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THE VOID MARRIAGE AND THE INVISIBLE WIDOW: RE-EXAMINING SUCCESSION RIGHTS OF WOMEN IN VOID MARRIAGES

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I. ABSTRACT

The legal consequences of a marriage void under the Hindu Marriage Act, 1955 are ordinarily determined by the absence of valid marital status. A woman whose marriage is void under Section 11 does not acquire the status of a legally wedded wife and, upon the man's death, cannot ordinarily claim the status of a widow or qualify as a Class I heir under the Hindu Succession Act, 1956. Although this position accords with the statutory scheme, it has serious economic implications where the woman entered the relationship in good faith, contributed to the household, bore children and became substantially dependent on the relationship. Hindu family law has, however, gradually recognised that the invalidity of a marriage does not necessarily extinguish every legal consequence arising from the relationship. Judicial developments concerning maintenance, permanent alimony, relationships in the nature of marriage and protection against economic deprivation reveal an increasing distinction between formal marital status and substantive economic protection. Against this background, the paper examines whether complete exclusion of a woman in a void marriage from the deceased man's estate remains justified in all circumstances. The paper argues that a narrowly defined protective entitlement may be considered for women who entered such relationships in good faith and suffered substantial economic dependence, without validating the void marriage or conferring the status of widow. Grounded in justice, equity and good conscience, and informed by constitutional principles of equality, non-arbitrariness and dignity, such protection must preserve the statutory priority of the legally recognised widow and avoid undermining the prohibition against bigamy. The paper therefore proposes a limited distinction between marital

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status and economic protection to prevent disproportionate economic deprivation in appropriate cases.

II. KEYWORDS

Void Marriage, Hindu Succession Act, Economic Protection, Widow, Article 14.

III. INTRODUCTION

The law of marriage is ordinarily conceived as a law of status. Marriage determines who is recognised as a spouse, who may claim the incidents of matrimonial status and, upon the death of a spouse, who may succeed to the estate left behind. The existing law related to Hindu marriages embodies this view of status. Under Section 5 of the Hindu Marriage Act, 1955 ("HMA"), the requirements for a lawful Hindu marriage are specified.² The law also prescribes in Section 11 that any marriage contravening these requirements is null and void.³

Consequently, if a marriage falls under Section 11, it does not create the status of a husband or wife. Such invalidity of marriage has an important impact on inheritance. According to Section 8 of the Hindu Succession Act, 1956 ("HSA"), intestate succession in case of a Hindu male is governed, whereas the Schedule clearly states that the widow is one of the heirs of Class I.⁴ This means that the presence of a legally valid marriage is taken for granted here. A woman whose marriage is declared null and void is therefore not entitled to receive the status of a wife and thus cannot receive the status of a widow after her husband dies.⁵ This exclusion from inheritance remains doctrinally justified. However, an in-depth examination of its social and economic repercussions is necessary.

A void marriage may, however, still be regarded as having fulfilled many functions usually associated with marriages. A woman may have lived with a man for many years, run the household and brought up children without getting paid for her work, all of the while missing out on other economic opportunities by relying on that

² Hindu Marriage Act, 1955, § 5, No. 25, Acts of Parliament, 1955 (India) [hereinafter HMA].

³ HMA, *supra* note 1, § 11.

⁴ Hindu Succession Act, 1956, § 8, No. 30, Acts of Parliament, 1956 (India) [hereinafter HSA].

⁵ HSA, *supra* note 3, sch.

relationship. In some instances, a woman may not have known about the impediment to the marriage, thus entering it in good faith. The later declaration of voidness of marriage, however, could change a real social and economic relationship into one not entitled to receive any economic protection in case of the man's death.

The landmark ruling in the case of *Rameshwari Devi vs. the State of Bihar* is relevant here. The Court ruled that the second marriage concluded while the first marriage remained valid was void, and that therefore the second woman could not receive the widow's status in terms of the deceased's service benefits, although the Court recognised the independent position of the children born of that relationship.⁶

The importance of this distinction has grown in light of the evolution of Indian family law. In *Badshah v. Urmila Badshah Godse*, the Supreme Court rejected a husband's attempt to take advantage of the invalidity of his marriage to a woman who did not know about the husband's existing marriage before entering into the union.⁷ Similarly, jurisprudence under the Protection of Women from Domestic Violence Act, 2005 has acknowledged the issue of legal protection in marriage-like relationships in spite of the absence of a formally valid marriage in a legal sense.⁸ The latest case of *Sukhdev Singh v. Sukhbir Kaur* saw the Supreme Court lending a sanction to the award of permanent alimony under section 25 of the Hindu Marriage Act, despite the declaration of the marriage as void, thereby involving certain legal conditions in the process.⁹

Though these judgments do not land a female in a position to appropriately inherit in the case of a void marriage, they mark a watershed in the domain of family law since they establish that the invalidity of a marriage does not result in ceasing the legal consequences of a relationship. Therefore, the distinction between marital status and financial consequences forms the central premise of this paper.

