



Intestate Succession for Hindu Female

SUCCESSION PLANNING SERIES #07

Preface

Succession planning refers to the passing of assets, properties, investments, etc., from the legal owner to the intended beneficiaries. If a deceased Hindu does not leave behind a valid Will, the Hindu Succession Act (HSA) applies. In the HSA, there is a hierarchy specified in a chronological manner for intestate succession for male. In our previous alerts, we have given a brief understanding of intestate succession for a Hindu male which included different classes of heirs, order and rules for distribution among the heirs of a Hindu male

In continuation to our previous series, in the **series #7**, we will take you through the heirs, order and rules for distribution in case of intestate succession for a Hindu female as per the Hindu Succession Act, 1956.



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Basics of succession planning.

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Basic rules of intestate succession as provided in the Hindu Succession Act.

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An overview of the different classes of heirs for a Hindu Male.

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The first two classes of intestate succession for males (Class I and Class II)

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Agnates & Cognates

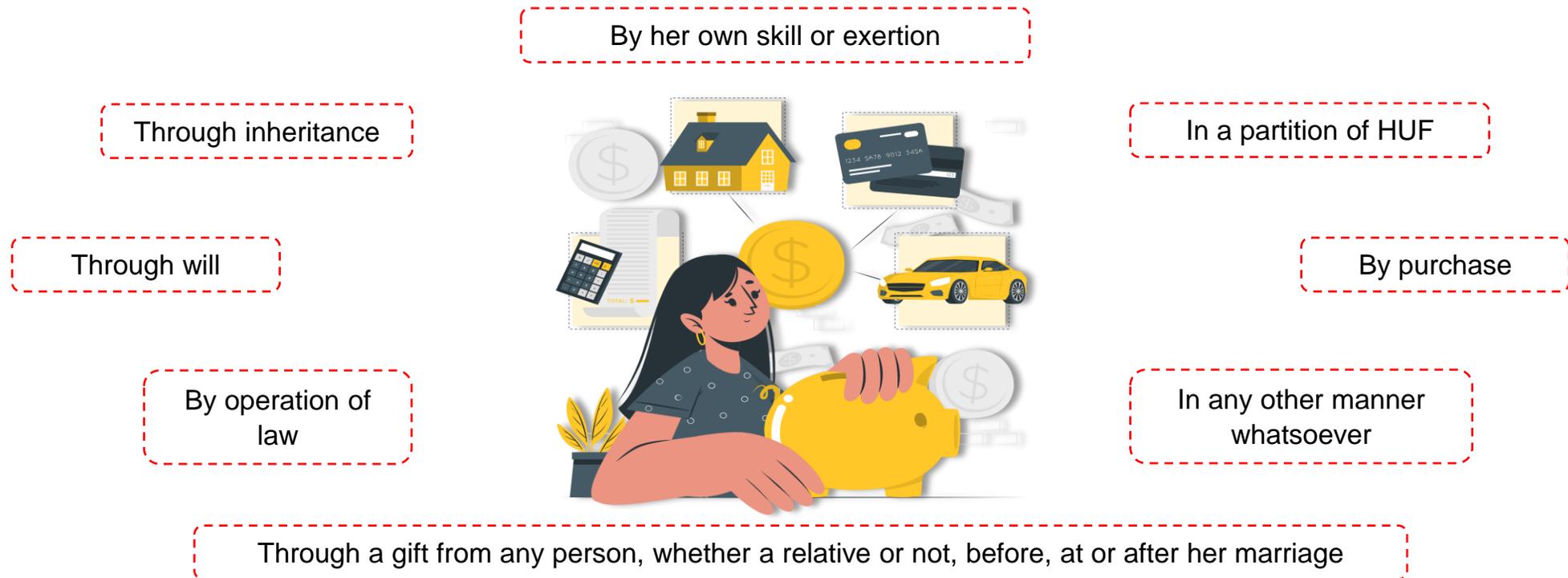
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Illustrations on Intestate Succession for Hindu Male

