

Hindu Family, Adoption and Succession

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1. Hindu family and marriage
2. Adoption and maintenance (HAMA 1956)
3. Succession (Hindu Succession Act 1956)

1 Hindu family and marriage

The traditional Hindu family is a joint family run by a Karta, and Hindu marriage is a *samskara* with eight classical forms; since 1955 the Hindu Marriage Act sets the conditions, rites, void and voidable marriages and divorce, alongside the Special Marriage Act, 1954 and the Dowry Prohibition Act, 1961.

Core facts

- **Joint Hindu family:** members of several generations descended from a **common ancestor**, with one roof, **one kitchen**, joint property and joint worship. The traditional Hindu family is the **joint family** (asked 2026).
- **Karta:** the head who manages the joint family's property, income and affairs on behalf of all; traditionally the **senior-most male coparcener**. He is a manager, not the owner.
- **Coparcenary:** a narrower group inside the joint family that has a **right by birth** in the joint property. **HUF** (Hindu Undivided Family) is the name the law and the **income tax** use for the joint family.
- **Two schools of Hindu law:**

School	Author	Text	Key rule
Mitakshara	Vijnaneshwara	Commentary on the Yajnavalkya Smriti	Son gets a share by birth
Dayabhaga	Jimutavahana	Independent digest	No right by birth; share only on the father's death

- Mitakshara ruled most of India; **Dayabhaga** ruled **Bengal** (and Assam).
- **Eight forms of marriage** (*ashta-vidha vivaha*; "how many?" asked 2023):

No.	Form	What happens	Status
1	Brahma	Father gives the adorned daughter to a learned, well-behaved groom he invites	Approved, the best
2	Daiva	Daughter given to the priest officiating at a sacrifice	Approved
3	Arsha	Father receives a cow and a bull (one or two pairs) from the groom	Approved
4	Prajapatya	Daughter given with the blessing "practise dharma together"	Approved
5	Asura	Groom pays wealth to the bride's kin (bride price)	Disapproved
6	Gandharva	Mutual love and consent of the couple	Disapproved
7	Rakshasa	Bride carried off by force	Disapproved
8	Paishacha	Girl seduced while asleep, drunk or senseless	Lowest

- **Dushyanta and Shakuntala** = **Gandharva** marriage (asked 2023).

- **Saptapadi** (seven steps round the sacred fire) belongs to the **marriage** ceremony (asked 2023). Under **S.7(2) of the Hindu Marriage Act**, the marriage is complete and binding at the **seventh step**.
- **Monogamy** = one man married to one woman (asked 2023). **Polygyny** = one man, several wives; **polyandry** = one woman, several husbands.
- **The Acts and their years** (years asked in every paper):

Act	Number	In force
Special Marriage Act, 1954	Act 43 of 1954	1 January 1955
Hindu Marriage Act, 1955	Act 25 of 1955	18 May 1955
Dowry Prohibition Act, 1961	Act 28 of 1961	1 July 1961
Prohibition of Child Marriage Act, 2006	Act 6 of 2007	1 November 2007

Explained

Family types (sociology terms that are asked).

- **Nuclear** family: husband, wife and unmarried children. **Extended / joint**: several generations or several nuclear families together.
- **Family of orientation**: the family one is born into. **Family of procreation**: the family one forms by marriage.
- **Patrilineal** = descent through the father; **patrilocal** = the wife lives with the husband's family; **patriarchal** = authority with the man. A matrilineal family is **not necessarily** matriarchal.
- **Neolocal** residence: the couple sets up a new home of its own.
- Matrilineal groups in India: **Khasi** (Meghalaya; the youngest daughter, *Ka Khadduh*, keeps the ancestral house), **Garos** (heiress *Nokna*) and **Nairs** (Kerala; the joint house *taravad*, managed by the eldest male, the *karanavan*).
- Marriage is the door from **Brahmacharya** into **Grihastha ashrama**, the householder stage that supports the other three.

The Karta's position.

