

# HINDU SUCCESSION ACT 1956

Video Lecture

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# THE CONCEPT OF “SUCCESSION”

## SUCCESSION

► Succession means inheriting of a title, office or power from one after another in time.

**Testamentary Succession** – the process of distribution of property when a person dies by making a will.

(A will or testament is an instrument/document which declares the intention of the owner of the property as to how his property is to be distributed after his death).

**Intestate Succession** - When a person dies without making/leaving a will, his property will be distributed by operation of a particular law, this process is called intestate succession.

# OBJECTIVE & APPLICABILITY (Sec-2)

## Objective

- ▶ To amend and codify the law relating to intestate succession among Hindus.

## Applicability

- ▶ It extends to the whole of India except the State of Jammu and Kashmir **(Sec-1)**.
- ▶ The Act applies to
  - all Hindus (including Virashaivas, Lingayaths, and members of Brahma, Prathana and Arya Samaj),
  - Buddhists
  - Jains
  - Sikhs
  - But not to Muslims, Christians, Parsis and Jews.
- ▶ It has been extended to those persons,
  - one of whose parents is a Hindu, Buddhist, Jain or Sikh by religion
  - who is a convert or reconvert to the Hindu, Buddhist, Jain or Sikh religion

# DEFINITIONS (SECTION-3)

- ▶ **3(e) "full blood", "half-blood" and "uterine blood"-**
- ▶ (i) two persons said to be related to each other by full blood when they are descended from a common ancestor by the same wife, and by half-blood when they are descended from a common ancestor but by different wives;
- ▶ (ii) two persons are said to be related to each other by uterine blood when they are descended from a common ancestress but by different husbands;

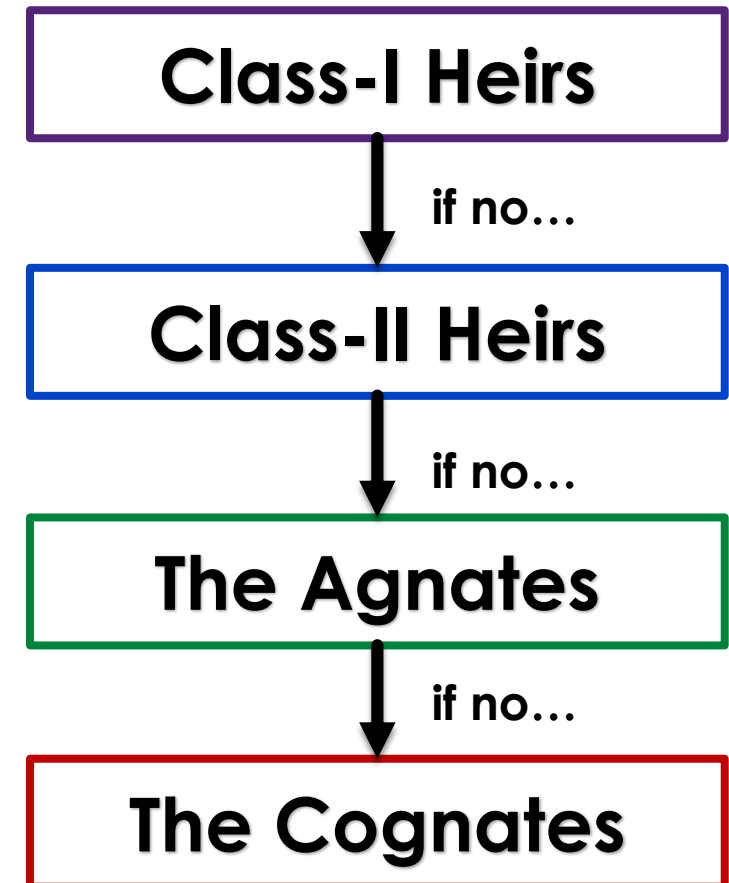
**Explanation:** In this clause "ancestor" includes the father and "ancestress" the mother.

