



Annexure 'J'
Legal Heir/s of a Deceased

**A.RULES OF SUCCESSION IN CASE OF HINDUS (WHEN THERE IS
NO WILL)**

In case of Hindu Male: According to law of succession applicable to Hindus (which expression includes followers to Jain, Buddhist, and Sikh religions) in case of intestate succession in the assets of Hindu Male, following rules are applicable

- (i) **Firstly**, his property is inherited by the heirs of class I described below simultaneously
- (ii) **Secondly**, if there is no heir of class I, then by relative mentioned in class II. In this class of heirs, those in the first entry shall be preferred to those in the second entry, those in the second entry shall be preferred to those in the third entry shall be preferred to those in the third entry, and so on in succession. Heirs in the same entry shall take simultaneously.
- (iii) **Thirdly**, if there is not heir of any of the two classes, then upon the agnates of the deceased.
- (iv) **Lastly**, if there is no agnate, then upon the cognates of the deceased.

CLASS I: Son, daughter, widow, mother, son of predeceased son, daughter of a predeceased son, son of predeceased daughter, daughter of a predeceased daughter, widow of a predeceased son.

CLASS II:

- I. Father
- II.
 - (1) Son's daughter's son
 - (2) Son's daughter's daughter
 - (3) Brother
 - (4) Sister
- III.
 - (1) Daughter's son's son
 - (2) Daughter's son's daughter
 - (3) Daughter's son
 - (4) Daughter's daughter
- IV.
 - (1) Brother's son
 - (2) Sister's son
 - (3) Brother's daughter
 - (4) Sister's daughter



- V. Father's father, father's mother
- VI. Brother's widow
- VII. Father's brother, father's sister
- VIII. Mother's father, mother's mother
- IX. Mother's brother, mother's sister.

Explanation: References to a brother or sister do not include references to a brother or sister by uterine blood i.e., descended from a common ancestress but by different husbands

Agnate: A person is said to be "agnate" of another if the two are related by blood or adoption wholly through males.

Cognates: One is "Cognate" of another, if the two are related by blood or adoption, but not wholly through males

NOTE: When disposal of the assets of a deceased constituent involves heirs falling in the category of "agnates" or "cognates", if necessary, after collecting all necessary information, the matter may be referred to a local advocate for guidance at the claimant's cost.

In case of Hindu female, the property of a Hindu female, who dies intestate, is inherited in accordance with following rules:

- a. Firstly, by the sons and daughters (including children of predeceased sons and daughters) and the husband of the deceased
- b. Secondly, by the heirs of the husband of the deceased
- c. Thirdly, by mother and father of the deceased
- d. Fourthly, by the heirs of the father of the deceased.
- e. Lastly, by the heirs of the mother of the deceased.

NOTE: If assets in question have been inherited by the deceased from her mother or father, and at the time of her death she leaves behind only husband and no issue, then such assets will not be inherited by the husband, but the heirs of the father. Similarly, if the assets have been inherited by the deceased from her husband, or father-in-law and upon her death, if she does not leave behind any issues, then such assets will not be inherited by other heirs as mentioned above, but by the heirs of her husband.

B. RULES OF SUCCESSION IN CASE OF MUSLIMS (WHEN THERE IS NO WILL)

In case of Sunnis, Under the Muslim Law of Inheritance, as applicable to Sunni sect, when a Muslim (whether male or female) dies intestate, his assets are inherited in specified shares in the first place by such heirs, which have been described as "Sharers". The list of such sharer-heirs is:



Father, Grandfather (when father is not alive), Husband, Wife, Mother, Grand Mother (when mother is not alive) Daughter (when no son. If there is son, she will inherit as residuary), Son's daughter (when no son or daughter), Uterine brother or sister (when no child, child of a son, father, or grandfather), Full sister (when no child, child of a son, father or grandfather, full brother), Consanguine sister (when no child, child of a son, father, grandfather, full brother, full sister, consanguine brother)

After the specified shares of a sharer-heirs have been assigned to them, the whole of the residue of the estate of a Sunni Muslim is inherited by such heirs as are known as 'residuary' in the order set forth below:

1. Son (if daughter, she will also take with him as residuary)
2. Son's son
3. Father
4. Grandfather
5. Full Brother
6. Full sister
7. Consanguine brothers
8. Consanguine sisters
9. Full brother's son
10. Consanguine Brother's son
11. Full Brother's son's son
12. Consanguine brother's son's son.
13. Full paternal uncle
14. Consanguine paternal uncle
15. Full paternal uncle's son
16. Consanguine paternal uncle's son
17. Full paternal uncle's son's son
18. Consanguine paternal uncle's son's son
19. Male descendants of more remote grandfathers.