- Manages the joint property, collects income, meets expenses, represents the family in suits.
- May **alienate** joint property only for **legal necessity** or the **benefit of the estate**.
- Is not bound to account for past spending unless there is fraud; other members can demand **partition** instead.

Hindu Marriage Act, 1955: who it covers (S.2).

- Hindus of every form, including **Virashaivas, Lingayats** and followers of the **Brahmo, Prarthana and Arya Samaj; Buddhists, Jains and Sikhs**; and anyone not a Muslim, Christian, Parsi or Jew.
- Not to **Scheduled Tribes** (Article 366(25)) unless the **Central Government** notifies (S.2(2)).

Conditions of a valid Hindu marriage (S.5).

Clause	Condition	If broken
5(i)	No spouse living (monogamy)	Void ; bigamy punishable
5(ii)	Able to give valid consent ; no unfitting mental disorder	Voidable
5(iii)	Groom 21 , bride 18 completed	Neither void nor voidable; punishable
5(iv)	Not within prohibited relationship , unless custom allows	Void
5(v)	Not sapindas , unless custom allows	Void

- **Sapinda limit (S.3(f))**: 3 generations through the **mother**, 5 through the **father**, counting the person as the first.
- **Prohibited relationship (S.3(g))**: lineal ascendants, the wife or husband of one's ascendant or descendant, a brother's widow, and brother–sister, uncle–niece, aunt–nephew, or children of two brothers, two sisters, or a brother and a sister.

The main sections of the HMA.

Section	Subject
7	Ceremonies: customary rites of either party; Saptapadi binding at the seventh step
8	Registration (State rules) to prove the marriage
9	Restitution of conjugal rights
10	Judicial separation : living apart without ending the marriage
11	Void marriages: breach of 5(i), (iv) or (v)
12	Voidable marriages: impotence, breach of 5(ii), consent by force or fraud, bride pregnant by another man
13	Divorce
13B	Divorce by mutual consent (inserted 1976)
14	No divorce petition within one year of marriage (except exceptional hardship)
15	Divorced persons may remarry once the appeal time is over
16	Children of void and voidable marriages are legitimate
17	Bigamy : the second marriage is void and punishable (now S.82, Bharatiya Nyaya Sanhita, 2023)
18	Punishment for breaking 5(iii), (iv), (v)
24–26	Interim maintenance, permanent alimony, custody of children
28	Appeals: within 90 days

Divorce (S.13).

- **Either spouse, S.13(1)**: adultery; **cruelty**; **desertion for two years**; **conversion** to another religion; incurable unsoundness of mind or serious mental disorder; venereal disease in a communicable form; **renouncing the world** (sannyasa); **not heard of as alive for seven years**.

- **S.13(1A):** no cohabitation for **one year** after a decree of judicial separation or restitution.
- **Wife only, S.13(2):** husband's pre-1955 second marriage; rape, sodomy or bestiality; no cohabitation for one year after a maintenance order; **repudiation:** married before **15**, repudiated after 15 and before **18**.
- **Mutual consent, S.13B:** lived **separately one year or more**; second motion **not earlier than six months and not later than eighteen months** after the petition.

Punishments under S.18.

- Breach of the **age** condition (5(iii)): rigorous imprisonment up to **two years**, or fine up to **₹1 lakh**, or both (as substituted by the Prohibition of Child Marriage Act, 2006).
- Breach of **prohibited relationship or sapinda** rules: simple imprisonment up to **one month**, or fine up to **₹1,000**, or both.

Amendments to the HMA.

Year	Act	Change
1976	Marriage Laws (Amendment) Act (Act 68)	Cruelty and desertion as divorce grounds; S.13B mutual consent
1978	Child Marriage Restraint (Amendment) Act (Act 2)	Ages raised to 21 and 18 (from 18 and 15)
1999	Marriage Laws (Amendment) Act (Act 39)	"Epilepsy" removed from S.5(ii)
2001	Marriage Laws (Amendment) Act (Act 49)	Interim maintenance (S.24) decided within 60 days
2003	Marriage Laws (Amendment) Act (Act 50)	Wife may file where she lives (S.19); appeal time 30 → 90 days
2019	Personal Laws (Amendment) Act (Act 6)	Leprosy removed as a divorce ground
2019	J&K Reorganisation Act (Act 34)	Extends to Jammu and Kashmir

Special Marriage Act, 1954: a civil marriage for anyone.