# ACT NOT TO APPLY TO CERTAIN PROPERTIES (SECTION-5)

- ▶ This Act shall not apply to.....
- ▶ i) any property succession to which is regulated by the Indian Succession Act, 1925, by reason of the provisions contained in section 21 of the Special Marriage Act, 1954;
- ▶ (ii) any estate which descends to a single heir by the terms of any covenant or agreement entered into by the Ruler of any Indian State with the Government of India or by the terms of any enactment passed before the commencement of this Act;
- ▶ (iii) the Valiamma Thampuran Kovilagam Estate and the Palace Fund administered by the Palace Administration Board by reason of the powers conferred by Proclamation (IX of 1124) dated 29<sup>th</sup> June, 1949, promulgated by the Maharaja of Cochin.

# GENERAL RULES OF SUCCESSION IN CAE OF MALES (SEC-8)

- ▶ As per **Section-8** of the **Hindu Succession Act, 1956**, if a **Hindu Male dies without a Will**, then his property would be distributed.....
- firstly, among **Class-I heirs** (specified in the Schedule)
  - secondly, if there is no Class-I heirs, then among **Class-II heirs** (specified in the Schedule)
  - thirdly, if there is no Class-I and Class-II heirs, then among **the Agnates** of the deceased
  - lastly, if there is no agnate, then among **the Cognates** of the deceased.