⁶ *Rameshwari Devi v. State of Bihar*, AIR 2000 SC 735.

⁷ *Badshah v. Urmila Badshah Godse*, (2014) 1 SCC 188.

⁸ Protection of Women from Domestic Violence Act, 2005, § 2(f), No. 43, Acts of Parliament, 2005 (India) [hereinafter PWDVA].

⁹ *Sukhdev Singh v. Sukhbir Kaur*, 2025 SCC OnLine SC 299.

This work does not assert that a void marriage must be recognised as valid, or that a woman in a void marriage may be considered a legally legitimate widow. Instead, it discusses whether such a complete economic exclusion is justified in every case, including that of good faith and considerable economic dependence on the relationship. The issue is constitutionally relevant under Article 14, as the question of whether the differentiation is permissible under marital status cannot be used to argue whether the total exclusion is proportionate and non-arbitrary.

The paper accordingly argues for a limited and carefully structured form of economic protection, grounded in considerations of justice, equity and good conscience, without conferring marital status or prejudicing the rights of the legally recognised widow. Such protection would not legitimise bigamy. Rather, it would recognise that the invalidity of a marriage should not, in every circumstance, result in the complete economic erasure of a woman who may herself have been deceived and who contributed substantially to the relationship.

A. Research Objectives

The present paper seeks to:

1. examine the statutory exclusion of women in void marriages from the category of “widow” under the Hindu Succession Act, 1956;
2. analyse whether complete economic exclusion from the deceased man’s estate is justified in cases involving good faith, long-term cohabitation, domestic contribution and economic dependence;
3. evaluate the distinction between marital status and economic protection in light of recent developments in maintenance, permanent alimony and marriage-like relationship jurisprudence; and
4. propose a narrowly tailored protective entitlement that preserves the rights of the legally recognised widow while preventing disproportionate economic deprivation.

B. Research Questions

The paper addresses the following research questions:

1. Whether a woman in a void marriage can claim the legal status of a widow or Class I heir under the existing Hindu succession framework?
2. Whether the complete exclusion of such a woman from the deceased man's estate remains constitutionally justified in every circumstance?
3. Whether Indian family law permits a distinction between marital validity and limited economic protection arising from a relationship lived as a marital household?
4. Whether a statutory protective entitlement can be framed without validating the void marriage, undermining monogamy or prejudicing the rights of the legally recognised widow and children?

C. Research Methodology

This paper adopts a doctrinal and analytical legal research methodology. It relies primarily on statutory interpretation of the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, and related social-welfare legislation. The analysis is supported by judicial decisions of the Supreme Court and High Courts concerning void marriages, maintenance, permanent alimony, legitimacy of children, relationships in the nature of marriage and constitutional principles of equality, dignity and non-arbitrariness. Since the paper is concerned with legal doctrine, statutory coherence and normative reform, it does not employ an empirical research method.

IV. THE STATUTORY CONSTRUCTION OF VOID MARRIAGES

The legal position of a woman in a void marriage is primarily governed by the interplay between the Hindu Marriage Act, 1955 and the Hindu Succession Act, 1956. While the Hindu Marriage Act determines whether a marriage has any legal validity, the Hindu Succession Act determines the persons entitled to inherit the property of a Hindu dying intestate. The interaction of these two statutes becomes particularly significant when the husband in a void marriage dies, and the woman seeks a share in his estate.

A. Hindu Marriage Act, 1955

The Hindu Marriage Act, 1955 provides the statutory framework governing the validity of Hindu marriages. Section 5 lays down the conditions that must be satisfied for a Hindu marriage to be legally recognised. One of the principal conditions is contained in Section 5(i), which requires that neither party should have a spouse living at the time of the marriage.¹⁰

The significance of this condition is reinforced by Section 11. It declares a marriage solemnised after the commencement of the Act to be null and void if it contravenes, among other conditions, Section 5(i).¹¹ A marriage falling within Section 11 is therefore treated as void in law and does not create the ordinary legal status of husband and wife.

This distinction between a valid and a void marriage becomes important because several legal rights are ordinarily attached to the status of a legally recognised spouse. Once a marriage is declared void, the woman does not acquire the legal status of wife in the manner contemplated by the matrimonial statute. Consequently, upon the death of the man, she cannot ordinarily claim the corresponding status of a widow merely on the basis of having lived with him as his spouse.

At the same time, the Act does not treat every consequence arising from a void marriage as legally irrelevant. Section 16 HMA specifically addresses the status of children born from void and voidable marriages.¹² The provision protects the legitimacy of such children despite the invalidity of the marriage. This is significant because it demonstrates that the legal effect of a void marriage is not necessarily absolute for every purpose. The marriage may remain void while the law nevertheless attaches certain independent legal consequences to the relationship.