- Two persons of **any religion** may marry before a **Marriage Officer** without changing religion. Conditions (S.4): no spouse living, valid consent, **21 and 18**, not within prohibited relationship.
- **Notice (S.5):** one party must have lived **30 days** in the Marriage Officer's district. **Objections (S.7)** within **30 days**.
- **Three witnesses** sign the declaration (S.11) and the certificate (S.13). If the marriage is not held within **3 months** of the notice, a new notice is needed.
- **Succession (S.21):** governed by the **Indian Succession Act, 1925**; but if **both** parties are Hindu, Buddhist, Sikh or Jain, **S.21A** keeps the Hindu law.
- **Divorce (S.27)**, mutual consent (S.28), no petition within one year (S.29).

Dowry Prohibition Act, 1961.

- **Dowry (S.2):** property or valuable security given or agreed to be given, directly or indirectly, by one party or their parents to the other, **at, before or any time after** the marriage, **in connection with** the marriage. *Mahr* under Muslim personal law is excluded.

- **Giving or taking dowry (S.3):** at least **5 years** in prison and a fine of at least **₹15,000** or the value of the dowry, whichever is more. Presents given without a demand and entered in a list are not dowry.
- **Demanding dowry (S.4):** **6 months to 2 years** and a fine up to **₹10,000**.
- **S.6:** dowry received by anyone else must be passed to the **wife** within **3 months**.
- Offences are **cognizable, non-bailable and non-compoundable** (S.8). The State Government appoints **Dowry Prohibition Officers** (S.8B).
- Criminal law: **dowry death** (death within **7 years** of marriage, with cruelty for dowry) is **S.80, BNS** (old IPC 304B); cruelty to a wife is **S.85, BNS** (old IPC 498A).

AP angle

- The Telugu districts followed the **Dravida (Madras) school** of the **Mitakshara**.
- **Gurajada Apparao's Kanyasulkam** **(1892) attacked the sale of girls for a bride price, a corrupt form of the Asura** marriage.**
- Andhra Pradesh made the registration of every marriage compulsory by the **AP Compulsory Registration of Marriages Act, 2002**; HMA S.8 alone leaves registration to State rules.

Common traps

X "In Daiva marriage the groom gives a cow and a bull." ✓ That is **Arsha**; Daiva is the gift of the daughter to the **officiating priest**. (The book's description of Daiva is vague; follow Manu.)

X "In Arsha marriage the groom gives a cow or a bull." ✓ **A cow and a bull**, one or two pairs.

X "Gandharva is one of the four approved forms." ✓ The approved four are **Brahma, Daiva, Arsha, Prajapatya**.

X "Asura marriage is marriage by capture." ✓ Asura = **bride price**; capture = **Rakshasa**.

X "The Hindu Marriage Act was passed in 1954." ✓ **1955**; 1954 is the **Special Marriage Act**.

X "The Dowry Prohibition Act was passed in 1954 (or 1952)." ✓ **1961**.

X "A sapinda marriage is voidable." ✓ It is **void** (S.11). Breach of 5(ii) is voidable (S.12).

X "Under-age marriage is void under the HMA." ✓ It is **punishable** (S.18), not void.

X "Desertion must last three years; mutual consent needs two years apart." ✓ **Two years** of desertion; **one year** apart for S.13B.

X "Dayabhaga gives the son a right by birth." ✓ That is **Mitakshara**; Dayabhaga (Bengal) gives a share only on the father's death.