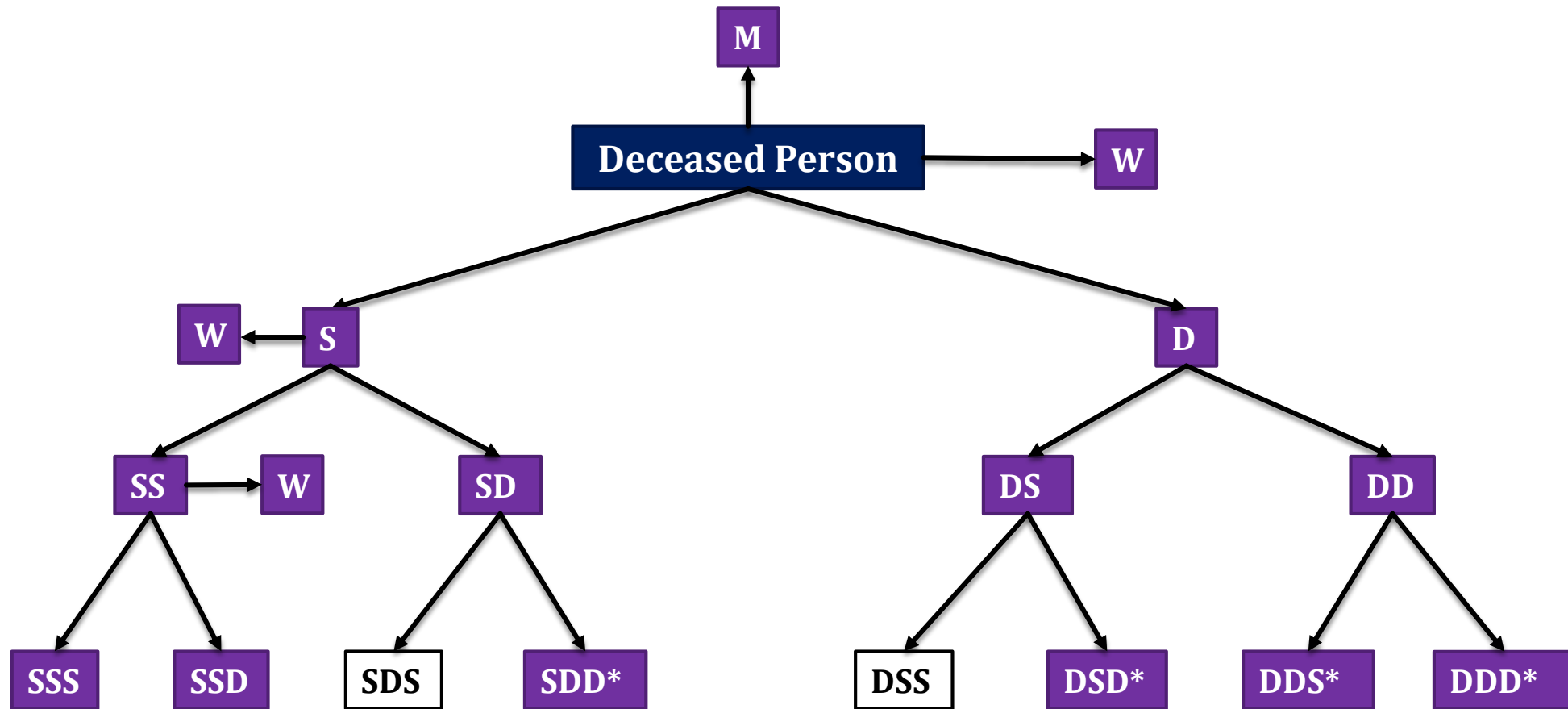


# IF A HINDU MALE DIES WITHOUT A WILL.....

## CLASS-I HEIRS (The Schedule)

1. Widow
  2. Mother
  3. Son/Daughter
  4. Son/Daughter of a pre-deceased son
  5. Son/Daughter of a pre-deceased daughter
  6. Widow of a pre-deceased son
  7. Son/Daughter of a pre-deceased son of a pre-deceased son
  8. Widow of a pre-deceased son of a pre-deceased son
  9. Son of a pre-deceased daughter of a pre-deceased daughter
  10. Daughter of a pre-deceased daughter of a pre-deceased daughter
  11. Daughter of a predeceased son of a pre-deceased daughter
  12. Daughter of a pre-deceased daughter of a pre-deceased son
- Note:**  
**Added by the Act No. 39 of 2005, w.e.f. 9-9-2005.**

# CLASS-I HEIRS



\* = Added by the Act No. 39 of 2005, w.e.f. 9-9-2005.



## CLASS-I HEIRS

- 100

- ## 6. Widow of a pre-deceased son



- ## 11. Daughter of a predeceased son of a predeceased daughter

- ### 8. Widow of a pre-deceased son of a pre-deceased son

# IF A HINDU MALE DIES WITHOUT A WILL.....

## ▶ Distribution of Property among Class-I Heirs (Sec-10)

- ▶ The **widow (or widows)**, **mother** and **each of the children** (son or daughter, the law makes no distinction (Sec-6)) take **equal shares**.
- ▶ Where one or more of such sons or daughters is no more, then **the Class-I heirs in that branch will all jointly** stand in the place left behind by such deceased son or daughter and shall take between them one share.

### **Note:**

- ▶ if there are more widows than one, all the widows together, shall take one share.

In case there are no relatives as per Class-I heirs available, then the property will be distributed among **Class II heirs**.