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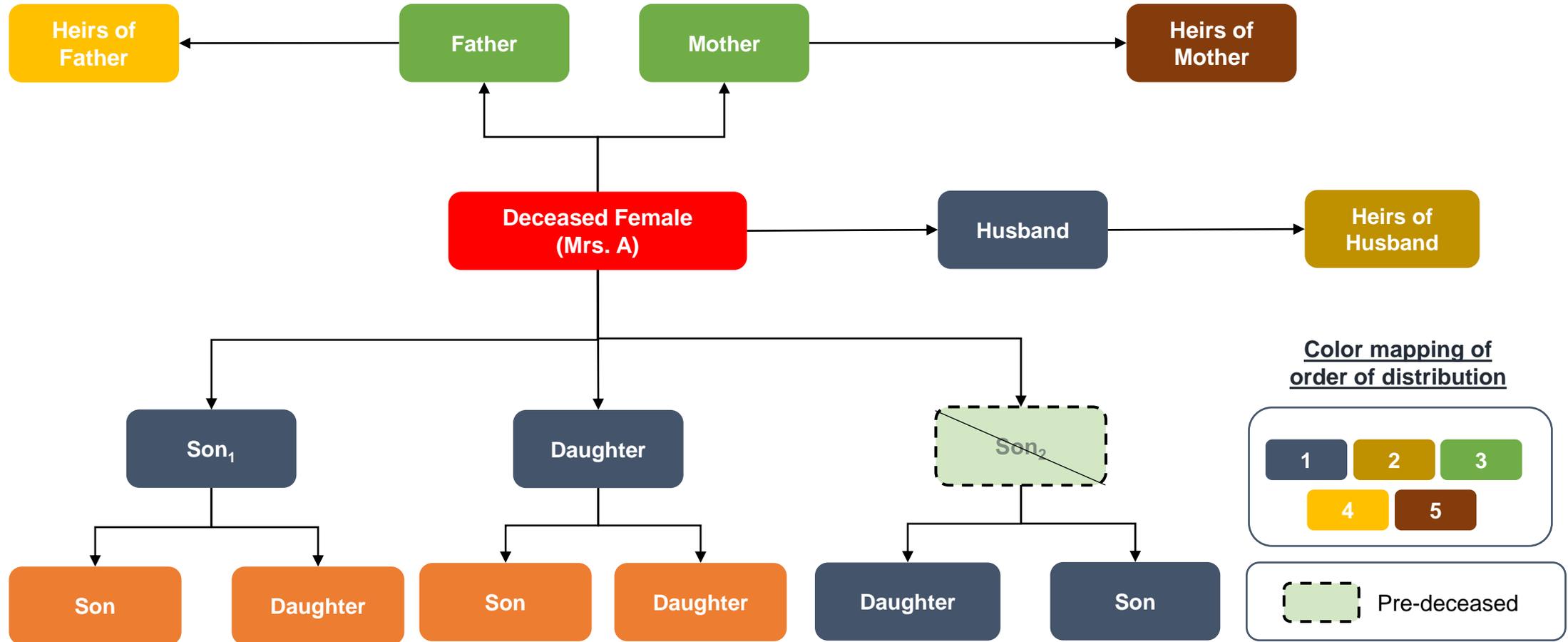
Ownership of Properties for Hindu Female

Prior to the introduction of this Act, only the properties received as gift by a Hindu female during her marriage was her absolute property and she had very limited powers over the said property. However, the Hindu Succession Act, 1956 provides that any movable or immovable property acquired by a Hindu female shall be held by her as a full owner and she would have all the control over the said property. The properties can be acquired in any of the following manner:



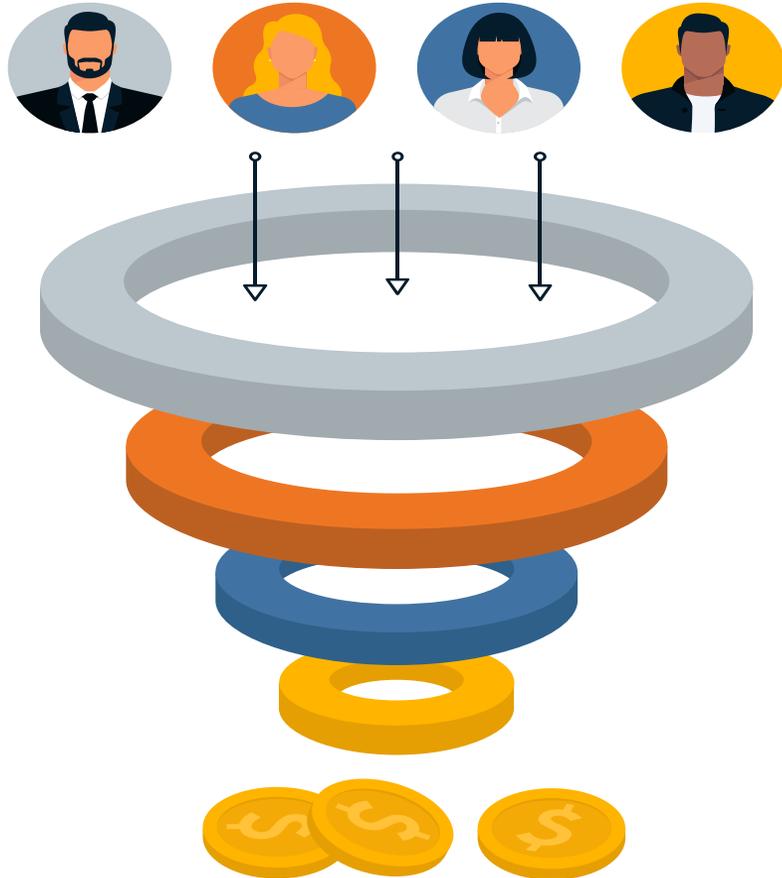
Exception to the rule of full owner – In case the property has been acquired by her by way of a gift or under a Will or under a decree, the terms of which prescribe a restricted estate in such property, then such female would not be treated as full owner of the property.

Heirs and order of succession for a Hindu Female



Those in the first entry shall be preferred over the second entry and so on. The distribution shall take place in the order specified.

Rules for distribution

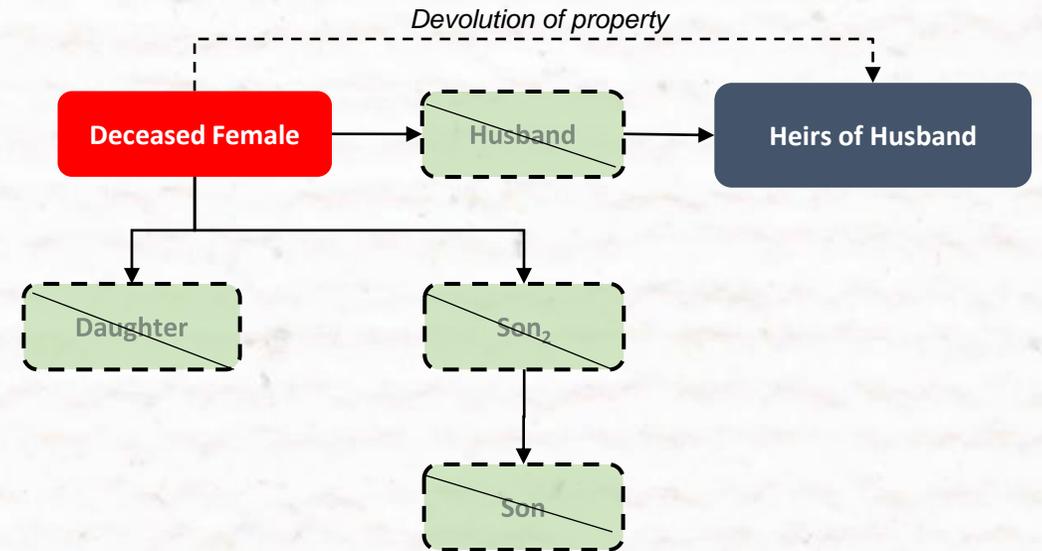
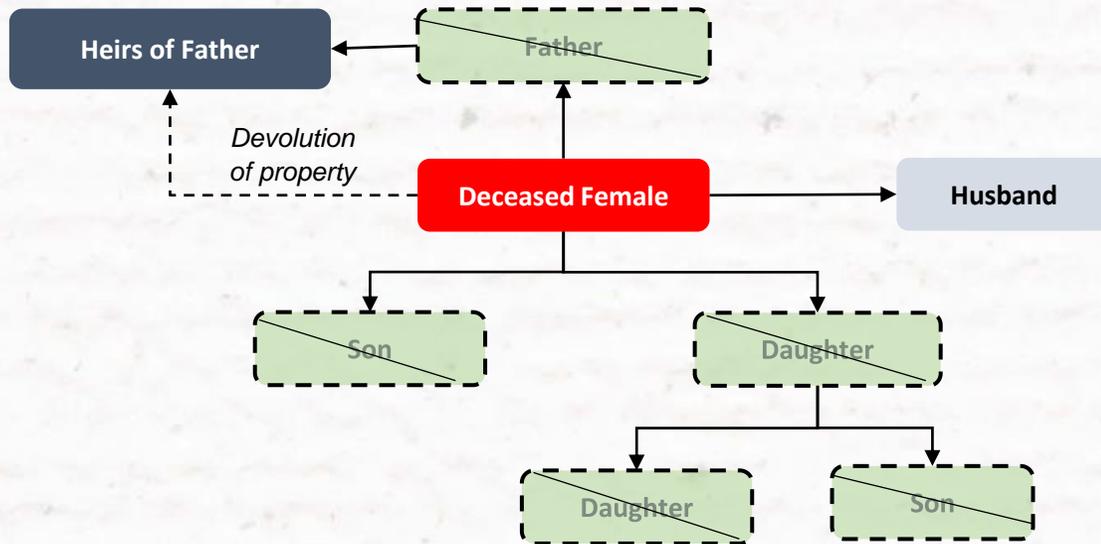


