

Quadrant II – Transcript

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Module Name: Karta of the Joint Family- His Position, Powers, Privileges and Obligations

Module No: 03

Hello students, this is Assistant Professor Ashwini Naik from V M Salgaocar College of Law and today I'm here to discuss with you all a very important topic under family law II that is Karta of the joint family, his position, powers, privileges and obligations. Once I'm done with this topic, at the end of this video you will be able to comprehend that Karta holds the most significant position in the Hindu joint family. You will also understand that Karta's position is Supreme and why he holds such robust powers and you will also be able to explain the various reasons why Karta is given these powers and the Supreme position in the Hindu joint family.

In the entire Hindu joint family, Karta occupies a very important position. There is no other institution in the world that can be compared to the institution of Karta. He's a person with limited powers, but these powers are so vast within the ambit of the joint family that he enjoys, that he is considered to be the Supreme head of the family.

Now the question here is who is a Karta?

Karta means manager of a joint family and joint Hindu family properties. He's the person who takes care of the day-to-day expenses of the family, looks after the family, and protects the joint family properties. There were many questions that were raised before the Supreme Court, and in 1965 the Supreme Court in this judgment of Union of India versus Sri Ram held that there can be multiple people of the Hindu joint family who can manage the properties of the family but when it comes to Karta, there is only one Karta and there cannot be multiple characters.

When we talk about the position of the Karta, you have to understand that the position of Karta is sui generis. Sui generis means it is generated by itself. That means the person who is holding the position of the Karta may die, but the position will not die with him. It will move on to the next senior most person in the family. He is the head of the family and he acts on behalf of other members. He also stands in a fiduciary relationship with other members.

Now the contemporary question is that can a Woman become a Karta in a Hindu joint family. Before 2005, women were not allowed to become the Karta of any Hindu joint family. But post 2005, a major

amendment took place to the Hindu Succession Act of 1956, where in Section 6 was amended and women were allowed to become the coparceners of a Hindu joint family. So since they were allowed to be coparceners they could also become the Karta of the Hindu joint family.

Go to the powers and privileges of Karta.

The very first power that Karta has is the power of management.

As you have understood, the Karta has to manage the whole household because he's the Supreme head and therefore how he manages is how he takes care of the family, how the joint family obeys to his command. All that is looked after by the Karta of the family.

The second privilege that the Karta has is the right to income. A Hindu joint family may have certain properties, so whatever income that is generated or accrued by these properties, it is handed over to the Karta. So this income is also managed by the Karta to look after the Hindu household.

Third is right to representation. Karta, being the senior most member of the family, he represents the entire family anywhere. It may not be only functions or get-togethers or any religious functions, but he also has the right or the privilege of representing the Hindu household even in court related matters. So if the Karta is present in the court, then the coparceners need not be present in the court.

The next important power that a Karta has is the power to compromise. A Karta can compromise any dispute. He can settle the matter and he may also take a decision that he will not proceed to the court.

The next power that a Karta has is the power to refer a dispute to arbitration. We all know that arbitration is an alternative dispute resolution system which is expedient, which is faster and gets over and is a little bit inexpensive. He can refer the dispute to arbitration and may refuse to go to court.

The next power that a Karta has is the power of acknowledgement and the power to contract debts. That means he can raise loans for and on behalf of the family. When we say he has the power of acknowledgment, it is to be understood that a Karta too can acknowledge a debt taken by any of the family members and may decide to pay it as if it is his own.

The 7th power that a Karta has is the power to enter into a contract. A Karta, being the Supreme head of the family also runs the family business for which he may have to deal with a lot of people and he may have to enter into different contracts for which he did not have the acknowledgement from the other members of the family.

The last power that we are going to discuss is the power of alienation. A Karta has the power of alienation. That means he has the power to transfer the property to any other person without even taking the consent of the Coparceners. But that is only permissible in a few circumstances.

Now let us come to the obligations of Karta.

The first obligation of Karta is that Karta is obliged to maintain his family. As we have already seen under his privileges and powers that A Karta can receive income and he has the power to manage the Hindu joint family. Therefore he has a duty to use that income and manage the entire Hindu household and to maintain all the family members of the Hindu joint family.

The second obligation of Karta is the liability to render accounts. Here we have to understand that a Karta is under no obligation or under no duty to render accounts to the coparceners. But there are only three circumstances under which the karta will be asked to render accounts to the Coparceners. The first one is when the Karta has converted the agricultural property to settlement property without the consent of the other coparceners and therefore, if the coparceners demand accounts from Karta, He will have to submit it.

The second situation is where in if a coparcener has aided the karta in any way in order to run the Hindu joint family business then he can demand accounts from the karta and the karta is duty bound to show him the accounts.

And the third scenario is where the Karta is obliged to show accounts is in the case of partition. When a coparcener demands partition he also wants to know what is the exact share and in that regard if he asked the Karta for accounts, then the Karta will have to render the accounts.

The third obligation of Karta is to recover debts which are due to the family. A Karta has the power to contract, but he also has the obligation to recover whatever money he has lent to the other people, not only in the household, but to anyone who raises a loan from him.

The next obligation of Karta is the liability to spend reasonably. Karta is in charge of the income of the family, but that doesn't mean that he can act as a spendthrift. He cannot make unnecessary expenditures, he has to spend very, very reasonably and cautiously and side by side he also has to maintain the accounts of the family.

Another important obligation that a Karta has is not to alienate the coparcenary property. We have seen under the powers of Karta that a Karta can eliminate property, but only under certain certain circumstances. Therefore, when he has the control of the properties, that doesn't mean that he can alienate or transfer those properties as per his whims and fancies, because he has to take into account the share of the coparceners also.

And Lastly, the last obligation of the Karta is not to start a new business without consulting the coparceners. On his own as an individual, he can start a business, but if he wants to start another business in the name of the Hindu joint family, he will have to have the requisite permission from the other coparceners and other family members.

To conclude this topic, I would like to say that the concept of Karta in a Hindu joint family is not only about a position in the family, rather it serves a very important practical purpose. The Karta is not a trustee, not an agent or not a partner in the Hindu joint family, but he's the head of the family who runs it in the best possible way. So along with other numerous powers, many controls on Karta have been imposed to prevent any abuse of power, and this ensures that the Karta works for the benefit of the joint Hindu family.

Thank you.