

Intestate Succession of a Hindu Male

Sections 8–13 of the Hindu Succession Act,
1956 (as amended up to 2005)

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Roadmap of the Session

- Meaning of the word “devolve” (as per Oxford Advanced Learner’s Dictionary)
- Types of property: coparcenary (joint) vs self-acquired or independent
- Section 6 – daughters as coparceners: a watershed moment
- Intestate succession of Hindu males – Sections 8 to 13
- Class I, Class II, agnates and cognates with simple examples
- How succession takes places heirarchially and within a class

Meaning of “Devolve”

- In simple terms, when a **person dies**, his **rights in property pass on to another person** – this is ‘devolution’.
- Legally: the transfer of property, rights or obligations from one person to another, especially on death.
- So, we are really asking: ‘After his death, on whom does the property legally fall, and in what proportion?’

Types of Property in Hindu Succession

- 1. Coparcenary / Joint Family Property
 - – Property held by the Hindu Undivided Family (HUF) under Mitakshara system.
 - – Coparceners have a birth-right in this property.
- 2. Self-acquired / Separate Property
 - – Property earned or acquired by a Hindu in his individual capacity.
 - – He can deal with it as he likes during his lifetime.
- On death, the mode of devolution may differ depending on the type of property.

Section 6 – A Watershed Moment in Indian Personal Law

- Before 2005: Mitakshara coparcenary recognised only male coparceners by birth.
- Hindu Succession (Amendment) Act, 2005: daughters become coparceners by birth, like sons.
- Section 6 gives daughters the same rights and liabilities in coparcenary property as sons.
- Symbolically: a major step towards gender equality within Hindu personal law.

Lawyering: Connecting the Dots & Reading Between the Lines

- In Maths: if $A = B$ and $B = Z$, then $A = Z$ – simple direct logic.
- In Law: we often connect different Acts and sometimes ‘read between the lines’ rather than verbatim.
- Example:
 - – We choose the **Mitakshara system** in Section 6 (not Dayabhaga).
 - – We give **daughters coparcenary** rights by birth.
 - – This aligns with the constitutional goal of equality and hints at Article 44 (Uniform Civil Code).

Case Law Spotlight – Nagammal v. Devarajan (2006), Madras HC

- Post-2005, courts swiftly applied Section 6 to protect daughters' coparcenary rights.
- In Nagammal v. N. Devarajan & Ors. (Madras High Court, 2006), the court recognised daughters' equal rights in ancestral property,
 - – treating them as coparceners by birth at par with sons.
- This case shows how Section 6 is not just theory on paper, but a practical tool for women to claim equal shares.

2005 Amendments Retrospective?

- Prakash v. Phulavati (2015), SC – If father died before enforcement of 2005 Amendments, women wasn't eligible for devolution
- Vineeta Sharma v. Rakesh Sharma (2020), SC – Even if the father died before 2005 amendment, if the daughter is alive during the pendency of suit, she is eligible for devolution and coparcenary rights

Scope of Our Discussion

- We are dealing with '**INTESTATE** succession of a **Hindu male**' – that is, when he dies without making a valid will.
- Relevant provisions: **Sections 8 to 13** of the Hindu Succession Act, 1956.
- To be covered by others:
 - 'Succession of a Hindu female dying intestate' (Section 14, 15 etc.) will be taken by Khushi Malu.
 - 'Testamentary succession' (with a will) is governed mainly by Section 30 – Mahima Athawale will cover that along with 'Deed of Gift'.

Overview – Sections 8 to 13 (Male Intestate)

- Section 8 – General rules of succession in the case of males.
- Section 9 – Order of succession among heirs in the Schedule.
- Section 10 – Distribution of property among Class I heirs.
- Section 11 – Distribution of property among Class II heirs.
- Section 12 – Order of succession among agnates and cognates.
- Section 13 – Computation of degree (nearness or relation among agnates and cognates).

Section 8 – General Rules of Succession (Males)

- Property of a male Hindu dying intestate shall devolve firstly upon:
 - (a) Class I heirs;
- If there is no Class I heir, then upon:
 - (b) Class II heirs;
- If no Class II heir, then upon:
 - (c) Agnates;
- If no agnate, then upon:
 - (d) Cognates.

Class I Heirs – Who Are They?

