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Inheritance under Muslim Law Part II

Dear Students,

Hope you will be getting enough materials on Family Law-II through e-content, You tube and online classes. Kindly go through my youtube video on Muslim Law of Inheritance. In that Video I have given numerous illustrations alongwith the distribution of property upon Quaranic heirs. Now here is some material on Agnatic heirs or Residuaries and Distant Kindred.

Class II : Heirs entitled to inherit as Residuaries or Agnatic heirs

The Residuaries constitute Class II of the heirs of a Sunni propositus. Where a propositus has no Sharers at all, the whole property is inherited by the Residuaries. Secondly, if there are Sharers but after giving the property to them, there remains a residue and among heirs there are also the residuaries.

For example, if a Muslim dies leaving behind a Mother, and a son then mother as a sharer will get 1/6 and Son will get the remaining 5/6 as residuary. Such residuaries may include males and females, descendants, ascendants and collaterals of the deceased.

A list of Residuaries and rules regarding to their inheritance is given below :

- i. **Son** : When there is no daughter, the son takes the entire residue, but if the daughter present, the son gets double the share of the daughter.
- ii. **Sons's Son h.l.s** : In such cases, nearer son's son excludes the remoter, Two or more sons's sons inherit equally and Son's daughter together with son's son becomes Residuary but the son's son gets double the share of Son's daughter.
- iii. **Daughter** : She becomes a residuary when there co-exists a son of the deceased.
- iv. **Son's daughter h.l.s** : She becomes a residuary when there co-exists son's son h.l.s, or in other words an equal son's son or a lower son's son provided that she does not inherit as a Sharer.
- v. **Father** : As a Residuary, the father gets the entire residue.
- vi. **True Grandfather**: A true grandfather also takes the entire residue but a nearer true grandfather excludes the remoter.
- vii. **Full Brother** : If there is no full sister, the full brother inherits the entire residue, but if there is full sister, the full brother inherits with her but his share is double the share of a sister.

- viii. **Full Sister** : In the absence of full brother and other Residuaries enumerated in the preceding line, the full sister is treated as Residuary provided there is daughter, or son's daughter h.l.s or one daughter and a son's daughter h.l.s.
- ix. **Consanguine Brother** : A consanguine brother inherits together with consanguine sister but the share of consanguine brother is double the share of consanguine sister.
- x. **Consanguine Sister** : In the absence of consanguine brother and any of the Residuaries given above, the consanguine sister is treated as Residuary and takes the residue provided there is daughter, or son's daughter h.l.s or one daughter and a son's daughter h.l.s.
- xi. **Full Brother's sons**
- xii. **Consanguine Brother's son**
- xiii. **Full Brother's Son's son**
- xiv. **Consanguine Brother's son's son**
- xv. **Full paternal uncle**
- xvi. **Consanguine paternal uncle**
- xvii. **Full paternal uncle's son**
- xviii. **Consanguine paternal uncle's son**
- xix. **Full paternal uncle's son's son**
- xx. **Consanguine paternal uncle's son's son**

Note: In default of the abovementioned Residuaries, they take entire residue in order of priority.

Shifting of status of heirs as residuaries :

Four females and two males, who are otherwise primary Quranic heirs or sharers are shifted to Class II (residuary) in certain circumstances. These six are-(1) Daughter, (2) Son's daughter h.l.s, (3) Full sister, (4) Consanguine Sister, (5) Father and (6) True grandfather h.h.s. All of them are Quranic heirs but certain circumstances force them to inherit as residuaries.

Rules have been so framed that males who are in the category of residuary (as son), could inherit in the residue. In the other case if these females are allowed to inherit in their normal share (as mentioned in the above), there will be little or nothing left as a residue to be given to males. The daughter inherits as a Quranic heir when there is no son, but where there is son, she inherits as a residuary. This is a marked change. But the father and true grandfather succeed in certain circumstances both as Quranic heir and a residuary. Both of them are the only relation, who could inherit both as a 'Sharer' and a residuary'. All the other four females, above mentioned would either inherit as a Quranic heir or as a residuary.

Distant kindred :

The third category of heirs are called distant kindred. It comprises all cognates of the deceased, except those who are included in the sharers category. The heirs entitled to inherit as distant kindred include descendants, ascendants and collaterals of the deceased. Collaterals include descendants of parents, immediate grand parent and remoter grand parents how high soever. Collaterals are limitless (ad infinitum), all the descendants of all the ascendants without any limit as to degrees are included. The distant kindred's are classified into four classes :

Class I : Descendants of the propositus other than Sharers and Residuaries : In this class, following relations are included :

- i. Daughter's children and their descendants.
- ii. Children of son's daughter h.l.s and their descendants.

Class II : Ascendants of the parents of propositus other than Sharers and Residuaries. This class comprises of :

- i. False grandfather h.h.s.
- ii. False grandmother h.h.s.

Class III : Descendants of the parents of propositus other than Sharers and Residuaries. This class of distant kindreds consists of :

- i. Full brother's daughter and her descendants.
- ii. Consanguine brother's daughter and her descendants
- iii. Uterine brother's children and their descendants
- iv. Daughters of full brother's sons h.l.s and their descendants
- v. Daughters of consanguine brother's son h.l.s and their descendants.
- vi. Sister's (full, consanguine or uterine) children and their descendants.

Class IV : Descendants of ascendants h.l.s other than Residuaries : This class includes descendants of immediate grand parents (true or false) and the descendant of remoter ancestors h.h.s (true or false). The immediate grandparents are :

- i. Full paternal uncles' daughter and their descendants.
- ii. Consanguine paternal uncle's daughters and their descendants.
- iii. Uterine paternal uncles and their children and their descendants.
- iv. Daughters of full paternal uncle's sons h.l.s and their descendants.
- v. Daughters of consanguine paternal uncle's sons h.l.s. and their descendants
- vi. Paternal aunts (full, consanguine or uterine) and their children and descendants.
- vii. Maternal uncles and aunts and their children and their descendants.