, then there is no harm in it.

It becomes clear from the above explanation, that the ownership of the seller is simultaneously transferred within the sale, while the existence of the profit of the leased item is not possible at the time of contract, but arises from time to time. It seems that there is no profit even in normal circumstances at the time of the contract. Therefore, it is not against the reality of "Ijarah" to attribute it to the future. Also, there is a need to do this within the "Ijarah" contracts that are widely used nowadays, so in our opinion, the argument of the majority of jurists is preferable and more viable.

Impact of uncertainty "Gharar" in the subject matter of the contract (Mahal-e-Aqd)

There is no difference between the sale and "Ijarah" in terms of the effectiveness of uncertainty "Gharar", so the conditions that were imposed for the solution of uncertainty "Gharar" in the contract of sale, these conditions must also be found in the contract of "Ijarah" which are as follow:

1. Determination of wages.
2. Determination of profit.
3. Determination of duration.
4. Being able to deliver the leased item.
5. Not being ignorant of the existence of the thing leased.
6. Ownership of the leased thing.
7. Possession of the leased thing.
8. The leased thing should be such that it generates profit through its remains existence.

Knowing the wages and benefits

It is also necessary to know both the wages and the profit within the lease, Allama Haskafi says:

And it is required that both wages and profits be known, for ignorance of them leads to mutual strife.⁴⁰

Allama Ibn Rushd al-Hafid writes:

it is a consensus of the Jurisprudents of Fiqah Maliki, Abu Hanifa, and Shafi that it is a condition for legality of a contract of "Ijarah" that amount of payment and profit must be determined.⁴¹

In the same way, if the period is specified in the contract of "Ijarah", it must be known and determined, and if the contract of "Ijarah" is attributed to future "Mozaf ELA-Mustaqbal", i.e. it has been determined that the contract of "Ijarah" will start after some time, then, in this case, it is important to determine the period of the commencement of the contract of "Ijarah" in practice⁴².

Trivial ignorance is tolerable

From the mentioned details, it is known that the wage, profit, and period must be known and determined, therefore, if ignorance is found in them, then the contract of "Ijarah" will not be permissible because it is a cause of uncertainty "Gharar", however, if the ignorance is minor, it will be permissible. If it is tolerated and does not lead to mutual conflict, then it has been declared legitimate based on the need of the people. Therefore, the presence of such a defect will not invalidate the contract. AllamaNawi says:

*The Muslims unanimously agreed on the permissibility of things in which there is a trivial uncertainty "Gharar".And they unanimously agree on the permissibility of renting a house, animal, clothing, and the like for a month, Although the month is sometimes thirty days and sometimes twenty-nine days. Thus, it is also agreed that it is permissible to bathe in the bath shop on payment of wages, although the habits of the people regarding the use of the water and staying in the bath are different. Likewise, the justification of drinking water from the waterskin on payment of wages with ignorance of the amount of the drink is also agreed upon, although it is not known how much water the other person will drink in return for this wage, and people's habits in water are different (some drink less and some drink more, while the wage is the same for both).*⁴³

Allama Abdul Rahman al-Jaziri writes:

The principle is that it is not permissible, but it has been declared legitimate due to the need of the people, such as entering the bath shop on payment of wages. ⁴⁴

Modern cases of validity of the contract of "Ijarah" with minor uncertainty "Gharar"

Taxi or rickshaw fare by meter

Nowadays in big cities, it is common practice to hire taxis and rickshaws for inter-city travel. One of the cases is that there is a meter installed inside the vehicle on which the fare is recorded according to the journey, when the journey is completed, the fare is displayed on the meter which is paid by the renter. In such a journey, initially, none of the parties knows how much the total rent will be, so the presumption is that this contract of "Ijarah" is illegal because the wages are unknown, but since ignorance of the wages is not a cause of mutual dispute because both of them agree that the amount of fare that the meter shows will be the same amount of fare for this trip, so it is permissible to take a taxi or a rickshaw, etc. based on the meter.⁴⁵

Determination of wages as per percentage.

nowadays, it is common practice to fix wages as a percentage (commission). For example, estate agents typically charge a commission of one or two percent to the buyer and seller for their services.

In such cases, presumption requires that these contracts are not permissible because the amount of action and wages are not specified. For example, in the case of an estate agency, the parties do not know how much the agent will have to do effort the sale of a particular house and also do not know how much it will sell for, so the wage is unknown based on the sale price. But since the ignorance found in these cases does not lead to mutual conflict, nowadays, such cases are very frequent and people need it day by day, so the jurists have declared it permissible.

