Contents

Certificate
Preface
Abbreviation
Table of Cases

Chapter – I  INTRODUCTION  1-23
  • An Overview  1
  • Indian Scenario  9
  • Practical Significance of Different Acts  16
  • Another Legislative Showpiece of 2005  18
  • Hypothesis  20
  • Scheme of Work  21
  • Research Methodology

Chapter – II  CONCEPT OF WOMEN’S PROPERTY UNDER DIFFERENT LEGAL SYSTEM  24-50
  • An Overview  24
  • Concept of Property  24
  • Under Different Legal System  29
    A. Islamic Law  30-34
      • Hanafi School  33
      • Maliki School  33
      • Shafii School  33
      • Hanblii School  34
• Shia School 34

B. Hindu Law 34-45
• Classification of Property 36
  • Stridhana 39
  • Women’s Estate 42

C. Christian Law 45-49
• Concept of Matrimonial Property 48

D. Parsi Law 50
• Recapitulation 50

Chapter – III

SHARES OF FEMALES UNDER DIFFERENT LEGAL SYSTEM 51-179

• An Overview 51
• Development of Family System 51
• Law of Inheritance in Different Religo Legal System 53

A. Islamic Law 54-59
• Salient features 56
  • Nemo Est Heirs Vevents. 56
  • Dual Basis of Islamic Law of Inheritance 56
  • Near in Degree Exclude the Remoter 57
  • Rule of Representation 57
  • Rule of Spes-Successionis 58
  • No Concept of Joint Family 58
  • No Rule of Primogeniture 58
  • No Birth Right 59
• No Concept of Survivorship 59
• Rules Relating to Illegitimate Child 59
• Insanity and Unchastity 60
• Non-Muslim not be an Heir 60
• Homicide 61
• Missing Person 61
• Unborn Person as being Heir 61
• Several death at a time 61

• Kinds of Heirs 62
  • Sharer 62
  • Residuries 64
  • Distant Kindered 66

• Fluctuation of Shares among the Sharers & Residuaries 67

• Apportionment of Heritage 81
  • Doctrine of Awl 82
  • Doctrine of Radd 82

• Shia Law of Inheritance 84

• Comparison of Sunni & Shia Law of Inheritance 85

B. Hindu Law 89-145

• Definition of Hindu 90

• Position of Women's Property Right in Old Hindu Law 92

• Fundamental Changes Brought by the Act of 1956 95

• Coparcenary 96

• Joint Family 96
• Undivided Hindu Family

• Position of Women’s Property Right after, 1956

• Critical analysis of Certain Provisions of Hindu Succession Act of 1956
  • Section 6 before 2005
  • Section 6 after 2005
  • Uniform Succession whether really exist after 1956?
  • Section 8

• Kinds of Heirs
  • Heirs specified Class I
  • Heirs specified Class II
  • Heirs specified Class III
  • Heirs specified Class IV

• Some Controversial Heirs
  • Legitimate or Illegitimate Child
  • Remarried Widow
  • Concubine

• Enlargement of Women’s estate (sec.14)
  • Rao Committee Report
  • Section 14

• Meaning of -
  • ‘Any property’ – meaning of
  • ‘possessed by female Hindu’
  • Female Hindu
  • ‘ Whether acquired before or after the Commencement of the Act’
• ‘Shall be held by her as full owner thereof and not as a limited owner’ 120

• Succession of a Hindu female Intestate 124
  • Class I Heirs 125
  • Class II Heirs 127
  • Class III Heirs 128
  • Class IV Heirs 129
  • Class V Heirs 129
  • Section 15 130

• The Order & Manner of Distribution 133

• Some General Principles 134
  • Preference of Full Blood over Half Blood 134
  • Mode of Succession of two or more Heirs 135
  • Unborn Child 135
  • Simultaneous Death 136
  • Preferential Right 136

