



FACULTY OF JURIDICAL SCIENCES

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Property subject to the rules of intestate succession

The scheme of intestate succession applies to the following property of a male intestate, one rudimentary condition for the application of intestate laws (*as stated above*) is that the property should not have been disposed of by a will or testament.

Self-Acquired Property

Self-acquired property has a wide ambit and covers any property which the deceased has not only earned from his salary or earning but also any property he might have received in a form gift or by a virtue of a will. It is irrespective of the fact whether at the time of his death the deceased was a member of an undivided family or not as the deceased has an absolute and exclusive right on his self-acquired property.

Property held by Sole Surviving Coparcener

Though generally, the interest in a joint family property of a *mitakshara* coparcenary does not go by intestate succession but if there is only one coparcener surviving then the joint family property in the hands of the surviving coparcener, after his death shall devolve by rules of inheritance and not by survivorship.

Share obtain on Partition

When a partition of a joint family takes place, each member holds his share as his exclusive property, such property (in the hands of the partitioned members) in the absence of his male issues shall devolve by the rules of inheritance.

Undivided share in Dayabhaga joint family

An undivided share in the Dayabhaga family would be subjected to section 8 of the succession act and will devolve by the rules of inheritance.

Undivided share in Mitakshara coparcenary

The Hindu succession act introduced some major changes in the devolution of interest in Mitakshara coparcenary, therefore when any male dies as a member of the Mitakshara coparcenary, his undivided share in consonance with section 6 will be demarcated by a notional partition and will devolve by the rules of inheritance.

Law governing the rules of Inheritance among Hindus

As stated above the rules of inheritance are those which govern the devolution of property on the death of a person solely on account of relation with his heirs, as per Hindu tenets the Hindu joint family comes first in the line of historic order when it comes to the scheme of inheritance. The

concept of a joint family was somewhat similar to that of a corporate body and the tendency was to sink the individuals in the family. Further, the said regime was primarily based on spiritual efficacy and natural love and affection rather than scientific or rational rules. Other rules pertaining to *stridhan* (women's property) and partial recognition to the status of women in property matters were ancient and medieval and required a major look through, and consequently the Hindu Succession Act, 1956 was enacted.

The Hindu Succession Act 1956 came into force on June 17, 1956, with the primary purpose to amend, codify and consolidate the law relating to intestate succession among Hindus. It brought about some radical and fundamental change in the law governing Hindu succession. The act abrogates all the rules (having the force of law) of succession whether by text or practice applicable to Hindus and supersedes all other laws contained in any central or state legislatures pertaining to Hindu succession. The act provided a comprehensive scheme of inheritance that will be applicable to people governed by both Mitakshara and Dayabhaga school. It shall further be applicable to any person Hindu by religion in any form or development including those who have deviated from the orthodox standard of Hindus and also to converts and reconverts of this religion. Buddhist Jains and Sikhs are also within the ambit of this act and so are their converts and reconverts.

Arrangement of succession and Scheme of inheritance and as per Hindu Succession Act, 1956

The act lays down a set of general rules for the devolution of property of a male Hindu and also specifies the rules governing the determination of shares and portions of various heirs. It provides for separate general rules for the devolution of property of a female dying intestate. The said act is exhaustive and its latter part covers all the exceptions, disqualifications, and special circumstances. The below-given table explains the arrangement of sections in the act:

Provision Of Succession	Dealt Under
Male intestate succession	Section 8-13
Female intestate succession	Section 15-16
Modification and changes in general rule	Section 17
Other supplementary provision	Section 18-28
Category of heirs	Schedule I

Succession of a property of a Male Intestate

All the heirs either related by blood, marriage or adoption are divided into four classes or categories this categorization is primarily based on propinquity in the relationship of the heir with the deceased, though other factors like natural love and affection are also taken into consideration. Further, the rule of agnate over cognate has been retained from the earlier regime.

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2.	Any person male or female, who is intitled to succeed to the property of an intestate under this act is known as –	Heir	Successor	Both	None of these
3.	General rules of succession in case of males are given –	U/s 5	U/s 7	U/s 8	U/s 10
4.	Section 9 provides –	Orders of succession among heirs in the schedule	Distribution of property among heirs in class 1 of the schedule	Distribution of property among heirs in class 2nd of the schedule	Order of the succession among a
5.	Section 12 provides – According to which section property of a female Hindu to be her absolute property –	Order of the succession among agnates and cognates	Computation of decrees	General rules of succession in the case of female hindu	None of the above
		Section 12	Section 13	Section 14	Section 15