- Originally 12 categories of Class I heirs in the Schedule.
- After the 2005 amendment, 4 more categories were added – total 16 categories now.
- Examples (not exhaustive):
 - Son, daughter, widow, mother;
 - Son of a predeceased son, daughter of a predeceased son;
 - Son/daughter of a predeceased daughter;
 - Widows of predeceased sons, etc.

Section 9 – Order of Succession

- Among the heirs specified in the Schedule:
 - Class I heirs succeed **simultaneously**, and
 - **To the exclusion of all other heirs.**
- Only when there is NO Class I heir do we go to Class II heirs.
- Within Class II, we move entry-wise – we will see this under Section 11.

Section 10 – 'Mamla ~~Legal~~ Mathematical Hai'

- Section 10 lays down HOW to distribute property among Class I heirs.
- Key idea: all Class I heirs do not always take equal shares – it depends on the category.
- Broad rules (simplified):
 - Each surviving son, daughter and widow takes one share.
 - Multiple widows together take one share.
 - Predeceased children's branches take the share their parent would have taken (per stirpes).
- **If you understand the MATH of shares, you understand Section 10** – no need to cram the language.

Section 11 – Distribution Among Class II Heirs

- Class II heirs are listed in 9 entries in the Schedule.
- Rule: find the FIRST entry that has at least one living heir.
- All heirs in that entry share equally.
- Heirs in the lower entries get nothing if anyone is alive in a higher entry.
- So, in Class II: **the game is not ‘who are you’, but ‘which entry number are you in?’**

Agnates – Section 3(a)

- Agnate: a person related to the intestate by blood or adoption, **wholly through males**.
- Chain of relationship must go male-to-male all the way – **but can include females as the last link**.
- Examples:
 - Father's brother's son (all links through males);
 - Father's brother's **daughter**;
 - Son's son's son.
- No female link can appear in the line of ascent between the intestate and the relative.

Cognates – Section 3(c)

- Cognate: a person related to the intestate by blood or adoption, but **NOT wholly through males**.
- In simple words: at least one link in the chain is through a female.
- Examples:
 - Father's sister's son (link through father's sister);
 - Mother's brother's daughter
 - Sister's son, sister's daughter
- All agnates are relatives, but not all relatives are agnates – others are cognates.

Section 12 – Order Among Agnates & Cognates

- Section 12 tells us HOW to choose between several agnates or several cognates.
- Very broadly (simplified):
 - (1) Prefer the one with fewer degrees of relationship.
 - (2) If equal in degrees, prefer the one with fewer degrees of ascent.
 - (3) If still equal, they share equally.
- It is mostly common sense: **closer relatives** (in degrees) are **preferred** over distant ones.

Section 13 — Computation of Degrees

- Section 13 tells us HOW to compute the degrees of relationship between the intestate and an agnate/cognate.
- Purpose: To apply Section 12 correctly by determining who is CLOSER in relationship.
- Rule 1: Every generation = 1 degree of ascent or descent.
- Rule 2: Count the intestate also while computing degrees.
- Rule 3: Degrees may involve ascent alone, descent alone, or both.
- Closer relative = fewer degrees.

Some Landmark Cases on Sec. 8-13

Concept	Case Law
Nature of property inherited under Section 8	CWT v. Chander Sen (1986)
Class-I excludes Class-II	State of Maharashtra v. Narayan Rao Sham Rao Deshmukh
Distribution rules (per stirpes/per capita)	Bhanwar Singh v. Puran (2008)
Agnates vs Cognates (Sec. 12)	N. Krishnammal v. R. Devi (1995)
How to calculate share of Hindu male dying intestate	Gurupad v. Hirabai (1978)

Recap & How to Use This in Exams

- Step 1: Identify whether it is intestate succession of a Hindu male – then Sections 8–13 apply.
- Step 2: Check for Class I heirs and apply Sections 9 and 10 mathematically.
- Step 3: If no Class I, move to Class II and Section 11 entry-wise.
- Step 4: If no Class II, apply Section 12 for agnates and then cognates.
- Step 5: Use Section 13 to determine closer relative (computation of degrees).
- In answers always mention the specific Section and Rule you are relying on.

How to Use in Drafting (Examples)

- Suits of Partitionary nature are always **better understood as tree diagrams**; rather than statements. In drafting however, they've to be **expressed as words**.
- Plaintiff humbly submits that the partition was in contravention to Section 10, Rule 3 of Hindu Succession Act, 1956.
- The opposite party has incorrectly invoked Class II heirs without exhausting Class I heirs.