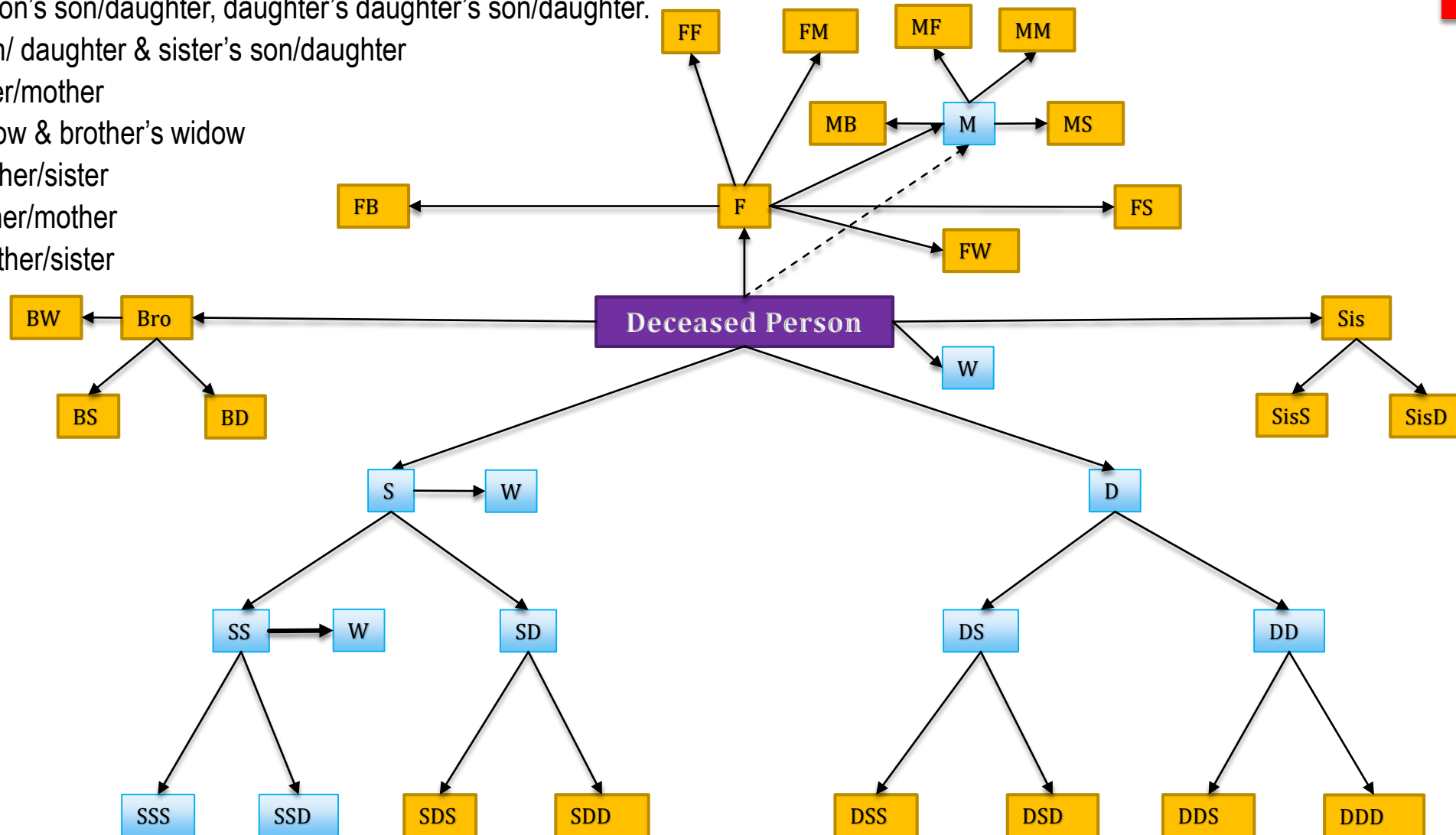
## CLASS-II HEIRS

- I. Father
- II. Son's daughter's son/daughter, brother & sister
- III. Daughter's son's son/daughter, daughter's daughter's son/daughter.
- IV. Brother's son/ daughter & sister's son/daughter
- V. Father's father/mother
- VI. Father's widow & brother's widow
- VII. Father's brother/sister
- VIII. Mother's father/mother
- IX. Mother's brother/sister

► **Explanation:** In this Schedule, references to a brother or sister do not include references to a brother or sister by uterine blood.

# CLASS-II HEIRS

- I. Father
- II. Son's daughter's son/daughter, brother & sister
- III. Daughter's son's son/daughter, daughter's daughter's son/daughter.
- IV. Brother's son/ daughter & sister's son/daughter
- V. Father's father/mother
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# CLASS-II HEIRS