Upon a careful consideration of the scheme of shares and residuary. It may be observed that other are five heirs who are always entitled to share of the inheritance. They are (1) son and daughter (2) father (3) mother (4) husband (5) wife, they may be called as the primary heirs. In the absence of these primary heirs, or any one of them, there are corresponding substitute heirs, who are (i) child of a son (ii) true grandfather (iii) true grandmother (husband and wife can have no substitute heirs). To explain further, in the category of primary heirs, if there is no son of deceased, son's children i.e. son or daughter) are always entitled to inherit. Likewise, if the father or mother of the deceased is not



alive as primary heirs, then the corresponding substitute heirs, viz., true grandfather or true grandmother will always be entitled to succeed. Thus, it will be obvious that a true enquiry about existence of heirs of a Sunni Muslim will be directed towards ascertaining such heirs as are either primary or substitute

If there be no heirs of the class of shares or residuaries, the inheritance goes to Distant Kindred. If the only heir of a deceased of the class of shares be husband or wife, and there are no heirs of the class of residuary, the husband or wife, will take his/her specified share only, the residue being inherited by the Distant Kindred. Therefore, in all such cases either where there are no shares and residuaries, or, where sole surviving husband/wife has no inheritance with distant kindred, the cases may have to be carefully scrutinized and it is advisable to refer, all such cases to a local advocate, after all the necessary information has been collected at the branch level.

In case of Shia Muslims, Shia sect of Muslims, follows somewhat different scheme of inheritance. They divide the heirs of a Shia deceased on following two grounds.

- (i) Heirs by marriage, i.e., husband and wife
- (ii) Heirs by consanguinity, i.e., by blood relationship

Heirs by consanguinity (blood relationship) are further divided and subdivided as under

- I. (I) Parents (ii) Children and other lineal descendants
- II. (I) Grandparents (ii) Brothers and sisters and their descendants
- III. (I) Parental (ii) Maternal, unless and aunts of the deceased, and of this parents and grandparents, and their descendants

of these three categories of consanguine heirs, the first excludes the second, and the second exclude the third from inheritance. However, the heirs of the two sub-sections in each category, taken together. Nevertheless, the relation of nearer degree in each section excludes the one who is remote in that section. The husband or wife is never excluded from inheritance. He/she inherits his/her specified share, taking along with nearest heirs of consanguinity. There are no such heirs as "distant Kindred"

From the discussion as above, it is obvious that the primary heirs, while dealing with the assets of a Shia Muslim, would be (i) husband or wife (as the case may be) (ii) mother (iii) father (iv) son/s (v) daughter/s. However, grandchildren will inherit only when there is no son or daughter alive.

The specific shares of various types of heirs, both under Shia and Sunni law, have not been discussed, as the Bank, while dealing with the assets of a deceased constituent, does not enter the question of distribution of assets. As the Bank disposes of assets to all the heirs jointly, against their joint



discharge, the question of distribution of such assets is left to be decided by the heirs, amongst themselves.

C. RULES OF SUCCESSION IN CASE OF CHRISTIANS (WHEN THERE IS NO WILL)

Rules of intestate succession to the assets of Indian Christians are contained in Indian Succession Act 1925. According to them, if an intestate Christian is survived by a widow/widower and lineal descendants, then the property will devolve on such widow/widower and the lineal descendants. If there are no lineal descendants, then on the widow/widower and the Kindred of the deceased. If there are no Kindred and no lineal descendants, then the whole estate will be succeeded to by the widow/widower. Lineal descendants are child, children or remoter issues. Kindred are those persons who descend or ascend from the same stock or common ancestor. However, a widow may be excluded from inheritance to the property of her husband under a validly entered contract, provided such contract was made before her marriage.

Based on discussion as above, the primary heirs of a Christian intestate are (i) widow/widower (ii) son/s (iii) daughter/s. They will take the whole of the deceased's estate between themselves. In case there no surviving children of the deceased, then grandchildren will take along with the widow/widower.

It will be useful to note that under the scheme of succession to the estate of Christian intestate, mother or father does not figure in the list of primary heirs. It is only when there are lineal descendants (i.e. children or grandchildren) of the deceased, that the father or mother can take the estate along with the widow/widower of the deceased. If the father is alive, he will exclude the mother. In case the father is dead, not only mother, but also brothers and sisters of the deceased will also be entitled to succeed.

In cases where disposal of assets involves succession to other than primary heirs i.e., widow/widower, son/s, daughter/s, it is advisable to refer the matter to a local advocate after collecting all necessary information.

D. RULES OF SUCCESSION IN CASE OF PARSIS (WHEN THERE IS NO WILL)

When a Parsi male dies intestate, his assets are inherited in specified shares by his widow and children (i.e., son/s and daughter/s). If parents of the deceased are alive, they also inherit a specified share. If any son of the deceased has died before him, then widow and children of such predeceased son are also entitled to inherit. If the predeceased child is a daughter, her children are also entitled to inherit. Thus, it is obvious that the heirs of a Parsi intestate male who are entitled primarily to



succeed to his assets are; (1) widow (ii) son/s (iii) daughter/s (iv) mother (v) father (vi) widow and children of predeceased son (vii) children of predeceased daughter.

When a Parsi female dies intestate, her assets are inherited by her widower and children. Widow and children of predeceased son are also entitled to inherit. If the predeceased child is a daughter, her children also are entitled to inherit. Thus, primary heirs of a Parsi female, who dies intestate, would be her (i) husband (ii) son/s (iii) daughter/s (iv) widow and children of predeceased son (v) children or predeceased daughters.

There are further rules governing succession to Parsi male/female's estate when the primary heirs as above are not available. However, for such cases, it is advisable to refer the matter to a local advocate after collecting all the necessary information.