

# The Analysis Of Al-Shāfi‘ī And Al-Ṭahāwī’s Views To Resolve Contradiction In Ḥadīths About Retaliation For A Loss Caused By A Dumb Animal

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## Abstract

Early Muslim theologians, al-Shāfi‘ī (d204/820) and al-Ṭahāwī (d321/933) have discussed contradictory Ḥadīths in their books *Ikhtilāf al-Ḥadīth & Sharah M’āni al-Athār* and tried to resolve their contradiction. There are contradictory Ḥadīths about the retaliation for a loss caused by a dumb animal. Both the theologians have discussed it in their books. The objective of this article is to highlight the approaches and methodologies used by them to resolve contradiction regarding the Ḥadīths about the matter. For this purpose, the discussions of both scholars have been comparatively analyzed. Both scholars differed with each other about the status of the contradictory Ḥadīths. According to al-Shāfi‘ī there is no any contradiction between them. Both kind of Ḥadīths explain each other. But according to al-Ṭahāwī first Ḥadīth has been abrogated by the second.

**Keywords:** Islam, Contradictory Ḥadīth, retaliation, loss, dumb animal, al-Shāfi‘ī, al-Ṭahāwī.

## 1. Introduction

Sunnah, the main source of guidance after the Qurān, has been transferred to the next generations through Ḥadīth. The saying, deed and tacit approval of the Prophet (peace and blessings be upon him) are called Ḥadīth. Moreover, the sayings and religious acts of the companions of the Prophet are also considered Ḥadīth. The Prophet (peace and blessings be upon him) brought many changes in the society. He (peace and blessings be upon him) also gave verdicts of the matters and introduced a lot of things in life

gradually. But we find some contradictory Ḥadīths in the books compiled by the muḥadthīn. This contradiction creates much confusion and problem. It has been reported that the Prophet Muhammad (peace and blessings be upon him) said, “I have forbidden you to visit the graves, now you are allowed to do so.”<sup>1</sup> But sometimes, we get confused to know there are three different Ḥadīths in which the Prophet (peace and blessings be upon him) made ablution (Wudhu) by washing some of the organs of his body once,

<sup>1</sup> Muslim ibn Ḥajjāj, *Ṣaḥīḥ Muslim*, I, 203, (no 2564), (kitāb al-Janayz, bāb istezān al-nabi rabbahu.). Abū Dawūd, *Sunan*, 322, (no, 1795), (kitāb al-janayz, bāb

fi ziyārat al-qubūr). Nesāi, *Sunan*, 234 (no, 876), (kitāb al-janayz, bāb fi ziyārat al-qubūr).

twice and thrice.<sup>2</sup> The Muslim scholars of *Ḥadīth* addressed this issue and derived different principles from the *Ḥadīths*, to resolve the problem. There are three solutions of these contradictory *Ḥadīths* that have been described in the books of hadith sciences: Nullification, Preference and compatibility. If there is any evidence of abrogation in the hadith that will be set aside and the abrogating hadith will be selected to act upon accordingly. If it is not determined then anyone of the hadiths will be preferred over the other with the help of any argument. If there is no any evidence of preference then they will be applied on different situations to act upon them. Al-Shāfi'ī (d204/820) and al-Ṭahāwī (d321/933) have discussed and analyzed this issue in their books in early age.<sup>3</sup> In this article, the matter of retaliation for a loss caused by a dumb animal has been discussed and analyzed. The reason of selecting the topic is that there is much need to overcome the situation if animal of somebody damages anyone's property they began to fight and curse each other. There should be clear sharia ruling to solve their disputes.

## 2. Methodology

Comparative method of research has been applied to conduct the research. The texts of both the scholars from their respective books have been selected analyzed and discussed.