I. Father

II. Son's daughter's son/daughter, Brother & Sister

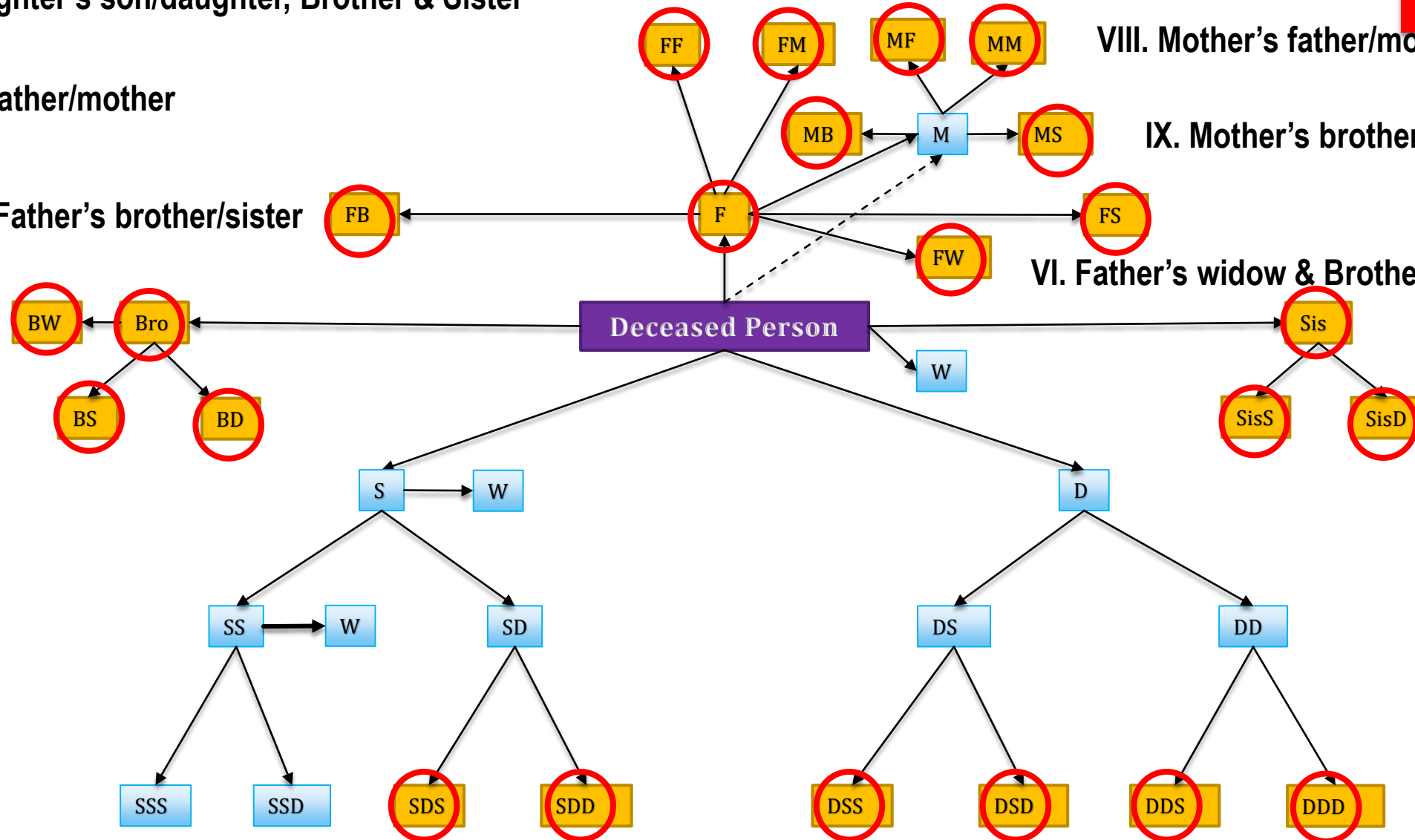
V. Father's father/mother

VIII. Mother's father/mother

IX. Mother's brother/sister

VII. Father's brother/sister

VI. Father's widow & Brother's widow



IV. Brother's son/ daughter & Sister's son/daughter

III. Daughter's son's son/daughter; Daughter's daughter's son/daughter.

## CLASS-II HEIRS

### ► Order of Succession among Class-II Heirs (Sec-9)

The heirs in the first entry in Class-II shall be preferred to those in the second entry; the heirs in the second entry shall be preferred to those in the third entry; and so on in succession.

#### For example:

If the father is no longer live, then the second in list such as “(1) Son’s daughter’s son (2) son’s daughter’s daughter, (3) brother, (4) sister” will get the property in equal measure, provided all the heirs are available. However, whoever is alive will get the property in equal proportion.

### ► Distribution of property among Class-II heirs (Sec-11)

The property of an intestate shall be **divided between the heirs specified in any one entry** in Class-II so that they share equally.

