



FACULTY OF JURIDICAL SCIENCES

COURSE:

Semester

SUBJECT:

SUBJECT CODE:

NAME OF FACULTY:

Lecture-1



LECTURE 1: Succession to property of male Hindu

Heir

According to [Section 3\(1\)\(f\)](#), 'heir' is any male or female person, who is entitled to receive the property of the intestate.

Intestate

According to [Section 3\(1\)\(g\)](#), a person who dies without leaving behind a will is referred to as intestate.

Related

According to [Section 3\(1\)\(i\)](#), 'related' means the relationship between kin(kinship), which should be legitimate. Illegitimate children shall be deemed to be related to their mother and to one another, and their legitimate descendants shall be deemed to be related to them and to one another.

Son

The expression 'son' can include both a natural born son or adopted son but does not include a stepson or illegitimate child. In [Kanagavalli v. Saroja AIR 2002 Mad 73](#), the appellants were the legal heir of one Natarajan. Natarajan was earlier married to the first respondent, the second respondent was the son and the third respondent was the mother of Natarajan. The first respondent obtained a decree of restitution of conjugal rights but still no reunion occurred between them. The first appellant claimed to have married Natarajan in 1976 and the appellants 2 to 5 were born through them. Natarajan died afterwards. The suit was filed for declaration that the appellants were the legal heirs of the said Natarajan along with respondents 1 to 3, and they were entitled to the amounts due from the Corporation where Natarajan worked. The Court held that a son born of a void or voidable marriage that is declared to be annulled by the Court, will be a legitimate child and would thus inherit the property of his father. A son has absolute interest in the property and his son cannot claim birthright in it. Therefore, 'son' does not include grandson, but does include a posthumous son.

Daughter

The term 'daughter' includes a natural or adopted daughter, but not a stepdaughter or illegitimate daughter. The daughter of a void or voidable marriage annulled by the Court would be a legitimate daughter and thus would be eligible to inherit the father's property. The daughter's marital status, financial position etc is of no consideration. The share of the daughter is equal to that of the son.

Widow

The widow gets a share that is equal to that of the son. If there exists more than one widow, they collectively take one share that is equal to the son's share and divide it equally among themselves. This widow should have been of a valid marriage. In the case of [Ramkali v. Mahila Shyamwati AIR 2000 MP 288](#), it was held that a woman who was in a voidable or void marriage, and that marriage was nullified by the Court on the death of the husband, would not be called his widow and would not have rights to succeed to his property.

If the widow of a predeceased son, widow of a predeceased son of a predeceased son or the widow of a brother has remarried, then she shall not be given the term of 'widow', and will not have the inheritance.

Class II heirs

The Class II heirs are categorized and are given the property in the following order:

- Father
- Son's Daughter's son
- Son's daughter's daughter
- Brother
- Sister
- Daughter's son's son, daughter's son's daughter, daughter's daughter's son, daughter's daughter's daughter
- Brother's son, sister's son, brother's daughter, sister's daughter
- Father's father, father's mother
- Father's widow, brother's widow
- Father's brother, father's sister
- Mother's father, mother's mother
- Mother's brother, mother's sister

If no one from the Class I heirs takes the property, then Class II heirs fall in line to get the property. In [Kalyan Kumar Bhattacharjee v. Pratibha Chakraborty AIR 2010 \(NOC\) 646 \(Gau\)](#), the property fell into the share of the defendant brother named Ranjit, who was unmarried. However, he became traceless and the property was divided amongst two other brothers in equal shares. The plaintiff's brother called Jagadish then executed a will in favour of both the plaintiff and died afterwards. However, the defendants then asked them to vacate the land, contending that *inter alia* that the land has been purchased in the name of three brothers; namely Jagadish, Ranjit and Kalyan, the defendant number 1. It was held that when a Hindu male is unmarried and he dies, and is not survived by a Class I heir, the Class II heirs would get the property.

Similarly, when in heirs in Class III and IV are there, the property would only go to them if no one from the Class II is present.

Class III heirs

This consists of the agnates of the deceased. Class III heirs only inherit the property when none from the earlier classes gets the property.

An agnate is a person who is related to the intestate only through male relatives. An agnate can be a male or a female.

Rules of preference among agnates

- Each generation is referred to as a degree. The first degree is intestate.
- Degrees of ascent mean ancestral or upwards directions.
- Degrees of descent means in the descendants or downwards direction.
- Where an agnate has both ascent and descent degrees, each has to be considered separately.
- An agnate having descent degree will be preferred over the one having ascent degree.
- When two agnates have ascent and descent degrees, the one having lesser number of ascent degrees will be preferred.

Class IV heirs

A cognate (Class IV) is someone who was related to the intestate through mixed relatives, in terms of sex. For example, an intestate's paternal aunt's son is his cognate, but his paternal uncle's daughter will be an agnate.

Therefore, to sum up it can be said that the property of the Hindu male devolves in the following manner:

- First, to the heirs in Class I.
- Second, if there exists no heir of Class I, then it goes to Class II heirs.
- Third, if none from the Class I or II exists, then it goes to the agnates (Class III).
- Fourth, if no one from the earlier three classes exists, then it goes to the cognates (Class IV).

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.			
2.			
3.			
4.			
5.			

Answers: 1-(),2-(), 3-(),4-(),5-()