- The heirs in a particular entry shall receive equal share between them.
- Children of the predeceased son or daughter shall take a total of one share between them, which is limited to the share that would have been inherited by the predeceased son or predeceased daughter.
- Where the distribution is to be made to the heirs of the husband or heirs of the father, the same shall be distributed as if the property is held by the intestate husband or the intestate father, as the case maybe, and the rules of intestate male succession shall apply
- Where the distribution is to be made to the heirs of the mother, the same shall be distributed as if the property is held by the intestate mother and the rules of intestate female succession shall apply.

Exceptions to the rule

1 In case any property is **inherited by a female from her father or mother** and such female dies without a son or daughter (including children of the predeceased son or daughter), then the property shall **directly devolve upon the heirs of the father (i.e., 4th entry directly instead of 1st entry).**

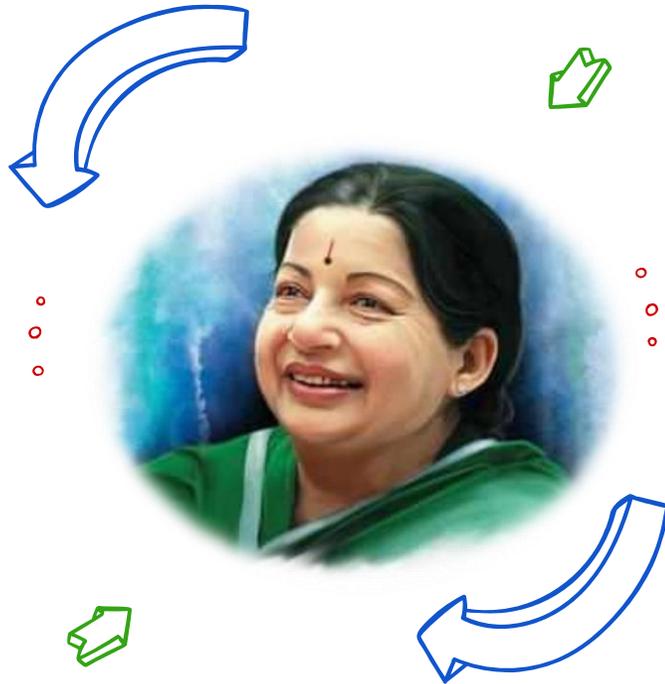
2 In case any property is **inherited by a female from her husband or from her father-in-law** and dies without a son or daughter (including children of the predeceased son or daughter), then the property shall **directly devolve upon the heirs of the husband (i.e., 2nd entry directly).**