## 3. Literature Review

The science of *ḥadīth* came into being in the era of Holy Prophet (PBUH). The science of

contradictory *Ḥadīth* also started in early age of Islamic Sciences. There erupted many misunderstandings regarding the true interpretation of *ḥadīth* which were settled by the companions of the Holy Prophet (PBUH). Proper rules were designed to meet the situation in the 2<sup>nd</sup> century after the migration of the Holy Prophet (PBUH). Al-Shāfi'ī's book *Al umm* (الأم) comprises the subject contradictory *ḥadīth* and describes the rules and methods to handle it. It is the first and primary source of this science. Al-Shāfi'ī resolved the issue of contradictory *ḥadīth* by giving the practical examples in his book *Ikhtilaf-ul-Ḥadīth* (اختلاف الحديث). The rules which can be derived from his book are compatibility, abrogation and preference. He has tried to finish the contradiction of some of the *aḥadīth* by compatibility and some others by using abrogation and preference. A thesis has been written in al-Jamia Al-Islamia Gaza by Mahmood Sidqui Al-Haba'sh under the supervision of Dr. Na'fiz Hussain Hamma'd entitled *الموازنة بين منهجي الإمامين الشافعي وابن قتيبة من خلال كتابيهما اختلاف الحديث و تأويل مختلف الحديث* in 2001. In this thesis the rules to settle down the contradictory *ḥadīth* have been narrated. After giving the account of Imam Al-Shāfi'ī and Ibn e Qutaiba the researcher has described the methodology and style of both the scholars. He has derived some rules from the books of learned scholars.<sup>(4)</sup>

Imam Ibn e Qutaiba's *Taweel o Mukhtalif-ul-Ḥadīth* is also basic source of the science. He addressed The Mu'tazelits's objections against *Ḥadīth* and answered them in intellectual manner. It was the early age of Philosophy and Logic that was the organ of the Mu'tazelits. He has

<sup>2</sup> Al-Shāfi'ī, *Ikhtilāf al-Ḥadīth*, 11, (bāb al-Ikhtilāf min jehat al-mobāh)

<sup>3</sup> A.C. Brown, Jonathan, *Ḥadīth: Muhammad's Legacy in the Medieval and Modern World*, (Foundations of Islam). (England: One world Publications, 2009), 166.

<sup>4</sup> Mehmood Sidqui al- Habba'sh, (2001) *الموازنة بين منهجي الإمامين الشافعي وابن قتيبة من خلال كتابيهما اختلاف الحديث و تأويل مختلف الحديث*, Page 388 , available at

(<http://riyadhalelm.com/play-8058.html> , dated

discussed the questions raised by the Mu'tazelit and answered them with arguments from Qur'an, Sunnah and common sense. Abu Yaḥya Zakria bin Yaḥya Assajī (٣٠٧ H) also contributed by writing the book *Ikhtilaf-ul-Ḥadīth*. He mentioned some of the contradictory aḥadīth and discussed them according to his circumstances. Abu Jafar Muhammad Bin Jarir Ṭabri wrote *تهذيب الآثار و تفصيل الثابت عن رسول الله من الأخبار* and discussed the chain (sanad) of ḥadīth telling about the narrators and reported about the authenticity of ḥadīth and contradiction of the scholars of ḥadīth sciences. He also tried to clear the ambiguities in ḥadīth literature that causes the differences.

Different scholars played their respective role afterwards and made their contributions in this regard, but Imam Abu Jafar Al-Ṭaḥāwī's services are notable in shape of his books *Sharah Ma'ni ul Athār* and *Mushkil-ul-Athār*. He discussed aḥadīth which have problems relating to difficult and ambiguous meanings in his book *شرح مشكل الآثار*. He has interpreted the problems with the help of Quranic verses, aḥadīth and original Arabic perspective. He narrated the aḥadīth with his own chain (sanad) and solved the matters in a very easy and solid way. Al-Ṭaḥāwī (RA) addressed the contradictory ḥadīth and settled them first of all by abrogation then preference and lastly by compatibility in *Sharah Māni al Athār*.

Abu Suleman Muḥammad Bin Muḥammad al-Khatābi has partially discussed the contradictory ḥadīth in his book *معالم السنن* which is the explanation of Al-Sunan Abi Dawood. He has explained the differences of the aḥadīth reported by Imam Abu Dawood and made them practicable by conformity. For example he described the aḥadīth reported about to take bath on Friday. Some traditions show that it is imperative to take bath on Friday but some others show that it is the choice of a person not

compulsory. He tells that the traditions having the order of bath cannot be applied on imperative but on choice.<sup>(5)</sup>

All these researchers study only basic rules but not its implications in detail except Meḥmood Sidqui al-Habbash. He has given examples from the books of Al-Shāfi'ī and Qutaiba about *Mushkil-ul-Ḥadīth* and *Contradictory ḥadīth*. Similarly Abdul Aziz has discussed the problems of *Mushkil-ul-Ḥadīth* not the contradictory ḥadīth.