- I. Father
- II. Son’s daughter’s son/daughter, brother & sister
- III. Daughter’s son’s son/daughter, daughter’s daughter’s son/daughter.
- IV. Brother’s son/ daughter & sister’s son/daughter
- V. Father’s father/mother
- VI. Father’s widow & brother’s widow
- VII. Father’s brother/sister
- VIII. Mother’s father/mother
- IX. Mother’s brother/sister

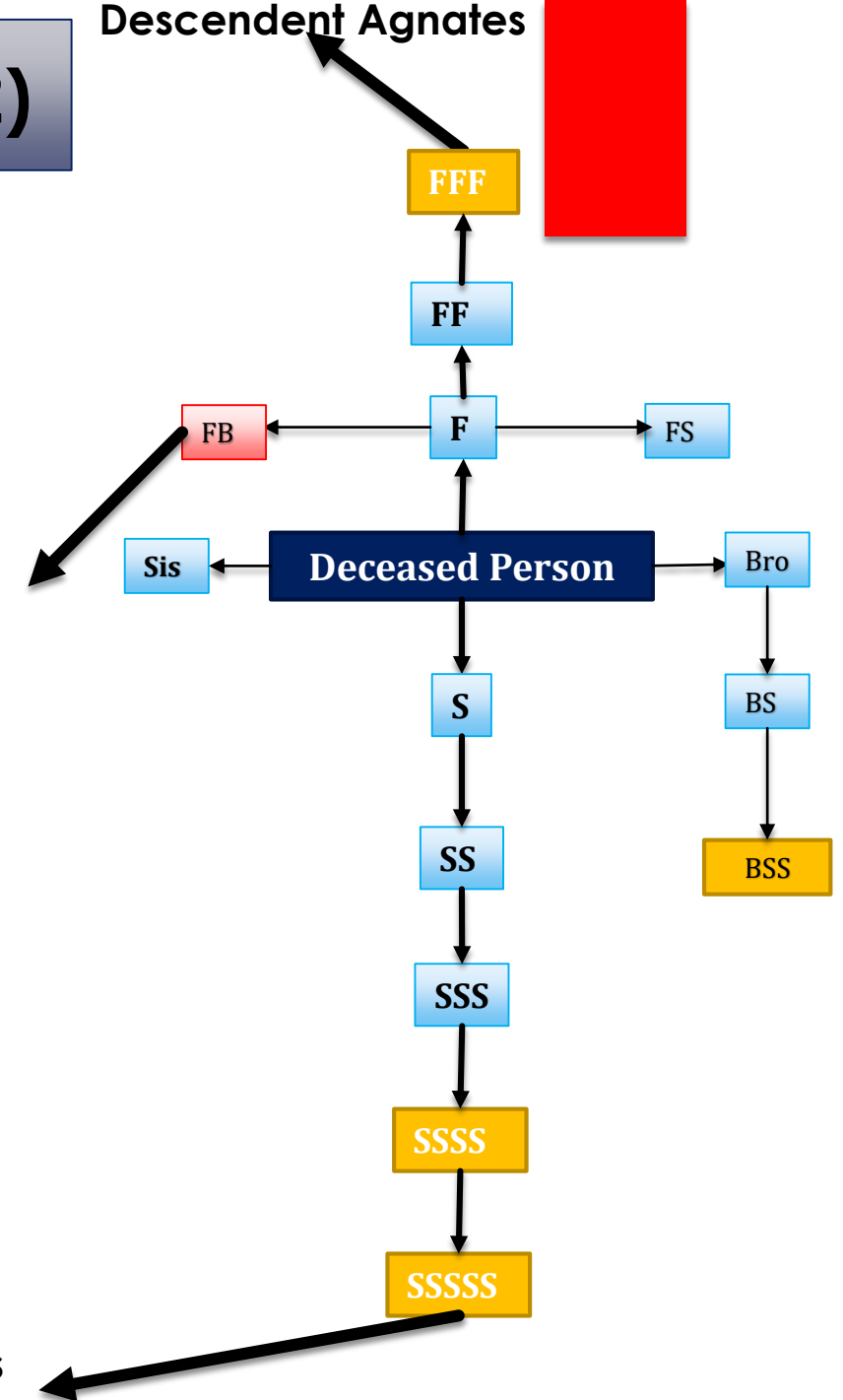
If there are no relatives as per Class II heirs too, then the property will be given to the agnates of the deceased person.

