



Inheritance Norms in Hindu Succession Act, 1956

For Prelims: [Supreme Court](#), [Hindu Succession Act, 1956](#), [Inheritance Laws](#), [Law Commission](#), [National Commission for Women](#), [Virashaivas](#), [Lingayats](#), [Brahmo Sabha](#), [Prarthna Samaj](#), [Arya Samaj](#), [Scheduled Tribes](#), [Article 366](#), [Mitakshara and Dayabhaga School](#).

For Mains: Gender Equality and Issues Related to Women

Source: HT

Why in News?

Recently, the [Supreme Court](#) upheld the **inheritance provisions** under the [Hindu Succession Act, 1956 \(HSA\)](#) emphasising on **cultural norms and legislative consistency** rather than viewing inheritance as a matter of [gender inequality](#).

- Several petitions challenged the validity of the provisions, arguing for **equitable treatment** of men and women in inheritance matters.

What are the Supreme Court's Observations on Inheritance?

- **Not About Gender Justice:** The SC judgment highlighted that after marriage, a **woman** becomes part of her **husband's family**, with corresponding rights to inheritance in that family.
 - The court clarified that the [inheritance laws](#) should not be framed solely as a gender equality issue.
- **Cultural Context:** The court stressed that Hindu **inheritance practices** reflect deeply rooted **cultural values**.
 - Traditional sentiments often do not permit a married woman's parents to interfere in her **inherited properties**.
- **Scientific and Logical Lineage:** The court upheld the Act's "**scientific and logical**" **framework**, wherein property acquired by the woman from her **parents or in-laws** is returned to the source family in the absence of **direct heirs**, maintaining an ancestral lineage-based approach.
- **Need for Legislative Change:** The court reiterated modifications to inheritance laws should be **initiated and enacted by Parliament**, the legislative body, rather than through judicial decisions.
 - This is because **inheritance laws affect the entire society, and any changes must reflect a broad societal agreement** and collective values, rather than being influenced by the concerns of a few individuals or specific disputes.
- **Role of Wills:** The court underscored that a woman is **free to distribute her property** as she wishes through a **will**, emphasising individual autonomy within existing legal norms.
- **Previous Recommendations:** While certain bodies, including the **174th Law Commission (2000)** and the [National Commission for Women](#), have recommended equal inheritance rights for men and women, these reforms **depend on the views of the states and Union Territories**.

What are Key Provisions for Intestate (Without a Will) Succession Under HSA, 1956?

- **For Hindu Women:** If a Hindu woman dies without a will, her **properties, including self-acquired assets** are inherited first by her **children and husband**.
 - If **no husband or children** exist, the property devolves upon the **husband's heirs**. Only in cases where there are **no heirs of the husband** does the property pass to the **woman's parents or their heirs**.
 - When property is inherited from a **source (e.g., parents, in-laws)**, it returns to that **source family** if she dies intestate without **direct heirs**.
- **For Hindu Men:** When a Hindu man dies intestate, his property is **divided equally among his wife, children, and mother**. If none of these successors exist, the property devolves to the **father**.

Legalese

According to the Hindu Succession Act (HSA), if a woman's property is self-acquired, her husband is no more, and she has no children, that property goes to the husband's heirs

IF A WOMAN DIES INTESTATE

Her self-acquired property

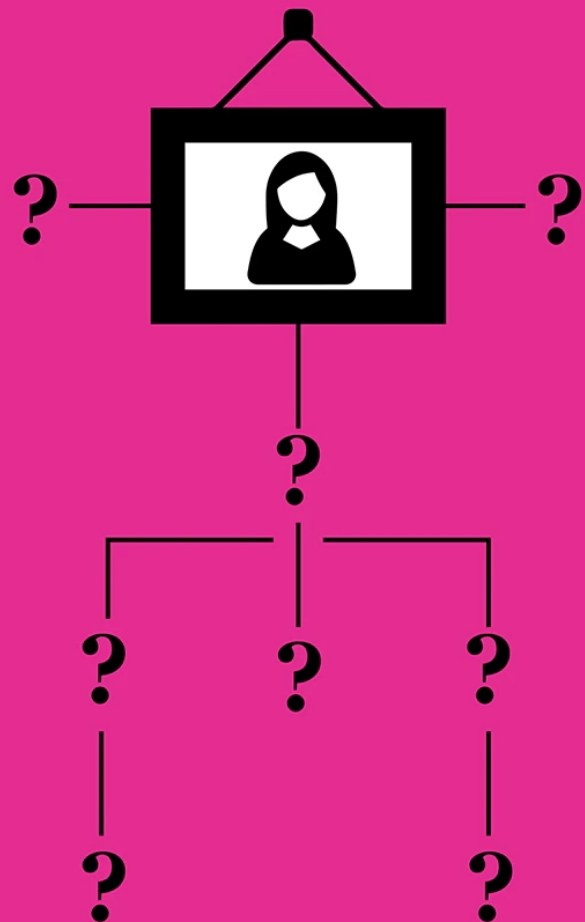
- She has children → Property goes to them
- No children → Property goes to the husband
- Husband passes away → Ownership is transferred to her mother-in-law