The research in this article is novel and it is the study of the two scholars ie Imam Al-Shāfi'ī and Al-Ṭaḥāwī's views in the perspective of modern approach. The common issue has been selected from the books of the said scholars and highlighted after resolving the contradiction in scholarly manner.

#### 4. Research Problem

Sometimes, the animal of somebody damages the person or his property and the quarrel between the two parties occur that causes the disturbance for the society. There should be clear sharia ruling to solve such disputes. There are different prophetic traditions about the matter. There is need to know how the scholars of early age resolved this kind of contradiction?

#### 5. Discussion about the Retaliation for a Loss Caused by a Dumb Animal

There are different prophetic traditions about the retaliation of the loss caused by a dumb animal reported by the companions of the last prophet Muhammad (ﷺ). Some prophetic traditions show that there is no any retaliation of the loss done by a dumb animal but some others show that the owner of the animal is responsible to pay the retaliation of the loss. Imam al-Shāfi'ī (d204/820) has described this matter in his book and mentioned these prophetic traditions and

<sup>5</sup> Abu Dawood, Sulemān Bin Ashath,(1932) *Ma'ālim us Sunan, Kitāb-u-Taharah, Bāb Fil Ghusl e Youm ul Juma, Matbat-ul-Ilmia, Ḥalb, vol. 1. P. 105*

conciliated them in such a way that both are applicable.

First Ḥadīth that has been reported by al-Shāfi'ī, shows that there is no any retaliation of the loss caused by a dumb animal. Ḥadhrat Abu Huraira says that The Messenger of Allah (ﷺ) said

الْعَمَاءُ جَزَحُهَا جُبَارٌ<sup>(6)</sup>

No retaliation is payable for a wound caused by a dumb animal.

On the other hand S'ad bin Samḥia reports that Bara bin A'zib's camel entered in the field of a man and spoiled the crop. This case was decided by the prophet Muhammad (ﷺ) that the owner of the field is responsible to guard it at day time and owner of the cattle is responsible to pay retaliation for the loss caused by them at night.

(7)

After reporting both Ḥadīths, al-Shāfi'ī says that there is no any contradiction between these Ḥadīths. The first ḥadīth looks common by its words but it is specified in its meanings. Its specified meaning is shown in the second ḥadīth that is authentic and its reporters are famous. When the prophet decided about the case of loss caused by the camel of Bara bin A'zib and made the owner of the animal responsible for retaliation at the time of night and did not make him responsible at day time. It shows that there are different situations of the matter and orders of retaliation will be applied according to the situation. Both the Ḥadīths are applied on different situations and made applicable to resolve their contradiction. According to al-Shāfi'ī, the owner of the animal will pay

retaliation when it is in his custody and will not pay if it is not in his control.

He further explains that there is an example in Ḥadīth that the Prophet Muhammad (ﷺ) forbade to propose any girl while she is already proposed by another man. On the other hand, Fatima consulted the last prophet (ﷺ) about the proposals of Mu'avia and Abu Jaham and the Prophet (ﷺ) gave proposal of Osamah and got her married to Osamah. It means that second proposal is forbidden in the presence of first one. Another example has been given by al-Shāfi'ī that it is forbidden commonly to offer prayer after AṢar and Fajar by the Prophet (ﷺ) but at the same time, he (ﷺ) orders the man who forgets his prayer to offer it when he remembers. The man who does ṭawaf is allowed to offer prayer any time. It means that there are different situations to act upon both kinds of ḥadīths.

It can be concluded that al-Shāfi'ī has reported only two ḥadīths about this issue but he referred two other examples from ḥadīths to explain the point of view in this chapter and conciliated them by applying them on different situations. These prophetic traditions can be applied on different occasions so there is no any contradiction between them according to al-Shāfi'ī.