The statutory framework under the Hindu Marriage Act therefore creates an important distinction between the validity of the marriage itself and the legal consequences that may arise from the relationship. The marriage may be incapable of

¹⁰ HMA, *supra* note 1, § 5(i).

¹¹ HMA, *supra* note 1, § 11.

¹² HMA, *supra* note 1, § 16.

conferring the status of a legally wedded wife, while certain other rights connected with the relationship may continue to receive statutory recognition.

B. Hindu Succession Act, 1956

The Hindu Succession Act, 1956 governs intestate succession among Hindus. Section 8 provides the general rules for succession to the property of a Hindu male who dies intestate.¹³ Under the provision, the property first devolves upon the Class I heirs specified in the Schedule to the Act.

The Schedule includes the widow among the Class I heirs.¹⁴ The widow therefore has a statutory entitlement to succeed to the estate of her deceased husband along with the other Class I heirs, subject to the rules governing succession under the Act.

Section 10 further provides the manner in which the property of a male Hindu dying intestate is to be distributed among the Class I heirs.¹⁵ Where there is a widow, she is entitled to take one share in the prescribed manner. The statutory scheme thus gives the widow an independent position within the first category of heirs.

The difficulty arises from the meaning and legal status attached to the expression "widow". The Hindu Succession Act does not independently create the marital relationship. Whether a woman is legally a wife, and consequently whether she can be regarded as a widow upon the death of the man, depends upon the validity of the underlying marriage under the applicable personal law.

Accordingly, the two statutes operate together. The Hindu Marriage Act determines whether the woman acquired the status of a legally recognised wife, while the Hindu Succession Act attaches inheritance rights to the status of a widow. Where the marriage is void under Section 11 of the Hindu Marriage Act, the woman does not acquire the legal status of wife. Consequently, upon the death of the man, she does not ordinarily fall within the statutory category of "widow" under Class I of the Hindu Succession Act.

¹³ HSA, *supra* note 3, § 8.

¹⁴ HSA, *supra* note 3, sch.

¹⁵ HSA, *supra* note 3, § 10.

C. The Interplay Between the Two Statutes

The statutory position can therefore be understood through a simple chain of legal consequences.

Section 5 of the Hindu Marriage Act prescribes the conditions for a valid Hindu marriage. Where a marriage violates the conditions specified in Section 11, the marriage is declared null and void. As a result, the woman does not acquire the legal status of a wife. Since the Hindu Succession Act identifies the widow as a Class I heir, the absence of legally recognised marital status consequently prevents her from inheriting as a widow.

The exclusion is therefore not expressly created by a single provision stating that "a woman in a void marriage shall not inherit". It arises from the combined operation of the statutory scheme. The Hindu Marriage Act determines the absence of marital status, while the Hindu Succession Act makes legally recognised widowhood relevant for succession.

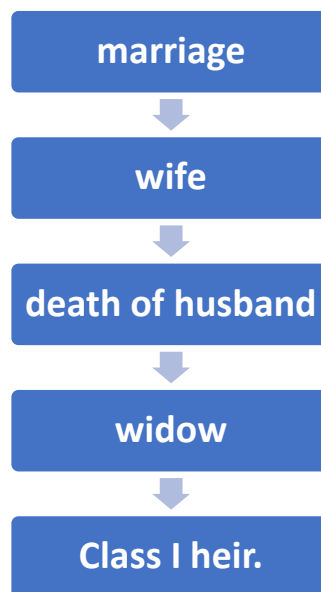
This statutory structure is important to the present inquiry because it shows that the question of succession is ultimately dependent upon the legal consequences attached to marital status. The issue, therefore, is not merely whether the woman can be described socially as a wife or whether she lived with the deceased as his spouse. The decisive consideration under the existing statutory framework is whether the relationship created the legally recognised status from which the succession right of a widow arises.

At the same time, the fact that the existing statutory framework does not recognise such a woman as a widow does not, by itself, conclude the broader normative question of whether the law ought to provide her with any independent economic protection from the estate. That question requires examination separately from the existing rules governing marital validity and intestate succession.

V. THE SUCCESSION CONSEQUENCE: FROM WIFE TO WIDOW TO HEIR

The HSA adopts a status-based scheme of intestate succession. Section 8 determines the order of succession in the case of a Hindu male dying intestate, while the Schedule identifies the persons falling within Class I. The widow occupies a direct position within that category.

The conceptual sequence is therefore straightforward:



The problem is that the first link is unavailable to a woman whose marriage is void. A woman in a void marriage does not become the legally recognised wife of the deceased. Accordingly, upon his death she does not acquire the legal status of widow. The absence of status consequently produces exclusion from the statutory scheme of intestate succession.