Allama Ibn Abidin says:

*In "Hawi" Muhammad bin Salama was asked about the wages of the broker, and he said, "I hope there is nothing wrong with it, although it is illegal originally, but because of the many interactions, this contract is permissible." Many other similar matters are impermissible according to presumption but have been made permissible based on the need of the people, such as the wage for entering the bath shop.*⁴⁶

Participation Fund

One form of percentage wage is sharing in the entrepreneur's profit. The result of this case is that the entrepreneur also gives some percentage of his profit to the employee (laborer). For example, a person hires someone in his business on the condition that in addition to this salary, five percent of the profit will also be given and this amount will also be considered as part of the wages. Generally, businessmen take this form to develop their business more because by doing so, the employee puts more effort to develop the business. There are two ways in which the employee can share in the profits-

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First case

In the first case, the entrepreneur gives some amount of profit to the employee as a reward and this reward is not fixed between them in advance. This situation is permissible because it is a reward given by the owner, so if the employer does not give this reward at some point, the employee neither has the right to demand nor can take legal action.

Second case

The second case is that there is a formal agreement between the employer and the employee that at the end of the month, apart from the salary, some part of the profit, for example, five percent, will be paid to the employee. In this case, this amount will be considered part of the wages. so if the employer does not give this percentage at some point, the employee will have the right to take legal action.

In the said case, though there is ignorance, but since fixing the wages based on percentage does not lead to mutual conflict, therefore this case is also permissible.

The demand of the seller for a specific amount

The result of this situation is that a person makes someone as an agent to sell something and instead of giving a fixed payment to this agent, he says that I want this price. If he sells for more than it, the extra amount will be your wages.

Generally, in the estate agency business it is seen that people who sell their property, etc. demand from agents that we need so many lakh rupees for this house if you sell more than the said amount, the extra will be yours.

There is a difference of opinion in its shari'a judgment. The opinion of Hazrat Ibn Abbas, Ibn Sireen, Shaabi, Zuhri, Imam Ahmad Bin Hanbal, and Imam Ibn Taymiyyah is that this situation is permissible. Sahih al-Bukhari has⁴⁷:

*Ibn Abbas says that there is nothing wrong with a person telling another to sell this cloth and whatever is more than the fixed price will be yours. And Ibn Sirin says that if someone said to another If you sell this thing for such amount, the profit that is more than fixed amount will be yours or it will be between us. So there is no problem in doing this because the Messenger of Allah ﷺ said that Muslims are bound by their conditions.*⁴⁸

Imam Ahmad bin Hanbal and Ishaq declare it permissible while describing it as similar to "Mudarabah".

*If he says: "Sell this for ten, and more than that, it is yours." The sale is valid, and the agent has an extra amount than the fixed one. Ahmad stipulated it and said: "Is it something other than "Mudarabah"? and it is the saying of Ishaq and others.*⁴⁹

But the majority of jurists, including the three Imams (Imam Abu Hanifa, Imam Malik, and Imam Shafi'i), have declared this situation illegitimate. Allama Aini says:

*And among those who dislike Al-Thawri and Al-Koufyun, Al-Shafi'i and Malik said that it is not permissible.*⁵⁰

Hafiz Ibn-e-Hajar says:

*This is also a form of giving a wage to a broker, but the wage is unknown in it, therefore, it has been declared illegitimate by the jurisprudents.*⁵¹

Keeping the above arguments in view, our opinion is that the opinion of the majority of Jurisprudents (Jamhoor) is preferable (Rajah), that is, this situation should be illegitimate and there are a few reasons for the opinion of Jurisprudents (Jamhoor) is preferable (Rajah) and its illegitimacy:

1. In the above case, not only the salary is unknown, but also uncertain, even sometimes the agent has to compensate for the loss on his behalf. So there is a defect of uncertainty "Gharar" due to ignorance of wage.

2. It is also not correct to assume the above situation on "Mudaraba", because, in the case of no profit or loss in Mudaraba, the effort of the "Mudarib" and the profit of the owner are lost while in this case, if the thing is sold for the same price, then the owner gets a profit, but the "Mudarib" loses his wages, and if it is sold at a lower price, then the "Mudarib" would pay the remaining part of the price. So it is as if the profit of the owner is certain in all circumstances, while the salary of the wage earner is subject to uncertainty, while

in the case of "Mudarabah", the profit of the owner himself is not certain. Therefore, it is not correct to assume the above situation on "Mudarabah" as there is a clear difference between the two.

Conclusion

The below-mentioned important points have evolved out of the above-stated research:

- The opinion of four Imams and the Majority of Ulama about the reality of "Ijarah" is that it is a legal contract, although it was not clear before.
- The aspect of Uncertainty (Gharar) is not found in "Ijarah", So it is not correct to assume uncertainty "Gharar" in "Ijarah" by presuming the loss of profit based on purchasing of non-existence.
- It is necessary to know and determine the wages, profit, and period in the contract of "Ijarah", so if ignorance is found in them, the contract of "Ijarah" will not be valid, because ignorance is the cause of uncertainty "Gharar", however, if the ignorance is minor which is tolerable and does not lead to mutual quarrels, then it is justified due to the need of the people. The presence of such a defect will not invalidate the contract.
- It has become clear from the lying study that to avoid uncertainty the lessor must be able to hand over the thing to the lessee even if the lessor is not able to hand it over to the lessee, "Ijarah" will not be correct.

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