# SUCCESSION AMONG THE AGNATES (SEC-12)

- ▶ A male or female descendant **by male links** from a common ancestor or relatives through male lineage are called agnates.

“Ascendant Agnates are always preferable than Descendant Agnates”

If there are no agnates, then the property will be given to the cognates of the deceased person.



# SUCCESSION AMONG THE COGNATES (SEC-12)

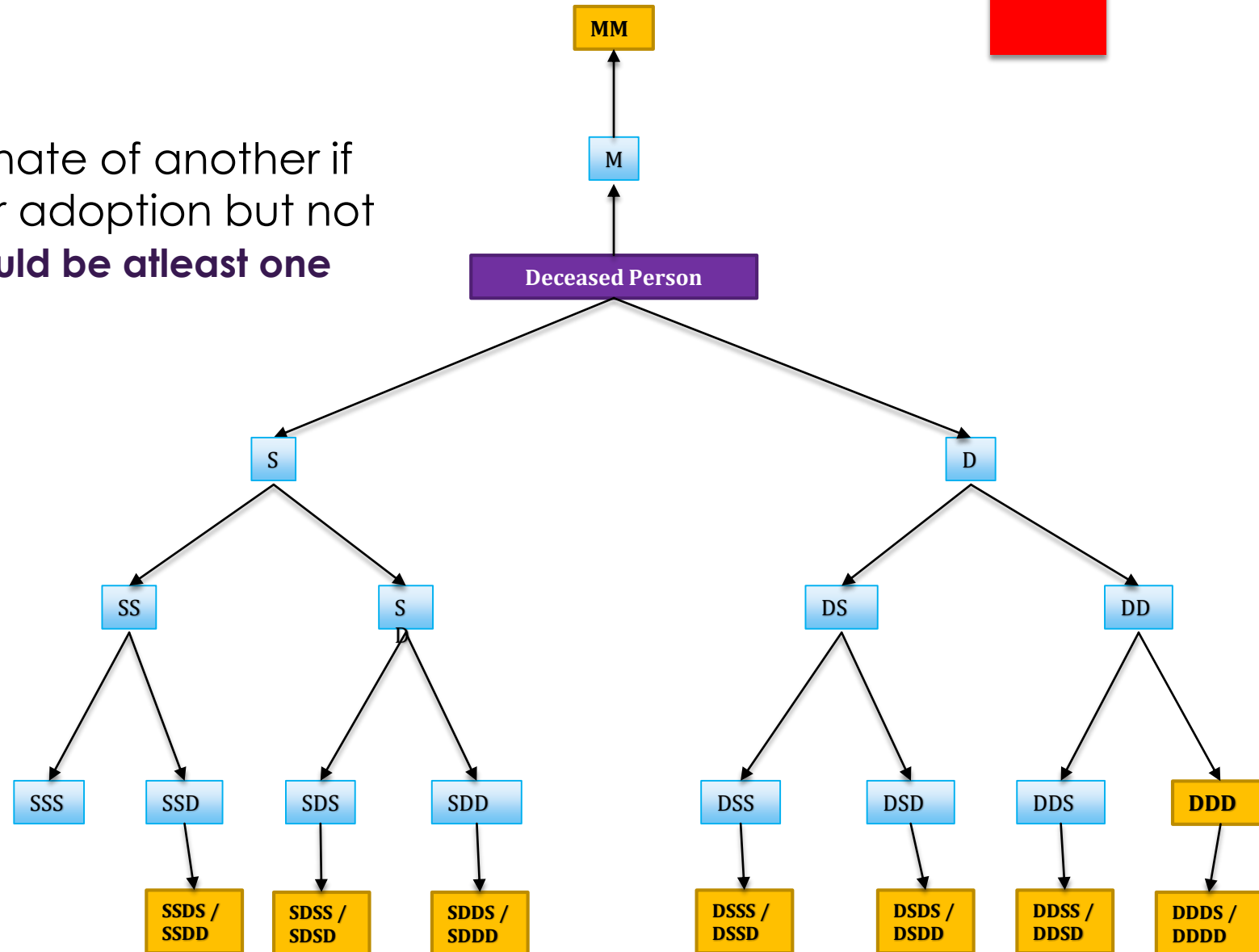
## Cognate

One person is said to be a cognate of another if the two are related by blood or adoption but not wholly through males. **(There should be at least one female link).**

If there are no cognates too, then all the property of the deceased person **will go to the government** (Doctrine of Escheatment – Sec-29).