Inherited property

- She has children → Property goes to them
- No children → Ownership is transferred to the heirs of her father or mother

IF A MAN DIES INTESTATE

- His property → Mother, children and widow get equal shares
- Widowed wife remarries → She gives up her claim on her ex-husband's properties



What is the Hindu Succession Act, 1956?

- **About:** It lays down a **legal framework** for the distribution of property when a Hindu individual dies **intestate**.
 - The Act establishes rules for determining **heirs, their rights, and the division of**

property based on their relationships with the deceased.

- **Applicability of Act:**
 - **Hindus** by religion, including [Virashaivas](#), [Lingayats](#), [Brahmos](#), [Prarthna Samajists](#), and [Arya Samaj](#) followers.
 - **Buddhists, Sikhs, and Jains** by religion.
 - Persons who are **not Muslim, Christian, Parsi, or Jewish** unless it is proved that Hindu law or custom does not govern them.
 - The Act extends across **India** but does **not** automatically apply to [Scheduled Tribes](#) as per [Article 366](#) of the Constitution unless notified by the Central Government.
- **Schools of Hindu Law:** It makes a **uniform system of inheritance** and devolution of property that is equally applicable to areas of [Mitakshara and Dayabhaga school](#).
 - The **Mitakshara Law** applies to the **whole of India except West Bengal and Assam** while **Dayabhaga Law** applies to **West Bengal and Assam**.
 - Under **Dayabhaga law**, inheritance rights arise **only after the forefathers' death**, while **Mitakshara** grants **property rights from birth**.
 - In the **Dayabhaga system**, both **male and female** family members can be coparceners, while the **Mitakshara system** restricts coparcenary rights to **male members only**.
 - A **coparcener** is a person who can **claim a right** over ancestral property by birth.
- **Distribution of Property:**
 - **Class I Heirs:** A widow is entitled to **one share** of the property.
 - Sons, daughters, and mothers each receive an **equal share**.
 - **Class II Heirs:** The property is **divided equally** if no Class I heirs exist.
 - **Agnates and Cognates:** If no Class I or II heirs, property passes to **paternal relatives (agnates)** and **other relatives (cognates)**.
- **Hindu Succession (Amendment) Act, 2005:** The [2005 amendment](#) to **Section 6** of the Act grants daughters coparcenary rights by **birth, equal to sons**, in property partitions arising from 2005.

Note:

- Heirs in Class I include **son, daughter, widow, mother, son of predeceased son**, and daughter of a predeceased son among others.
- Heirs in Class II include **father, son's daughter's son, son's daughter's daughter, brother and sister** among others.

Inheritance Laws in Other Communities

- **Muslim:** It is governed by [Muslim Personal Law \(Shariat\) Application Act, 1973](#).
- **Christian, Parsi and Jews:** In case of Christians, Parsis and Jews, the [Indian Succession Act, 1925](#) is applicable.

Conclusion

The Supreme Court's observations on inheritance provisions under the HSA highlight the interplay between **cultural traditions and legislative frameworks**, emphasizing lineage-based inheritance. The court stressed the importance of gender justice and societal values in Hindu inheritance laws while acknowledging the need to respect individual autonomy and consider potential legislative reforms. **It is well established that a law's purpose cannot be undermined solely due to the hardship it may cause.**

Drishti Mains Question:

Examine the inheritance rights under the Hindu Succession Act, 1956.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q. With reference to the history of ancient India, which of the following statements is/are correct?

1. Mitakshara was the civil law for upper castes and Dayabhaga was the civil law for lower castes.
2. In the Mitakshara system, the sons can claim right to the property during the lifetime of the father, whereas in the Dayabhaga system, it is only after the death of the father that the sons can claim right to the property.
3. The Mitakshara system deals with the matters related to the property held by male members only of a family, whereas the Dayabhaga system deals with the matters related to the property held by both male and female members of a family.

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 2 only
- (c) 1 and 3 only
- (d) 3 only

Ans: (b)

Mains

Q. How does patriarchy impact the position of middle class working women in India? (2014)

Q. "Though women in post-Independent India have excelled in various fields, the social attitude towards women and feminist movement has been patriarchal." Apart from women education and women empowerment schemes, what interventions can help change this milieu? (2021)