The Supreme Court's decision in *Rameshwari Devi* provides the clearest judicial articulation of this position. The Court recognised the invalidity of the second marriage and declined to confer upon the second woman the status of widow.¹⁶ The statutory reasoning is difficult to dispute. The normative consequences, however, require separate consideration.

¹⁶ *Rameshwari Devi*, *supra* note 5.

Succession law serves several purposes. It identifies the persons presumed by law to have the closest familial relationship with the deceased, preserves continuity of family property and provides a predictable mechanism for distribution of the estate. It is therefore legitimate for Parliament to employ formal status as one of the principal criteria for determining succession. But formal status is not necessarily the only constitutionally permissible basis upon which the law may recognise economic interests arising from intimate relationships.

The central issue is therefore not whether the woman is a "wife" in the strict statutory sense. It is whether the absence of that status necessarily warrants complete exclusion from the deceased's estate.

VI. THE JUDICIAL MOVEMENT FROM FORMAL STATUS TO SUBSTANTIVE PROTECTION

While judicial treatment under intestate succession laws remained formalistic, modern Indian jurisprudence in welfare and matrimonial legislation underwent a major transformation. Recognising that many women live in non-formalised or void marital unions, courts began adopting purposive methods of interpretation to protect women from destitution.

A. Maintenance and the social-welfare character of family law

Indian maintenance jurisprudence has long recognised that formal legal status cannot always be examined in isolation from the social and economic realities of a relationship. In *Ramesh Chander Kaushal v. Veena Kaushal*, the Supreme Court characterised maintenance provisions as measures of social justice directed towards preventing destitution and vagrancy.¹⁷ The Court connected the legislative objective with the constitutional commitment to protect women and children.¹⁸

The development of this principle can also be seen in the Court's approach to women who have entered relationships lacking complete formal validity. In another case of *Chanmuniya v. Virendra Kumar Singh Kushwaha*, the Supreme Court adopted an

¹⁷ *Ramesh Chander Kaushal v. Veena Kaushal*, (1978) 4 SCC 70.

¹⁸ *Id.*

expansive view on the meaning of the law of maintenance and understood that there was an inherent necessity to safeguard women, who have been living in conjugal relations like marriage, from being deprived of any means of financial security just on the technical ground of non-marriage.¹⁹ In this case, the Supreme Court took a broad view of the definition of "wife," wherein it included a woman who had been living with a man for some reasonable time and emphasized the fact that man cannot avail himself of such a legal defect of the relationship in order to enjoy the benefits of marriage without fulfilling his obligations.

In *Badshah v. Urmila Badshah Godse*, the principle was further developed. In that case, the woman had entered into a marriage without being aware of the fact that the man was already married. The Supreme Court construed the maintenance provision in a purposive manner and did not allow the husband to take advantage of the invalidity of the marriage, as the invalidity was due to his own fraudulent conduct.²⁰ The logic employed by the Court in arriving at its decision was based on the important social aim to be attained through the provision that would prevent any man from taking undue advantage of his wrongdoing.²¹

The importance of the *Badshah* case lies not so much in the establishment of the general exception from the law of void marriages as in proving that the issues arising from the null and void nature of the marriage should be analysed in light of the behaviour of the parties and the vulnerability of the relationship. The woman who willingly agrees to enter into a prohibited second marriage and the woman who was tricked into making a supposedly valid marriage may thus be positioned differently with respect to legal protection.

B. Relationships in the nature of marriage

The Protection of Women from Domestic Violence Act, 2005 represents another departure from an exclusively formal conception of family relationships. Section 2(f) expressly includes within "domestic relationship" a relationship in the nature of

¹⁹ *Chanmuniya v. Virendra Kumar Singh Kushwaha*, (2011) 1 SCC 141.

²⁰ *Badshah*, *supra* note 6.

²¹ *Id.*

marriage.²² In *D. Velusamy v. D. Patchaiammal*, the Supreme Court identified relevant characteristics for determining whether a relationship qualifies as one in the nature of marriage.²³ In *Indra Sarma v. V.K.V. Sarma*, the Court further examined the protective framework available to women in non-formal relationships.²⁴

The Supreme Court's jurisprudence in this area does not equate a relationship in the nature of marriage with a legally valid marriage. Rather, it recognises that certain legal protections may arise from the substantive character of the relationship itself. The proposed recognition of a limited economic entitlement for a woman in a void marriage would similarly not require the Court or Parliament to treat the void marriage as valid. It would only recognise that the absence of formal marital status need not necessarily result in the complete extinction of every economic consequence arising from a relationship that was, in fact, lived as a marital household.

This reasoning finds further support in *A. Subash Babu v. State of Andhra Pradesh*, where the Supreme Court observed that a woman involved in a void second marriage may suffer legal wrongs and injuries despite the invalidity of the marriage.²⁵ The decision therefore illustrates that legal invalidity and legal protection are not mutually exclusive concepts. The question for succession law is whether a similar distinction can be drawn between marital status and a narrowly defined economic entitlement arising upon death.