Quick revision

- Joint family: common ancestor, one kitchen, joint property; Karta manages, HUF is the tax name.
- Mitakshara (Vijnaneshwara, Yajnavalkya Smriti): right by birth. Dayabhaga (Jimutavahana, Bengal): on father's death.
- Eight forms; approved: Brahma, Daiva, Arsha, Prajapatya. Dushyanta–Shakuntala = Gandharva.
- Saptapadi: marriage binding at the seventh step (HMA S.7).
- HMA 1955 (18 May 1955); SMA 1954; Dowry Prohibition Act 1961.
- S.5: monogamy, consent, 21/18, prohibited relationship, sapinda (3 mother's side, 5 father's side).
- S.11 void, S.12 voidable, S.13 divorce, S.13B mutual consent (1976, one year apart).
- Desertion 2 years; not heard of for 7 years; no divorce petition in the first year (S.14).
- Leprosy ground removed 2019; appeal time 90 days (2003).
- Dowry: giving/taking at least 5 years and ₹15,000; demanding 6 months to 2 years.

2 Adoption and maintenance (HAMA 1956)

The Hindu Adoptions and Maintenance Act, 1956 says who may adopt, who may give and who may be taken in adoption, what makes an adoption valid and what it does, and who must maintain a wife, children, aged parents and a dead person's dependants; adoption of orphan, abandoned and surrendered children of any religion runs separately under the Juvenile Justice Act through CARA.

Core facts

- **Act:** Hindu Adoptions and Maintenance Act, **1956** (asked 2022 and 2023), **Act 78 of 1956**, in force **21 December 1956**. Part of the **Hindu Code** with the HMA 1955, HSA 1956 and the Hindu Minority and Guardianship Act 1956.
- **Classical reason for adoption:** to **continue the family line** and have a son to perform the **funeral and ancestral rites** (*pinda-pradanam*) (asked 2026).
- **Applies to:** Hindus (with Virashaivas, Lingayats, Brahmo, Prarthana and Arya Samajists), Buddhists, Jains, Sikhs; not to **Scheduled Tribes** unless the Central Government notifies.
- **Four requisites of a valid adoption (S.6):** the adopter has the **capacity and right** to adopt; the giver has the **capacity to give**; the child is **capable of being adopted**; all other conditions of the Chapter are met. An adoption that breaks the Act is **void** (S.5).
- **Who may adopt:** any Hindu who is **major** (18) and of **sound mind**, man (S.7) or woman (S.8), a son or a daughter.
- **Spouse's consent:** a man needs his **wife's** consent; a married woman needs her **husband's** consent. Consent is not needed if the spouse has **renounced the world, ceased to be a Hindu**, or been declared **of unsound mind** by a court.
- **Who may give (S.9):** only the **father, mother or guardian**. Father and mother have an **equal right**, each with the other's consent. A guardian needs the **court's previous permission**.
- **Who may be adopted (S.10):** a **Hindu**; **not already adopted** (asked 2026); **unmarried**; **under 15**; the last two unless custom allows.
- **Age gap (S.11):** a man adopting a **girl**, or a woman adopting a **boy**, must be at least **21 years older** (asked 2022).
- **Effect (S.12):** from the **date of adoption** the child belongs to the adoptive family for all purposes. A **valid adoption cannot be cancelled** (S.15).
- **CARA: Central Adoption Resource Authority**, a statutory body under the **Ministry of Women and Child Development** (asked 2023), set up under **S.68 of the Juvenile Justice Act, 2015**.

Explained

Adoption, section by section (Chapter II).

Section	Rule
5	Every adoption after the Act must follow this Chapter; otherwise void ; a void adoption gives no rights in the new family and takes none away in the old
6	Four requisites of a valid adoption
7	Male Hindu: major, sound mind; wife's consent (every living wife) unless she renounced the world, ceased to be Hindu or was declared of unsound mind
8	Female Hindu: major, sound mind; husband's consent on the same three exceptions (substituted in 2010)
9	Givers: father, mother (equal right), guardian with court permission
10	Child: Hindu, not already adopted, unmarried, under 15 (custom may allow)
11	No living son or daughter of the same kind; 21-year gap; no joint adoption by two persons; actual giving and taking
12	Effects of adoption
13	Adoptive parents keep the power to dispose of their property by transfer or will
14	Who is the adoptive mother
15	Valid adoption cannot be cancelled; the child cannot go back
16	Registered document of adoption: court presumes it valid until disproved
17	No payment for adoption: up to six months , or fine, or both; prosecution only with State Government sanction

Other conditions in S.11.