 Pre-deceased

 Legal Heir of the property

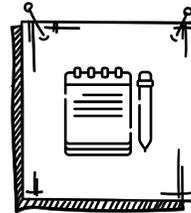
Real Life Example – Female succession



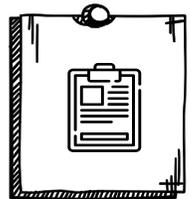
Dr. J Jayalalithaa, former Chief minister of Tamil Nadu, passed away in 2016 leaving behind **Rs. 900 crores worth of estates and assets.**



Surprisingly, she **did not prepare** a Will for distribution of her assets upon her death. Further, she was unmarried, and her parents pre-deceased her. The matter of who shall be the legal heir went into **the Madras High court.**



The Court, based on the reference from the Hindu Succession Act ('HSA'), declared **Mr. Deepak and Mrs. Deepa** who are nephew and niece of Dr. J. Jayalalithaa as the legal heirs under **"Entry IV Class II" of the HSA (Hindu male succession).**

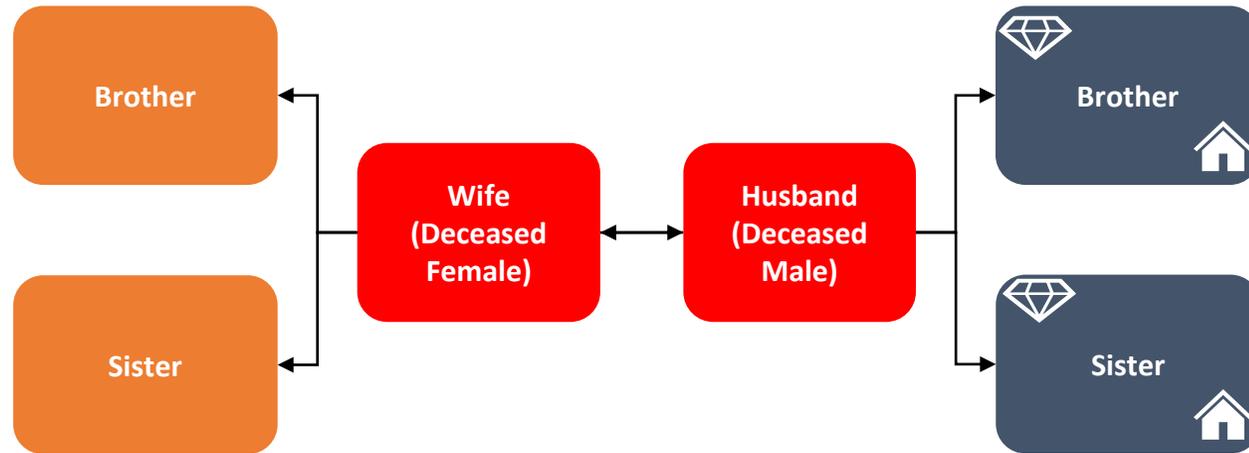


Later, the court **rectified the order** as the said legal heirs were covered under the 4th entry in the order of Hindu female succession (i.e., heirs of the father).

Source: <https://indiankanoon.org/doc/28053148/>

Comparison - Male & Female succession (1/2)

Scenario: Wife and husband are both deceased and only their respective siblings are alive.



Share in Female's Property



Share in Male's Property

In case of an intestate female, the siblings of the spouse get priority (*as the heirs of husband*) over her own siblings. In the case of an intestate male also, his own siblings are given the first preference.