C. Permanent alimony following a void marriage

The Supreme Court's decision in *Sukhdev Singh v. Sukhbir Kaur* established that whether a spouse whose marriage has been declared invalid under Section 11 can apply for permanent alimony under Section 25 of the HMA.²⁶ The Court agreed that such an entitlement can indeed exist.

The significance of this development lies in the coexistence of two propositions:

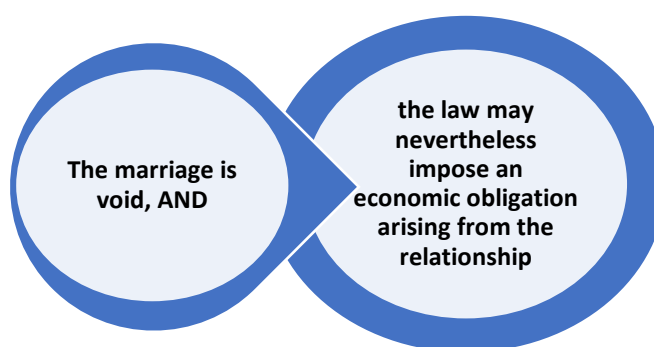
²² PWDVA, *supra* note 7.

²³ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469.

²⁴ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

²⁵ *A. Subash Babu v. State of Andhra Pradesh*, (2011) 7 SCC 616.

²⁶ *Sukhdev Singh*, *supra* note 8.



The two propositions are not mutually exclusive. The conclusion suggests that this weakens the basic idea that recognition of any economic impact also brings recognition of marriage validity. This means that succession issues can be approached independently. The issue is not whether the lady is a widow, but whether an entitlement should be created for her by Parliament when there exists no widowhood.

D. Post-Mortem Social Security: The High Court Shift

This judicial evolution has extended beyond lifetime maintenance into post-mortem social security claims. A Division Bench dealt with a claim for family pension under the Central Civil Services (CCS) Pension Rules submitted by a woman whose marriage to a deceased employee was legally void under Section 5(i) of the HMA due to a pre-existing prior marriage.²⁷

Section 5(i) conditions imposed by law and is invalid, it cannot be termed "immoral". The concept of "social context adjudication" has been applied by the Court which held that in interpreting social welfare legislation, such as pension laws, the courts have to keep in mind the social purpose of social welfare laws i.e. preventing pauperisation and ensuring gender justice. Taking into account the long period of cohabitation of the parties (almost twelve years) and the fact that no other claim comes from the primary wife, the Court held that "*depriving an economically dependent person of financial support on the death of the spouse is a violation of Article 21 of the Constitution*"²⁸

²⁷ Umawati v. HPSEB, LPA No. 545 of 2025 (H.P. H.C. Apr. 25, 2026).

²⁸ *Id.*

A similar pragmatic view has been taken by the Himachal Pradesh High Court in the case of *Mahesh Ram v. State of Himachal Pradesh* (2025), wherein the Court directed the State to enter the name of the second wife in the pension records after the death of the first wife, considering the long period of cohabitation and absence of other claimants.²⁹

VII. THE DOCTRINAL PARADOX

The development of Hindu family law therefore produces an unresolved tension.

A. The Lifetime Protection versus Post-Mortem Extinction Anomaly

A woman in a void marriage may, depending upon the circumstances:

1. claim maintenance under social-welfare legislation;
2. obtain permanent alimony under Section 25 HMA;
3. invoke protective remedies under the PWDVA;
4. obtain recognition of economic vulnerability arising from the relationship.

Yet upon the death of the man, the same relationship may cease to possess any economic significance for succession. The law thereby produces a peculiar discontinuity: during the man's lifetime, the relationship may be relevant to determine economic protection; after his death, the absence of formal marital status may become determinative of complete exclusion.

Maintenance and succession do not share a necessary contradiction. They have different legal ends. Maintenance focuses on present and continuing economic needs, while succession relates to the passing of property.

However, despite the fact that the purposes are different, the mere fact of their difference does not help answer the constitutional issue under consideration. A classification must be justified by the consequences created by the classification. The right question is whether the aim of upholding monogamy and creating certainty of succession requires exclusion of a woman who could be regarded as an innocent

²⁹ *Mahesh Ram v. State of Himachal Pradesh*, CWP No. 2269 of 2024 (H.P. H.C. 2025).

participant in a relationship performed as that of a marital household for a considerable period of time.

The situation becomes particularly complicated when the deceased has purposely kept secret the existing marriage. In this situation, the rule leads to a paradoxical consequence. The person who instigated invalidity may have had control over the relevant information and thus was able to prevent the woman from entering the relationship, while the woman was the one who suffered economically after this man's death.