- To adopt a **son**, the adopter must have no living Hindu **son, son's son or son's son's son**.
- To adopt a **daughter**, the adopter must have no living Hindu **daughter or son's daughter**.
- The same child cannot be adopted by **two or more persons together**.
- The child must actually be **given and taken** with intent to move it from its birth family (or, for an abandoned child, from where it was brought up). **Datta Homam is not essential**.

Guardian giving a child (S.9(4), (5)).

- Possible when both parents are **dead**, have renounced the world, have **abandoned** the child, have been declared of unsound mind, or the **parentage is unknown**.
- The court (**City Civil Court or District Court** where the child lives) must be satisfied that the adoption is for the **child's welfare**, that the child's wishes were weighed, and that **no payment** was taken.

Effects of adoption (S.12).

- All ties with the birth family are **replaced** by ties in the adoptive family.
- But the child still **cannot marry** anyone he or she could not have married in the birth family.
- Property already vested in the child **stays** with the child.
- The child **cannot divest** anyone of an estate vested before the adoption.

Adoptive mother (S.14).

- A married man adopts: his **wife** is the adoptive mother. With more than one wife: the **senior-most in marriage** is the mother; the others are **stepmothers**.
- A widower or bachelor adopts and later marries: the wife is the **stepmother**. A widow or unmarried woman adopts and later marries: the husband is the **stepfather**.

Maintenance (Chapter III).

- **Maintenance (S.3(b))** = food, clothing, residence, education, medical care; for an **unmarried daughter**, also reasonable **marriage expenses**.

Section	Who is maintained	By whom
18	Wife , for life	Husband
19	Widowed daughter-in-law	Father-in-law, from coparcenary property; ends on her remarriage
20	Children (legitimate or not) while minor; aged or infirm parents ; unmarried daughter unable to maintain herself	Every Hindu, during his or her lifetime
21-22	Dependants of a dead Hindu	Heirs, out of the estate they took, in proportion to their shares

- **Wife's right to live apart and still get maintenance (S.18(2))**: desertion; **cruelty**; another wife living; a concubine; conversion; any other just cause. She loses it if she is **unchaste** or **converts** (S.18(3)).
- In S.20, "parent" includes a **childless stepmother**.
- **Dependants (S.21)** include the father, mother, **widow** (until remarriage), minor sons and grandsons, unmarried daughters and granddaughters, widowed daughter, son's widow, and the **illegitimate** son (while minor) and daughter (while unmarried).
- The court fixes the **amount** at its discretion (S.23); it can be **altered** on a change of circumstances (S.25). **Debts** of the dead person come **before** maintenance (S.26). A convert cannot claim (S.24).

Amendments to HAMA.

Year	Act	Change
1960	Repealing and Amending Act (Act 58)	S.29 repealed
1962	HAMA (Amendment) Act (Act 45)	Abandoned and unknown-parentage children; guardian may give in adoption
2010	Personal Laws (Amendment) Act (Act 30), from 31 August 2010	S.8 : a married woman may adopt; S.9 : mother's equal right to give
2019	Personal Laws (Amendment) Act (Act 6), from 1 March 2019	Leprosy ground in S.18(2)(c) removed
2019	J&K Reorganisation Act (Act 34)	Extends to Jammu and Kashmir

CARA and the Juvenile Justice route.