• Section 23 before 2005 140
• Section 23 after 2005 141

• Heirs not Entitle to Inherit 141
  • Remarried Widow after 2005 141
  • Murderer 142
  • Conversion 143
  • Disqualified Heir be Deemed Died 143
  • Abolition of the Old Disqualification of Hindu Law 143
• **Hindu Succession Amendment Act 2005**

**C. Christian Law**

- Indian Christian 146
- Application of the Act of 1925 146
- General Principles of the Succession of a Christian
  - **Rules Regarding Domicile** 148
    - Trader or Merchant 149
    - Foreign Representatives 149
    - Legitimate & Illegitimate Child 150
    - Lunatic Person 150
    - The Effect of Marriage to Regulate the Succession
    - Abolition of English Concept of Matrimonial Property
    - Different Domicile of Spouses 151

- **Intestate Succession** 152
  - Kinds of Hiers 152
    - Husband and Wife 152
      - Widow & Widower 153
      - Judicial Separation 154
    - Lineal descendants 155
      - Lineal descendants of first degree 155
      - Lineal descendants of Second degree 156
      - Lineal descendants of third degree 157
    - Lineal descendants not of same degree 158
D. Parsi Law 167 - 178

- Succession of Parsis 168
- General principles of Intestate Succession of a Parsi 169
  - Posthumous Child 169
  - Pre-Deceased Child 169
- Remarriage 170
- Distribution of Property among Widow, Widower, Children and Parents 170
- Distribution of Share of Predeceased Child of Intestate leaving Lineal Descendants 172

- Heirs 174
  - If there is no lineal descendants but a widow or widow of any lineal descendant 176
  - If there is no lineal descendants nor a widow or widower nor a widow of any lineal descendant 178
  - The relatives who are not otherwise entitled to inherit 178

Chapter IV COMPARATIVE STUDY OF WOMEN'S PROPERTY RIGHTS UNDER DIFFERENT LEGAL SYSTEM 180 - 224

- An Overview 180
- Definition of Comparative Law 181
• Different Families of Law 182
  • Romano Germanic Family 183
  • The family of Common Law 183
  • The family of Socialist Law 184
  • The family of Religious Law 184

• Development of Different Religious Law 185
  • Muslim Law 185
  • Hindu Law 187
  • Christian Law 188
  • Comparision of General Rules of Succession of Different Laws. (Comparative Chart) 191
  • Comparision of the Shares allotted to Females in Different Capacities, (Comparative Chart) 197
    • Mother, Grand mother, Great grand mother, Step mother and Mother of an illegitimate child. 197
    • Widow, Widow of predeceased son, Widow of predeceased son’s son (hls) and Widow of bother 201
    • Sister, Consanguine sister and Uterine sister 204
    • Daughter, Son’s daughter and Daughter’s daughter. 208
  • Some Comparative Illustration

Chapter – V JUDICIAL RESPONSES 211 - 324

• An Overview 225
• Historical Background 228
• Development of Indian Legal System 229
• Role of Judiciary in Developing the Women’s Property Right 230
  • Islamic Law 231 - 255
    • Pre-Independence Period 233
    • Post Independence Period 241
      • During First Decade 244
      • During Second Decade 246
- During Third Decade 247
- During Fourth Decade 249
- During Fifth Decade 252
- **Current Position** 255

- Hindu Law 257 - 285
  - Pre-Independence Period 257
  - Post Independence Period 261
    - During First Decade 261
    - During Second Decade 263
    - During Third Decade 265
    - During Fourth Decade 270
    - During Fifth Decade
  - **Current Position** 273
  - Implementation of New (Amendment) Act of 2005 281

- Christian Law 285-292
  - Pre-Independence Period 286
  - Post Independence Period 288
  - **Current Position** 291

- Parsi Law 292-297
  - Pre-Independence Period 292
  - Post Independence Period 296
  - **Current Position** 297

*Chapter VI*  **SUMMATION & SUGGESTION**  298 - 315

*Bibliography*
Reports
Journals
Articles
Acts & Statutes
International Convention and Declarations.
Subject Index