The question of escheat arises.....

- i. When a Hindu intestate has left no legal heir.
- ii. When the intestate has left an heir who is statutorily disqualified from succeeding (Sec-25 to 28 of the Act)





# HINDU FEMALE DIES WITHOUT A WILL....

## Property of a female Hindu to be her absolute property (Sec-14)

- ▶ If a Hindu female dies without a Will, her property (if she is the full owner of the property) would be distributed as follows:
  - Firstly, upon the sons, daughters (including the children of predeceased son/daughter) & husband
  - Secondly, upon the heirs of her husband
  - Thirdly, upon her mother & father
  - Fourthly, upon the heirs of her father
  - Lastly, upon heirs of her mother

**General rules  
of succession  
in case of  
female Hindus  
(Sec-15)**

## Note:

Under Sec-14, 'property' includes **both moveable & immovable property** acquired by a female Hindu *by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any relative or nonrelative at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or by her Sridhana or in any other manner whatsoever held by her.*

# HINDU FEMALE DIES WITHOUT A WILL....

## Few points to be kept in mind

- ▶ In case of a Hindu female dies intestate and without any issue or any children or any predeceased children, **any property inherited by her from her parents** shall not devolve upon her husband or his heirs but **revert to her natal family.....(Sec-15(2)-a)**
- ▶ Similarly, in case a Hindu female dies intestate and without any issue or any children or any predeceased children, then **any property inherited by her from her husband or her father-in-law devolves upon the heirs of her husband. ....(Sec-15(2)-b)**

# OTHER IMPORTANT PROVISIONS...

- ▶ Any person who **commits murder or abets the murder** shall be disqualified from receiving any form of inheritance from the victim **(Sec-25)**.
- ▶ **Full Blood is always preferred to Half blood (Sec-18)**.
- ▶ If a person **converts from Hinduism**, he or she is still eligible for inheritance, but **his/her descendants are disqualified for inheritance (Sec-26)**.
- ▶ **A child in womb** at the time of the death of an intestate shall have the right to inherit (if the child is subsequently born alive) **(Sec-20)**.

## # **Minoti vs. Sushal Mohan Singh (1982 Bom. 68)**

The word 'murder' used in Sec-25 in Hindu Succession Act-1956 includes culpable homicide or unlawful manslaughter.

## # **Chammanlal vs. Mohanlal (AIR 1977 Delhi 97)**

If a person charged with murder is acquitted, the acquittal removes disqualification.

# OTHER IMPORTANT PROVISIONS...

- ▶ When two persons die simultaneously, **the presumption is that the elder died first** and the younger survived the elder **(Sec-21)**.
- ▶ **Widows remarrying are entitled to inherit as widow (From 9-9-2005)(Sec-24 repealed)**
- ▶ **No person shall be disqualified** from succeeding to any property **on the ground of any disease, defect or deformity etc. (Sec-28)**.
- ▶ **Daughters have equal rights by birth in co-parcenary property of a Joint Hindu Family (Sec-6)**.

Note:

Equal share in ancestral property for daughters was first conferred by Andhra Pradesh from 5-9-1985 (State Amendment – Sec-29-A – but now through Sec-6)

# OTHER IMPORTANT PROVISIONS...

- ▶ Thus as per the discussion held in the previous slides, the following are disqualified from inheriting the property of the deceased intestate.....
  - i. Murderer(**Sec-25**).
  - ii. Abettor to murder(**Sec-25**).
  - iii. Convert's descendants (**Sec-26**).

# For Queries.....

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