The law thus risks converting the statutory prohibition against bigamy into an instrument through which the consequences of another person's deception are imposed upon the deceived woman.

B. The Mother versus Child Inheritance Asymmetry

Another important inconsistency lies within the Hindu Marriage Act itself and concerns the interaction of Section 16 and intestate succession as interpreted under the HSA.³⁰ According to Section 16(1) and 16(3) of the HMA, as interpreted by the Supreme Court Constitution Bench in *Revanasiddappa v. Mallikarjun* (2023), children born from void or voidable marriages are conferred legitimacy and may inherit from their parents. However, in relation to Hindu coparcenary property, their entitlement is limited to the share that would have fallen to the parent on a notional partition immediately before death, which then devolves as the parent's separate property. They do not acquire an independent coparcenary interest or a right by survivorship in the joint family property itself.³¹

This rule creates an imbalanced family situation when the father passed away, because the offspring from the invalid marriage may take their share of the estate as Class I heirs and acquire their share of assets according to Section 8 of the Indian HSA.³² It is unfair in a way that the mother of these children who lived under the same roof,

³⁰ HMA, *supra* note 1, § 16.

³¹ *Revanasiddappa v. Mallikarjun*, (2023) 10 SCC 1.

³² HSA, *supra* note 3, § 8.

shared life with the deceased man, about whom there is lots of evidence proving their household activities is considered to have no relation to the estate.

This distinction leads to a more general dilemma of distributive and substantive justice. The law created an opportunity for the children to receive their inheritance despite the invalidity of the marriage, which means that the law should understand that the invalidity of the marriage does not lead to the economic disadvantages of the parents' relations. However, the position of the women remains different because of her involvement in the relations. That is peculiar about her since, if the woman entered the marriage unconsciously, shared life with her husband without thinking of the legal obstacle and contributed to the household activities

Therefore, the question is not whether the mother's position should match the children, but whether the law should provide a limited protection to a woman who was made economically dependent on account of the very marital relationship which invalidates her claim to the estate.

VIII. ARTICLE 14 AND THE PROBLEM OF COMPLETE ECONOMIC EXCLUSION

A. The legitimate classification

The difference between a legally married spouse and a person in a void marriage should not be treated as totally irrational as per Article 14 of the Constitution of India.³³ A valid marriage implies an enforceable marital status. On the contrary, a void marriage does not entail any legal status.

The government of the state has legitimate interests in sustaining such a difference. If the second relationship were recognised as being equal to the first one, it would weaken the statutory prohibition of bigamy and undermine the rights of the first spouse, thus creating the grounds for confusion concerning competing marital claims.

This classification has some rational grounds. However, the problem arises at the second stage of analysis under Article 14. It is necessary now to find out whether the

³³ INDIA CONST. art. 14.

distinction has a rational and legally sufficient link to the effect produced, which is complete exclusion from intestate succession.

B. The relevance of circumstances

The present statutory framework treats the following women alike:

1. a woman who knowingly marries a man who already has a living spouse;
and
2. a woman who marries a man who falsely represents himself as unmarried.

It also treats as legally irrelevant, for succession purposes:

1. the duration of the relationship;
2. the woman's economic dependence;
3. her contribution to the household;
4. the extent of cohabitation;
5. whether children were born from the relationship;
6. whether the deceased publicly represented her as his spouse; and
7. whether the woman had any knowledge of the impediment.

The purpose of the prohibition against bigamy may justify denying the status of legal wife. It is considerably less obvious that the same purpose requires every one of these circumstances to be irrelevant when determining whether the woman should receive any economic protection from the deceased's estate. The constitutional problem therefore lies not necessarily in the classification itself but in the absolutism of its consequence.

C. Non-arbitrariness

The Supreme Court's equality jurisprudence has consistently developed beyond a narrow conception of classification. In *E.P. Royappa v. State of Tamil Nadu*, the Court articulated the principle that arbitrariness is antithetical to equality.³⁴ In *Maneka*

³⁴ *E.P. Royappa v. State of Tamil Nadu*, AIR 1974 SC 555.

Gandhi v. Union of India, the Court further integrated the requirements of fairness and non-arbitrariness into the constitutional assessment of State action.³⁵

A rule may therefore warrant scrutiny not merely because it distinguishes between two classes, but because it operates in a manner that produces an arbitrary or disproportionate result in circumstances that are materially relevant to the legislative objective. A blanket exclusion rule is vulnerable to this criticism.

The objective of succession law is not simply to punish prohibited marriages. Nor is the objective of the HMA merely punitive. The law seeks to preserve monogamy and regulate marital status.

Whenever someone has acted in good faith and has been made a party to the affairs on false pretenses, it shall do very little to attain the goal of complete exclusion from all economic consequences of their relationship. The law can retain the invalidity of marriages without denying economic protection in any way. The existence of the less restrictive alternative contributes to the importance of the constitutional issue raised by this case.