- First set up in **1990** as the Central Adoption Resource **Agency**; statutory since **2016** under **S.68 of the JJ Act, 2015**.
- Functions: promote **in-country** adoption, help **inter-state** adoption, regulate **inter-country** adoption, frame regulations. It is India's **Central Authority** under the **Hague Convention on Inter-country Adoption, 1993**.
- Online system: **CARINGS** (Child Adoption Resource Information and Guidance System). Current rules: **Adoption Regulations, 2022**.
- The JJ Act covers **orphan, abandoned and surrendered** children and is open to people of **any religion**. Since the **2021 amendment** the adoption order is made by the **District Magistrate** (including an Additional DM), not a court.
- **S.56(3), JJ Act**: the JJ Act does not apply to adoptions under HAMA. **All inter-country adoptions** go through the JJ Act.

Common traps

✗ "HAMA was passed in 1955." ✓ **1956**; the HMA is 1955.

✗ "A child up to 21 years can be adopted." ✓ **Under 15** (S.10); **21** is the **age gap** for adoption across sexes (S.11).

✗ "The age gap must be 18 (or 25) years." ✓ **21 years** under HAMA; 25 years is the JJ Regulations' rule.

✗ "Only married women can adopt." ✓ **Any** major Hindu woman of sound mind; a married one needs her husband's consent.

✗ "A child can be adopted more than once." ✓ The child must **not already be adopted**, and a valid adoption can never be cancelled.

✗ "Datta Homam is essential." ✓ **Not essential**; actual giving and taking is.

✗ "A guardian may give a child in adoption on his own." ✓ Only with the **court's previous permission** (S.9(4)).

✗ "CARA works under the Ministry of Home Affairs (or Education)." ✓ **Women and Child Development**.

✗ "The father has the first right to give in adoption." ✓ Since **2010**, father and mother have an **equal** right.

Quick revision

- HAMA 1956, Act 78, in force 21 December 1956.
- S.6: adopter's capacity, giver's capacity, child capable, other conditions.

- S.7 man needs wife's consent; S.8 woman needs husband's consent (2010).
- S.9: father, mother (equal), guardian with court permission.
- S.10: Hindu, not already adopted, unmarried, under 15.
- S.11: 21-year gap across sexes; giving and taking; Datta Homam not needed.
- S.12 effects from the date of adoption; S.15 no cancellation; S.17 no payment.
- S.18 wife, S.19 widowed daughter-in-law, S.20 children and aged parents, S.21 dependants.
- CARA: Ministry of Women and Child Development; S.68 JJ Act 2015; Regulations 2022.
- JJ adoption: any religion; order by the District Magistrate (2021).

3 Succession (Hindu Succession Act 1956)

The Hindu Succession Act, 1956 decides who takes the property of a Hindu who dies without a will: for a man, Class I heirs first, then Class II, agnates and cognates; for a woman, the Section 15 order; Section 14 made a woman's property her absolute property, and the 2005 amendment (preceded in Andhra Pradesh by a 1986 law) made daughters coparceners by birth.

Core facts

- **Act:** Hindu Succession Act, **1956, Act 30 of 1956**, in force **17 June 1956**. It codified **intestate** succession among Hindus, Buddhists, Jains and Sikhs (not Scheduled Tribes unless notified).
- **Intestate** = a person who dies **without a will** that can take effect. **Heir (S.3(1)(f))** = any person, male or female, entitled to succeed to an intestate's property (asked 2023).
- **Order for a Hindu male dying intestate (S.8):**

Order	Who takes
First	Class I heirs (Schedule), together
Second	Class II heirs , entry by entry
Third	Agnates
Last	Cognates

- If even one Class I heir exists, nobody else takes (asked 2026: the wife, sons, daughters and mother come first).
- **Class I (16 heirs): son, daughter, widow, mother**, and the children and widows of pre-deceased children and grandchildren listed in the Schedule. Twelve were in the 1956 Act; **four** were added in **2005**.
- **Father is not Class I.** He is the first Class II heir (Entry I).
- **Agnate:** related **wholly through males** (father's brother's son). **Cognate:** related through **at least one female** (mother's brother's son).
- **Full blood** = same father and same mother; **half blood** = same father, different mothers; **uterine blood** = same mother, different fathers.
- **Section 14:** property possessed by a Hindu woman is her **absolute property** (full owner, not a limited owner).
- **Section 6 (2005):** a daughter is a **coparcener by birth**, like a son, with the same rights and liabilities.
- **Disqualified heirs:** a **murderer** (S.25) and the **descendants of a convert** born after the conversion (S.26). Disease or deformity does not disqualify (S.28). No heir at all: the property goes to the **Government (escheat, S.29)**.