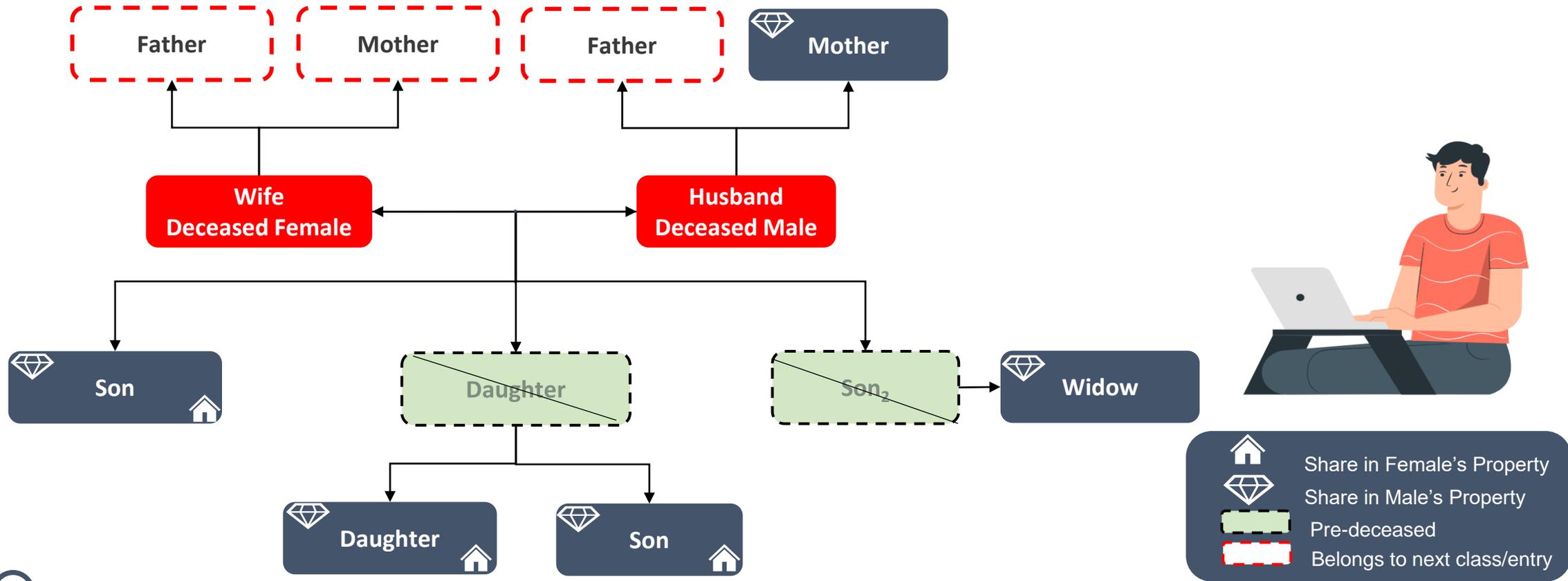
Did you know that Radha just lost her sister in a car accident!



I also heard that she did not inherit any share in her sister's property upon her demise. The entire property went to her husband's siblings!

Comparison - Male & Female succession (2/2)

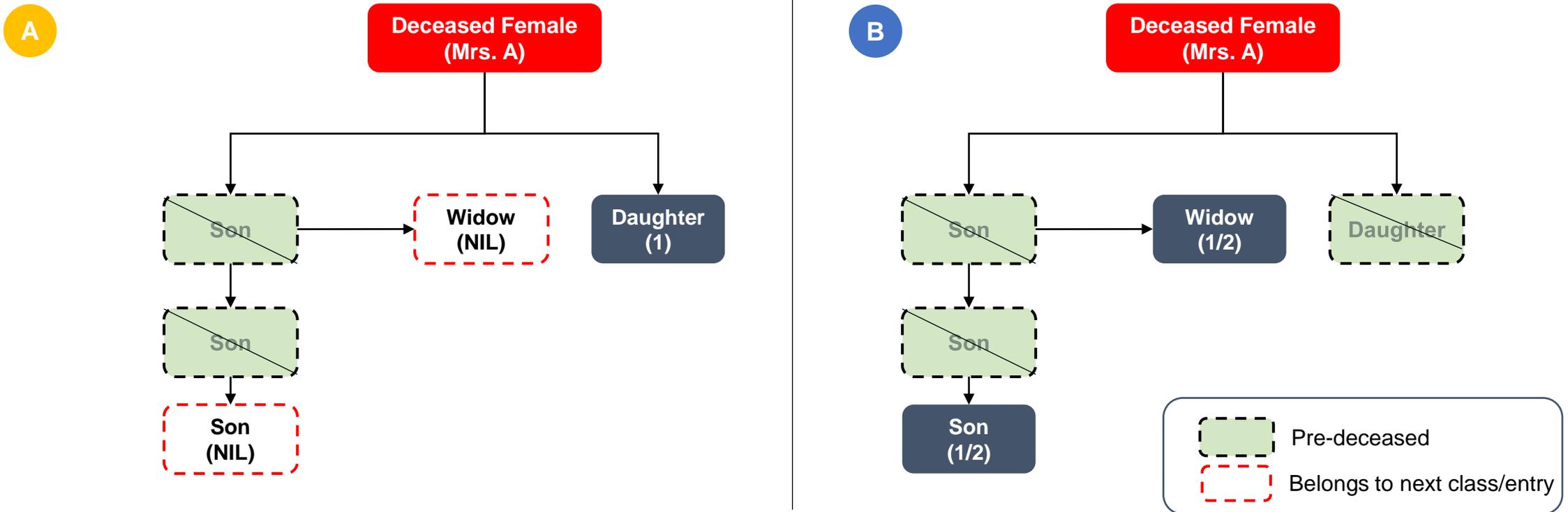
Scenario: Deceased's Immediate Heirs Perspective