### 5.1. Al-Ṭahāwī's Approach

Al-Ṭahāwī has also described the prophetic traditions that Brā bin Āzib said that camel of an ansārī companion entered in the field and spoiled it. The prophet Muhammad (ﷺ) decided to guard the field at day time by its owner and ordered the owner of the animal to pay retaliation of the loss made by the animal at night.<sup>(8)</sup>

<sup>6</sup> Al-Shāfi'ī, *Ikhtilāf al-Ḥadīth*, 11, (bāb Jarḥo al-ajma e Jujār)

<sup>7</sup> فَقَضَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّ عَلَى أَهْلِ الْأَمْوَالِ حِفْظَهَا بِالنَّهَارِ، وَمَا أَفْسَدَتِ الْمَوَاشِي بِاللَّيْلِ فَهُوَ ضَامِنٌ عَلَى أَهْلِهَا

(Al-Shāfi'ī, *Ikhtilāf al-Ḥadīth*, 11, (bāb Jarḥo al-ajma e Jujār)

<sup>8</sup> -Al-Ṭahāwī, *M'ānī al-Athār*, II, 280, (Kitāb al-Jinayāt, Bāb mā aṣābat al-bahaim fi-alail wan-nahār.)

He reports another prophetic tradition from Ḥarām bin sa'd that camel of Brā bin Āzib entered in the crop of a man and spoiled it. The prophet Muhammad ﷺ decided the matter same as above. After describing these two traditions al-Ṭahāwī writes that some scholars have the point of view that there is no any retaliation if the animal makes any loss at day time and if it makes at night retaliation will be paid. This group of scholars gives the mentioned above traditions as argument. Whereas the other group of scholars has the point of view that there is no any retaliation of the loss caused by animal if it is not in the control of his owner, whether it is day time or night. They derive the argument from the prophetic traditions as follow.

حَدَّثَنَا فَهْدٌ قَالَ: ثنا الْحَضْرَمِيُّ بْنُ مُحَمَّدٍ الْحَرَّانِيُّ قَالَ: ثنا عَبَادُ بْنُ عَبَّادٍ قَالَ: ثنا مُجَالِدٌ عَنِ الشَّعْبِيِّ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ «السَّائِمَةُ عَقْلُهَا جُبَارٌ وَالْمَعْدِينُ جُبَارٌ»<sup>(9)</sup>

It was reported to us by Fahad, he said, it was reported to us by al-Ḥadhrami ibn e Muhammad al-Harrāni, he said it was reported to us by Abbād ibn e Abbād, he said it was reported to us by Mujāhid from al-Sha'bi, from Jabir bin Abdullah, he said that The prophet of Allah ﷺ said The retaliation of the loss caused by grazing animal will not be paid and the loss of mine will not be compensated.

حَدَّثَنَا يُونُسُ , قَالَ أَخْبَرَنَا ابْنُ وَهْبٍ , قَالَ: أَخْبَرَنِي مَالِكٌ , عَنْ ابْنِ شِهَابٍ , عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ , وَأَبِي سَلَمَةَ عَنْ أَبِي هُرَيْرَةَ , قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ «الْعَجْمَاءُ جُبَارٌ وَالْمَعْدِينُ جُبَارٌ»<sup>(10)</sup>

It was reported to us by Younas, he said, it was told to us by ibn e Wahāb, he said Mālik told me from ibn e Shihāb, from Saeed bin MoṢayyeb and Abu Salma from Abi Huraira, he said that

the Apostle of Allah ﷺ said, “The loss of dumb animal and mine is not compensated.”