Explained

The Schedule.

- **Class I, in the Act's order:** son; daughter; widow; mother; son and daughter of a pre-deceased son; son and daughter of a pre-deceased daughter; widow of a pre-deceased son; son, daughter and widow of a pre-deceased son of a pre-deceased son. Added in 2005: son and daughter of a pre-deceased daughter of a pre-deceased daughter; daughter of a pre-deceased son of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased son.
- **Class II:**

Entry	Heirs
I	Father
II	Son's daughter's son, son's daughter's daughter, brother, sister
III	Daughter's son's son, daughter's son's daughter, daughter's daughter's son, daughter's daughter's daughter
IV	Brother's son, sister's son, brother's daughter, sister's daughter
V	Father's father, father's mother
VI	Father's widow, brother's widow
VII	Father's brother, father's sister
VIII	Mother's father, mother's mother
IX	Mother's brother, mother's sister

- "Brother" and "sister" here **exclude uterine** brothers and sisters.

How the shares are worked out.

- **Class I (S.9, S.10):** they take **simultaneously**. The **widow** takes one share (several widows share one); each son, daughter and the mother take one share each; the **branch** of each pre-deceased son or daughter takes one share between its members.
- Example: a man leaves a widow, mother, son, daughter and the widow and son of a pre-deceased son: **five** shares; the last share is split between that widow and son.
- **Class II (S.11):** an earlier entry excludes a later one; heirs in one entry share **equally**.
- **Agnates and cognates (S.12, S.13):** fewer degrees of **ascent** preferred, then fewer degrees of **descent**; degrees counted **including the intestate**, one generation per degree.

General rules (Ss.18–22).

Section	Rule
18	Full blood preferred to half blood
19	Two or more heirs take per capita and as tenants-in-common
20	A child in the womb at the death, born alive, inherits as if already born

Section	Rule
21	Uncertain who died first: the younger is presumed to have survived the elder
22	Preferential right of other Class I heirs to buy a share being sold; highest offer preferred

A Hindu woman's property.

- **S.14(1):** whatever she possesses, by inheritance, will, partition, maintenance, gift, her own skill, purchase or as **stridhana**, she holds as **full owner**. **S.14(2):** a gift, will or decree that **for the first time** gives only a **restricted estate** keeps that restriction.
- **Order for a Hindu female dying intestate (S.15(1)):**

Order	Who takes
First	Sons, daughters (and children of pre-deceased ones) and the husband
Second	Heirs of the husband
Third	Mother and father
Fourth	Heirs of the father
Last	Heirs of the mother

- **Source rule (S.15(2)):** if she dies without children or grandchildren, property inherited from her **father or mother** goes to the **father's heirs**, and property inherited from her **husband or father-in-law** goes to the **husband's heirs**.

Section 6: the coparcenary after 2005.