Intestate Female's Mother and Pre-deceased son's wife are **not immediate heirs** to inherit the share in property of deceased female whereas the Mother and Pre-deceased son's wife of the Intestate male are his immediate heirs.

Illustration 1

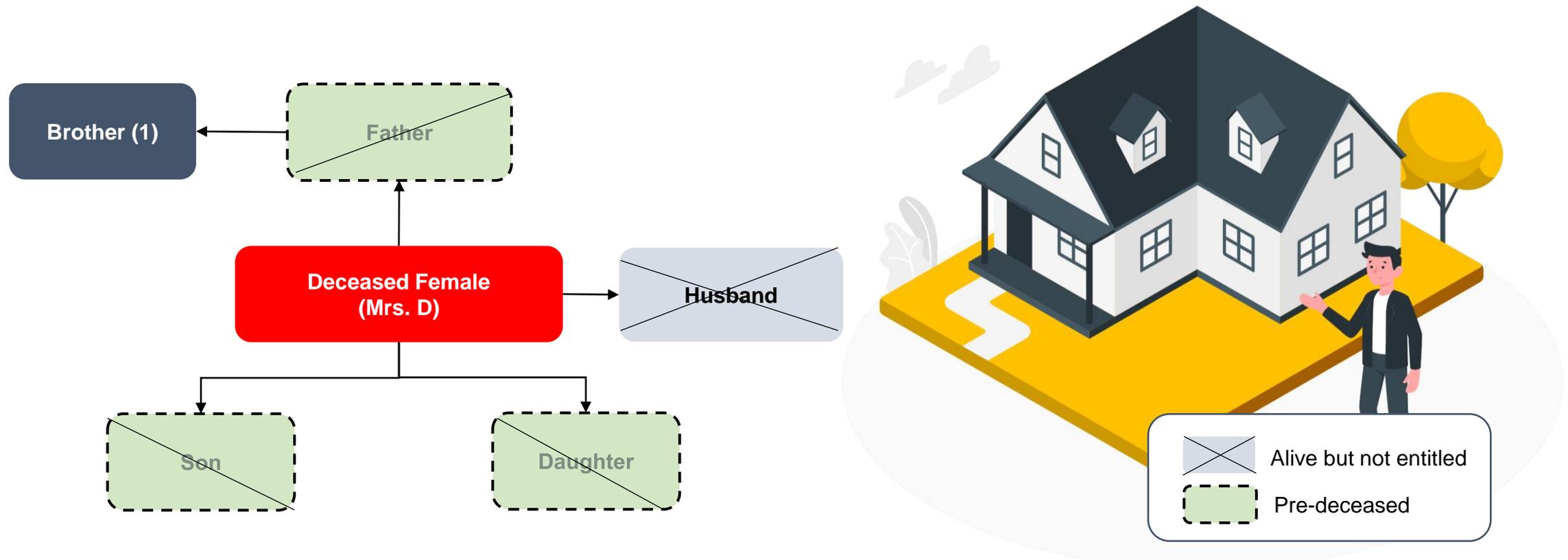
Let's figure out how will the distribution of property take place, in case, Mrs. A passes away without a Will leaving behind a family structure as represented in the below figure under different scenarios : (A) her daughter is alive and (B) daughter is not alive



In **Case (A)**, the great grandson & predeceased son's wife (widow) are not entitled to any share as they don't belong to the first entry and the daughter would **be entitled to the entire share** in property. However, in **Case (B)** both the great grandson & predeceased son's wife get **equal share** being in the second entry (*heirs of her husband*).