The larger constitutional principle of equality requires that the consequences associated with a classification be reasonably related to the aims pursued. Thus, in the present case, the difference between the status of a legally wedded spouse and the status of someone who has a void marriage could be justifiable since this difference preserves the legal framework of monogamous marriages and protects the rights of the first spouse. However, it is much more complicated to understand the consequences arising from this distinction. The fact that someone might not be recognised as a legally wedded spouse does not mean that they can be denied all forms of economic protection against the other spouse's estate.

IX. ARTICLE 21, DIGNITY AND ECONOMIC SECURITY

Article 21 does not give rise to a universal fundamental right to inheritance.³⁶ However, as the constitutional approach to dignity develops, the responsibility of the

³⁵ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

³⁶ INDIA CONST. art. 21;

State to provide the necessary material conditions for a proper life becomes more urgent.³⁷

Thus, the consequences of nullity years on cannot be interpreted solely in terms of status. For example, if a woman stays with a man for thirty years, manages their family life, and depends on him economically believing she is his wife, upon his death she may get to know that the legal system sees no marriage between them in the first place.

If the deceased's estate is substantial, the exclusion is not merely symbolic. It may determine whether she retains her residence, financial security and capacity to support herself. The constitutional value of dignity does not require that she inherit as a widow.

Nonetheless, it can endorse an inquiry into whether the complete exclusion is a necessary and proportionate effect of the invalidity of the marriage. This approach is endorsed by the fact that the woman's weakness arose from the stated relationship.

The law must not presuppose that the contribution is expressed only through ownership or monetary contributions. It is enough to state that domestic work, family duties, and household management can also be regarded as a significant contribution to the family's financial stability. A legal system committed to substantive equality cannot remain entirely indifferent to these realities.

X. RECONCILING ECONOMIC PROTECTION WITH MARITAL VALIDITY AND THE RIGHTS OF THE LEGALLY RECOGNISED WIDOW

The main argument against delivering any kind of economic protection to a woman with an invalid marriage is that it may harm the legally recognised widow. This argument is valid since the first wife has entered into a legally binding marriage and has an expectation to benefit from the legal consequences of that status. For this reason, the proposed reform must not give a woman in an invalid marriage the same status as the lawfully wedded wife and must maintain the order of legal rights.

³⁷ *Id.*

The proposed economic protection does not intend to grant the status of a wife or widow or make the invalid marriage valid under Section 11 of the HMA.³⁸ It has a narrower goal. It attempts to avoid the complete deprivation of a woman who, having lived in a spousal agreement, might become economically dependent on the relationship. The logic behind the idea is similar to the idea of judicially recognised maintenance and alimony. Such protection need not therefore be understood as an incident of succession or as a vested statutory right, but as a limited equitable response to circumstances in which strict insistence upon marital invalidity would produce manifest hardship.

Protection in this sense would not affect the prohibition against bigamy. The invalidity of the second marriage would still be established so that the woman would have neither the status nor the rights of a married woman. This sort of legal distinction can happen between validation of marriage and safeguarding the innocent party from the effects of illegal marriage.³⁹ This holds a particular weight for the situation involving the good-faith woman who was misled by the man. It can be concluded that the suggested approach would keep the legal message that bigamous marriages are invalid while preventing a person from receiving entirely unfavourable results from the other person's deception.

XI. SUGGESTIONS AND RECOMMENDATIONS: TOWARDS A DISTINCT STATUTORY ENTITLEMENT

The proposed reform must therefore not extend the interpretation of the term "widow" by the courts beyond its definition provided by the legislation. The law must create a new category of entitlements:

1. a marriage ceremony was actually solemnised;
2. the marriage was subsequently determined to be void under Section 11 HMA;
3. the woman entered the relationship without knowledge of the impediment;

³⁸ HMA, *supra* note 1, § 11

³⁹ Badshah, *supra* note 6.

4. the parties cohabited for a statutorily prescribed substantial period;
5. the deceased represented the woman as his spouse or maintained the relationship as a marital household;
6. the woman demonstrates substantial economic dependence or domestic contribution; and
7. the claim does not prejudice the statutory rights of children or arbitrarily displace the rights of the legally recognised spouse.

The legal framework may also require the claimant to show that she was not aware of the impediment. This requirement will stop the law from being abused by people wanting to get benefits from their bigamous conduct.

The amount of benefit that can be calculated may either be through a fixed percentage prescribed by statute or using the limited power of the courts. In the former case, certainty will be achieved. The latter option would mean that the courts will consider all important factors, including length of relationship, financial dependence, homework contributed, behaviour of the parties and interests of heirs.

A hybrid model may therefore be preferable. The entitlement should also be characterised expressly as an economic protection arising from the relationship and not as recognition of marital status. This distinction would preserve the integrity of Section 11 HMA.

