

Property Distribution Among the Legal Heirs:

When the father dies intestate: If before dying the father makes a will to declare the distribution of his property among his legal heirs then it happens according and no contention regarding the distribution is entertained, provided that the will is valid. However, if the father dies intestate then the distribution of the property is according to the provisions of the Hindu Succession Act, which divides the heirs in different categories and according they are given preference.

SECTION 8 deals with the general rules of succession in case of males: It states that when a male person dies intestate in the division of the property the prime importance is given to the Class 1 heirs. In the absence of any class 1 heir, the property is then devolved among the class 2 heirs and in absence of them, the agnates are given the share and at last the cognates are considered.

CLASSIFICATION OF HEIRS:

Under Hindu law, heirs are classified into different categories based on their proximity to the deceased and their relationship. The classification is crucial for determining the order of succession in the absence of a valid will. The classification of the heirs between Class 1 and class 2 and between agnates and cognates is given under Section 10, 11 and 12 respectively.

Section 10 – Class 1 heirs. It provides 4 rules for the distribution of property in the class 1 heirs, which include:

Rule 1: Widow or widows of the pre-deceased person.

Rule 2: Sons, daughters and mother of the pre-deceased get 1 share each.

Rule 3: Children of any pre-deceased son or daughter.

Rule 4: Distribution of Share under Rule 3:

In case of pre-deceased son, widow, son and daughter get the share.

In case of pre-deceased daughter, the property is distributed between the son and daughter.

Section 11: Class 2 heirs include a list of relationships which are:

Father

Siblings

Grandfather, grandmother (both maternal and paternal)

Niece and nephew

Uncle and aunt (both maternal and paternal)

Section 12 – Agnates: An agnate is thus a blood relative in the patrilineal (or male) line. Agnation refers to a kinship system in which relationship is traced exclusively through the male line.

Cognates: One person is said to be a cognate of another if the two are related by blood or adoption but not wholly through males.

Inheritance right of the children: According to the Hindu Succession Act of 1956, children who are parents' offspring are entitled to inherit their parents' possessions. Children are therefore considered class-I legal heirs. However, under Hindu law, children's rights vary depending on the kind of property. As previously mentioned, self-acquired property and ancestral property are the two categories

of property under Hindu law. Since parental property is passed down from great-grandfather to grandfather, father, and finally son, children have a birth right to it. As a result, a father cannot take away his children's inheritance rights.

A man with his income also buys property that is not ancestral in nature and thus called self-acquired property. It is up to the father to decide whether or not to gift his kids a portion of his self-acquired property. The father cannot be compelled by the children to give them a share in this property.

Inheritance right of property: Before 2005, daughters were not considered as coparcener in their father's property. Daughters could earlier take a part of their father's self-acquired property, but they had no right in the ancestral property, they could also not ask for partition. But after the Hindu Succession (Amendment) act, 2005, daughters are considered equal as the son. This means that, the daughter gets all the rights attached with coparcenary, including the right to ask for partition of the property and to become a Karta of the Hindu Undivided Family. By virtue of section 6, now daughters have equal rights, shares and liabilities as of that of the son in respect to the property of her father.

Inheritance right of a wife: The wife falls within the category of class 1 heirs therefore in the event of the death of the husband, the wife gets equal share in his property as her children.

Inheritance right of father and mother: Mother comes under the category of Class 1 heirs, which means that she is entitled to equal share in her son's property as the widow and the children of the pre-deceased son. However, father comes under Class 2 category of heirs therefore, the distribution of property after his son's death is according to the provision of the Act keeping in mind whether there is any other legal heir of class 1 category.