Illustration 2

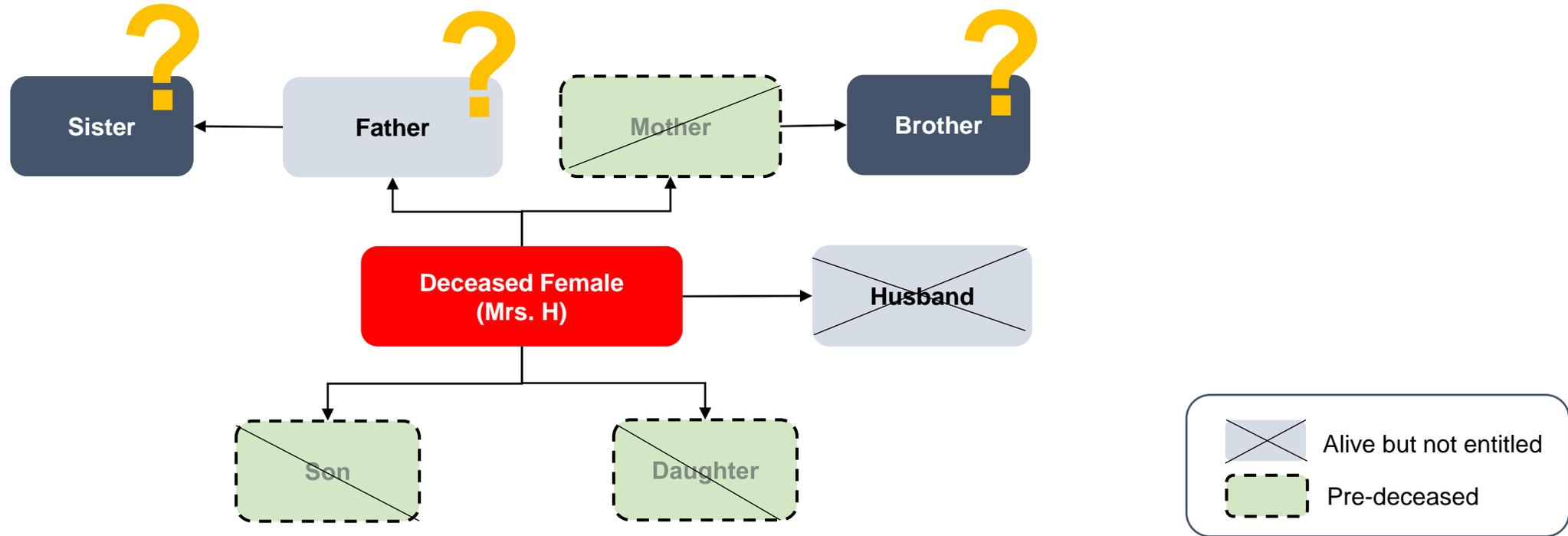
Let's figure out how will the distribution of property that Mrs. D inherits from her father take place in absence of a Will, in case, she passes leaving behind her husband and father's brother.



Since the property is inherited from Mrs. D's father her husband will not be entitled to receive any share in the property rather the entire property shall be taken by the father's brother (heirs of father).

Illustration 3

Let's figure out how will the distribution of property that Mrs. H inherits from her mother take place in absence of a Will, in case, she passes leaving behind her husband, father, father's sister and mother's brother. In the above-mentioned case, the property is inherited from Mrs. H's mother. As per the rule, the property should go to heirs of father and the order of succession does not apply i.e., husband does not have right to the property.



Posers:

- Will the property go to the father if he is alive?
- Will the property go to the mother's sister since the inheritance was from the mother?
- What if none of the heirs of the father are alive (i.e., father's sister is not alive)? Who will get the property?

Got more
questions?

*Drop in your queries below and we'll try
covering them in the upcoming series*

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