

Quadrant II - Notes

Paper Code: FML0510

Module Name: Christians, and Jews - Heirs and their shares and distribution of property under the Indian Succession Act of 1925.

Module No:18

Indian Succession Act

Intestate Succession

S. 29 – Application of the part

Does not apply to Hindu, Muslim, Buddhist, Sikh or Jain

Constitutes the law in India in all cases of intestacy except those provided by any other law in force

Anthonyswamy v M.R. Chinaswamy

Rules in Case of Intestates Other Than Parsis

- The property of an intestate devolves upon the wife or husband or upon those who are kindred
- Widow – exception by contract
- Where intestate has left
 - widow and lineal descendants or
 - widow and kindred only or
 - Widow and no kindred
 - Widow (1/3) + lineal descendants (2/3)
 - Widow (1/2) + Kindred (1/2) (special provision)
 - Widow (whole)

Distribution where there are lineal descendants

- Where intestate left child/children only – equally divided among them
- In the goods of Sarah Ezra – child does not include illegitimate

Where intestate has left no child but grandchildren – equally divided

Only great grand children or remoter lineal descendants

Where intestate leaves lineal descendants not all in same degree of kindred to him and those through whom the more remote are dead (succession is per stirpes)

Distribution when there are no lineal descendants

- Father
- Father is dead, but mother, brothers and sisters are living
- Father is dead, but mother, brothers and sisters, and children of any deceased brother/sister are living
- Only mother and nephews/nieces
- Only mother
- No lineal descendant, nor mother, nor father
- No lineal descendant, nor mother, nor father, no brothers/sisters

Children's advancement not brought into hotchpotch

(hotchpotch = the taking into consideration of funds or property that have already been given to children when dividing up the property of a decedent so that the respective shares of the children can be equalized)