

Quadrant II – Transcript

Paper Code: FML0510

**Module Name: Joint Hindu family as a social security institution,
Impact of Hindu Gains of Learning Act and various tax laws on it.**

Module No: 8

Welcome students, I'm Pearl Monteiro, from VM Salgaocar College of law. My topic is Joint Hindu family as a Social Security institution, Impact of Hindu gains of Learning Act and various tax laws on it. The subject is Family Law II and the unit is Joint Family, Module 8.

The outline of this module is the joint Hindu family as a Social Security institution, the Hindu gains of Learning Act and the Income Tax Act. After listening to this, you will be able to appreciate the value of joint Hindu family as a Social Security institution, Understand the impact of gains of Learning Act on joint Hindu family. Analyze the position of joint Hindu family under the Income Tax Act.

Joint Hindu family as a Social Security institution.

The joint Hindu family is one of the most ancient of all institutions in India and it serves as a very important institution of Social Security. Some of the

advantages of a joint Hindu family are. First of all, it prevents fragmentation of land. Since the family remains united, the land also remains one and doesn't get fragmented into pieces, which results in better modes of farming. Next it is a very economical mode of living as all the expenditure is shared. The resources are pooled and the expenses are divided. Next, it is an institution of Social Security, as every member of the family has a right of maintenance, any member of the family who faces adverse situation due to lack of job etc can fall back on the family for Social Security. All the basic needs of the members of the family are met by it. These include food, clothing, shelter, education, medical necessities and also performance of important religious obligations such as marriage, shraddh and other ceremonies.

The importance of the Hindu family with regard to children cannot be overemphasized. The children have the love of the grandparents as well as of the other members of the family which results in their secure upbringing. The joint Hindu family is also a mode by which the cultural heritage of our country is preserved. The culture is handed down from generation to generation within the family. Last but not the least, there is division of labor since the family consists of many members, the tasks can be divided and each person can do the task they are most suited for. This results in saving of time as well as energy. Thus, the joint Hindu family is a very important institution, specially of Social Security.

Now this institution has had the impact of two very important acts. Firstly, the Hindu gains of Learning Act 1930. As we saw in the previous slide, every member of the family has a right to maintenance from the joint family funds. Now the joint family funds consist of all the earnings that are brought

into the fund by the various members of the family. But what is to be noticed is that if the earnings are brought by a member of his family by his learning or by his education, then prior to the 1930 Act, this would constitute part of the Joint Family Fund on which the other members had a claim. Only if the person got this earning without any detriment to the joint family. However, the 1930 Act changed this. After the 1930 Act, What happens is that irrespective of the method by which the person got his learning. His earning remains his private property and the other members of the family do not have a claim to it. So the impact of this is that the other members of the family will not be able to claim the earnings of a Member who earns due to his learning. Now learning means any mode of learning like education, training, etc. And the gains of Learning Act says that any income which is earned by learning or education is the separate property of the acquirer on which the other members have no claim.

The next important Act, which has an impact on the joint Hindu family, is the Income Tax Act of 1961. Now, the Income Tax Act subjects persons to tax. Under this Act, the Hindu undivided family is a separate person or is assessed to tax as a unit. That is to say, the income of each and every member of the family is added together, and then it is access to a single tax. Now obviously this will make the income of the family high and the rate of tax equally high in order to avoid this, what is done sometimes is that the Hindu undivided family may be partitioned so the individual members will be assessed to tax individually, which will result in there paying lesser amounts of tax.

Now, in order for there to be a partition recognized by the Income Tax Act, there should be an actual partition. It cannot be a namesake partition, in

other words, to avoid paying a high tax, the Hindu family will be partitioned. Now, once the families partition a claim of partition has to be made before the relevant officer. Once the claim is made and it is asserted that the families actually partition, then each individual member will be assessed to tax separately. To continue further, the Hindu undivided family is taxed just like any other individual. They have to put their tax under different heads of income. These include investment, remuneration, income from house, property, profit and gain from business and professional income. Under the capital gains and income from other sources. Other sources is anything which doesn't fall under the previous mention and also which doesn't come under an exception. Now the following incomes are not taxed as income of Hindu undivided family. They are the self-acquired property. The income of an importable estate, the personal income stridhan, which is absolute property of a woman. The income from individual property of her daughter and deductions from gross total income is also not counted. The deductions are the same for any other individual, such as life Insurance, Provident Fund, National Savings Scheme, Investment under equity linked savings scheme, subscription to long term infrastructure bonds, Medical insurance premium, maintenance including medical treatment of handicapped dependent, Medical treatment expenses, Donation to certain funds like charitable institutions, scientific research or rural development. An interest on deposit in saving account up to ₹10,000 as of now. The rate of tax is the same slab rates which are applicable to one individual. Thus, in order to avoid paying a higher rate of tax, it is advisable for the family to be assessed as individuals rather as a family.

Thank you