- **Old S.6 (1956):** a male coparcener's interest passed by **survivorship** to the other coparceners, unless he left a female Class I heir, in which case his share (worked out by a notional partition) passed by succession.
- **Hindu Succession (Amendment) Act, 2005, Act 39 of 2005, in force 9 September 2005:**
 - the **daughter** of a coparcener becomes a coparcener **by birth in her own right**, with the same rights and liabilities as a son; her **marriage** does not end it;
 - she can **claim partition** and dispose of her share by **will**;
 - on a coparcener's death his interest passes by **succession, not survivorship**, worked out as if a partition had taken place just before his death, the daughter getting the **same share as a son**;
 - the **pious obligation** of a son to pay his father's debts is abolished for debts after 2005;
 - dispositions and partitions made **before 20 December 2004** are protected; a "partition" here means a **registered deed** or a **court decree**.
- **Other 2005 changes:** **S.23** (bar on a daughter seeking partition of the family dwelling-house) and **S.24** (remarried widows losing inheritance) omitted; **S.4(2)** (saving of agricultural tenancy laws) omitted; **S.30** now says "him or her"; four Class I heirs added.
- ****Vineeta Sharma v. Rakesh Sharma (2020):** **the daughter's right arises by birth, so neither she nor her father needs to have been alive on 9 September 2005***. *It overruled Prakash v. Phulavati** (2016).

- **Two separate rights:** a daughter is a **coparcener** under S.6 (by birth, in joint family property) and a **Class I heir** under S.8 (on the father's death, in his separate property and his notional share).

Testamentary succession (S.30): any Hindu may leave property by **will** under the **Indian Succession Act, 1925**; a coparcener's interest can also be willed.

AP angle

- **Andhra Pradesh went first.** The **Hindu Succession (Andhra Pradesh Amendment) Act, 1986 (A.P. Act 13 of 1986)**, passed under **N.T. Rama Rao's** government, was deemed in force from **5 September 1985**. It inserted **Chapter II-A**:

Section	What it did
29-A	Daughter of a coparcener a coparcener by birth , equal share at partition
29-B	A female coparcener's interest on her death passes by survivorship, unless she leaves a child
29-C	Preferential right of the other heirs to buy a share being sold

- **Limit:** the equal share did **not** apply to daughters **married before 5 September 1985** or to partitions already made.
- **Tamil Nadu** (1989), **Karnataka** and **Maharashtra** (1994) followed; the Central **2005** amendment now governs, and the AP dates matter only in old disputes.

Common traps

✗ "The father is a Class I heir." ✓ The **mother** is Class I; the **father** heads **Class II**.

✗ "Agnates are relatives through the mother." ✓ Agnates are wholly **through males**; a link through any female makes a **cognate**.

✗ "Class I has 12 heirs." ✓ **16** since 2005 (12 + 4).

✗ "A Hindu who converts loses his right to inherit." ✓ S.26 disqualifies the convert's **later-born descendants**, not the convert.

✗ "A widow who remarries loses her inheritance." ✓ **S.24 was omitted in 2005**.

✗ "The daughter's right needs the father alive on 9 September 2005." ✓ ****Vineeta Sharma (2020)*: not needed; that was Phulavati* (2016), overruled.**

✗ "The 2005 amendment came into force on 20 December 2004." ✓ It came into force on **9 September 2005**; 20 December 2004 is the **cut-off for protected partitions**.

✗ "AP gave daughters coparcenary rights in 2005." ✓ AP did it in **1986**, with effect from **5 September 1985**.

✗ "Under S.15, a childless woman's property from her parents goes to her husband's heirs." ✓ It goes back to her **father's heirs** (S.15(2)(a)).

✗ "Escheat means the property goes to the temple or the village." ✓ It goes to the **Government** (S.29).

Quick revision

- HSA 1956, Act 30, in force 17 June 1956; heir = person entitled to an intestate's property.
- Male intestate: Class I → Class II → agnates → cognates (S.8).
- Class I: son, daughter, widow, mother + grandchildren lines; 16 heirs since 2005. Father = Class II Entry I.
- Agnate: wholly through males; cognate: through a female.
- S.14: woman's property absolute; S.15: female intestate order; S.15(2) source rule.
- S.6 (2005, in force 9 September 2005): daughter a coparcener by birth.
- Vineeta Sharma 2020: father need not be alive in 2005; partitions before 20 December 2004 saved.
- AP Act 13 of 1986, from 5 September 1985: Ss.29-A to 29-C.
- Disqualified: murderer (S.25), convert's descendants (S.26); disease no bar (S.28).
- No heir: escheat to the Government (S.29); wills under S.30.