Then al-Ṭahāwī reports eight traditions in the same meaning with different asnād and discusses that these traditions show that the loss caused by any dumb animal will not be compensated. Whereas according to the prophetic tradition reported by Brā bin Āzib the retaliation was imposed on the owner of the animal. Al-Ṭahāwī writes that:

فَنَسَخَ ذَلِكَ مَا تَقَدَّمَ مِمَّا فِي حَدِيثِ أَبِي مُحَيِّصَةَ وَإِنْ كَانَ مُنْقَطِعًا لَا يَكُونُ - بِمِثْلِهِ عِنْدَ الْمُخْتَجِّ بِهِ - عَلَيْنَا حُجَّةٌ. وَمَعَ ذَلِكَ فَإِنَّ الْحُكْمَ الْمَذْكُورَ فِيهِ مَأْخُودٌ مِنْ حُكْمِ سُلَيْمَانَ النَّبِيِّ عَلَيْهِ السَّلَامُ فِي الْحَرْثِ إِنْ نَفَسَتْ فِيهِ الْعَنَمُ. فَحَكَمَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِمِثْلِ ذَلِكَ الْحُكْمِ حَتَّى أُحْدِثَ اللَّهُ لَهُ هَذِهِ الشَّرِيعَةَ فَنَسَخَتْ مَا قَبْلَهَا. (11)

These traditions abrogated the earlier tradition reported by Abi MoḥayyeṢa. Though the tradition reported by Abi MoḥayyeṢa is Munqate' that cannot become the evidence against us according to the first group of scholars. Further, the decision made by the Prophet Muhammad ﷺ has been derived from the decision of prophet Slemon (A S) about the crop that was spoiled by the goats. Then Allah gave the last prophet Muhammad this Sharia that abrogated the earlier one.

The reports of Abu Huraira and Jābir (RA) are later than that of Ḥarām bin sa'd in which the prophet decided the matter according to the decision of Solemon (AS). It means that the decision of the last prophet Muhammad ﷺ about the crop has been abrogated with the ḥadiths reported by Abu Huraira and Jābir (RA) according to al-Ṭahāwī.<sup>(12)</sup> In the beginning, the prophet Muhammad ﷺ made the owner of the animal responsible to pay the retaliation if it made any loss at night because it was his duty to guard it but at day time if it made any loss there would

<sup>9</sup> -Ibid

<sup>10</sup> -Al-Ṭahāwī, *M'ānī al-Athār*, II, 280, (Kitāb al-Jinayāt, Bāb mā aṣābat al-bahaim fi-alail wan-nahār.)

<sup>11</sup> -Ibid

<sup>12</sup> -Ibid

be no retaliation on its owner because the owner of the field is responsible to save his crop. Then he abrogated the earlier order by saying that the retaliation of the loss caused by grazing animal will not be paid.<sup>(13)</sup> It means, this is common order not to pay the retaliation of the loss of animal when it is not in the custody or control of its owner whether it is day or night. If it makes any loss in the custody or control of the owner, the loss will be compensated by the owner. It clears from the discussion that al-Ṭaḥāwī has solved the contradiction of the ḥadīths by identifying abrogation among them. He gives arguments to prove it that the earlier order was derived from the decision made by the prophet Solemon (AS).

### 6. Comparative Analysis

Al-Shāfi'ī has reported two prophetic traditions about the retaliation of the loss caused by dumb animal whereas Al-Ṭaḥāwī has reported twelve prophetic traditions about it.

Al-Shāfi'ī does not consider any contradiction between these two ḥadīths and apply them on different situations but Al-Ṭaḥāwī clearly defines the contradiction among them and resolves it by abrogation.

Al-Shāfi'ī has given the examples from the literature of ḥadīth to strengthen his point of view that these traditions are applied on different situations whereas Al-Ṭaḥāwī has discussed the traditions of the prophet Muhammad peace and blessings be upon him in detail and has not given any other example from the ḥadīth literature.

Al-Shāfi'ī has discussed this issue briefly and given only two prophetic traditions about the matter under discussion whereas Al-Ṭaḥāwī has described this issue with detail and given all the ḥadīths related to the topic.

Both the scholars have discussed the status of the prophetic traditions and authenticity.

### 7. Conclusion

The discussion shows that there is different point of view of both the scholars to resolve the contradiction of the prophetic traditions reported about the loss of dumb animal. Al-Shāfi'ī has resolved the contradiction by applying them on different situations and made them applicable by conformity whereas Al-Ṭaḥāwī has identified abrogation among these prophetic traditions and removed the contradiction. It is also notable that both the scholars are agree that if the animal is in the custody of its owner, the loss of the animal will be paid by the owner otherwise there is no retaliation of the loss.

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<sup>13</sup> -Ibid