XII. FROM RAMESHWARI DEVI TO A NEW SUCCESSION PARADIGM

The rulings in Rameshwari Devi are still valid in the context of the current law. They should not be done away with by a false interpretation of the term “widow”. The right way to deal with this is through legislative action.⁴⁰ The further development of Hindu family law supports this conclusion.

The law has progressively separated:

⁴⁰ Rameshwari Devi, *supra* note 5.

1. the validity of the marriage from the legitimacy of children;⁴¹
2. formal marital status from maintenance protection;⁴²
3. legal marriage from relationships in the nature of marriage;⁴³
4. marital invalidity from the possibility of permanent alimony.⁴⁴

Traditionally, succession law has remained one area where these classifications have not been worked out well enough. This is why it has become more and more difficult to support the legal system created by this law as a consistent form of family-law policy. The question here is not whether we should abandon the idea of the concept of “status” in succession law.

The issue is whether status should be treated as conclusive in circumstances where the very purposes underlying succession law and protective family law overlap: economic dependency, family contribution and post-death security.

A more nuanced succession framework would preserve status while recognising limited economic consequences. That would not constitute an abandonment of Hindu succession law. It would represent its further development.

The subsequent jurisprudence does not replace Rameshwari Devi but situates its formalistic approach in a larger and developing body of family law jurisprudence. Yamunabai and Savitaben reflect the rigid status-based approach to the implications of the void marriage,⁴⁵ while Jinia Keotin and Revanasiddappa demonstrate the slow dissociation of children’s rights from the validity of the marriage.⁴⁶ Chanmuniya⁴⁷ and Badshah⁴⁸ show a more purposive approach to the maintenance and economic protection of the woman when there has been fraud on her part, or the woman has

⁴¹ Revanasiddappa, *supra* note 30, ¶¶ 81.1–81.10.

⁴² Chanmuniya, *supra* note 18, 146, 149.

⁴³ D. Velusamy, *supra* note 22.

⁴⁴ Sukhdev Singh, *supra* note 8, ¶ 28(a).

⁴⁵ Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav, (1988) 1 SCC 530, 533–34; Savitaben Somabhai Bhatiya v. State of Gujarat, (2005) 3 SCC 636, 640–41.

⁴⁶ Jinia Keotin v. Kumar Sitaram Manjhi, (2003) 1 SCC 730; Revanasiddappa v. Mallikarjun, (2023) 10 SCC 1, ¶¶ 81.1–81.10.

⁴⁷ Chanmuniya, *supra* note 18, 146, 149.

⁴⁸ Badshah, *supra* note 6, 196–97.

been living in a relationship that has the features of marriage. Sukhdev Singh advances the development further by stating that permanent maintenance can be claimed even if the marriage has been declared void.⁴⁹ These cases, as a whole, do not create the woman's right to inheritance in the case of a void marriage, but they illustrate profound development of legal thinking, in the course of which the law is differentiating between marital validity and the problem of whether the relationship will have any consequences or not.

XIII. CONCLUSION

The exclusion of women from intestate succession in the context of void marriages is a direct result of Section 11 of the Hindu Marriage Act along with the hierarchical nature of the Hindu Succession Act. Existing law makes the situation clear in legal terms: a woman in a void marriage cannot generally be considered a widow and thus cannot inherit as a Class I heir simply due to being married to the departed person. The judgments in cases like *Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav*, *Savitaben Somabhai Bhatiya v. State of Gujarat*, and *Rameshwari Devi v. State of Bihar* support this position. At the same time, the rulings in *Jinia Keotin v. Kumar Sitaram Manjhi* and *Revanasiddappa v. Mallikarjun* show how the legal consequences of a void marriage can be recognised even if the marriage is not validated.

The challenge, then, is not the visibility of the existing rule but in the vast implications that it holds. Indian family law has evidently evolved in the direction of acknowledging that the mere recognition of marital validity cannot in all contexts determine the presence or extent of economic protection for individuals involved. Concepts such as purposive maintenance, marriage-like relationships under the PWDVA, and even permanent alimony after a void marriage as pronounced in the *Sukhdev Singh v. Sukhbir Kaur* case are the signs of a shift in the perception towards separation of marital status from the economic implications of a close relationship. In contrast, the area of succession law had not completely adapted to this new development yet.

⁴⁹ Sukhdev Singh, *supra* note 8, ¶ 28(a).

The difficulty associated with the exclusion in this case arises when a woman enters into the relationship with good motivations, is misled about the man's existing marriage, spends time living with him, and becomes dependent on him financially. Instead of validating the marriage in question, it is important to determine whether the invalidity of the marriage does mean that the woman will not benefit at all economically from the relationship.

The law does not obligate such a woman to be treated like a widow or consider her as a spouse. On the contrary, the law allows for investigation into the issue of complete economic exclusion and whether the invalidity of marriage makes such exclusion a necessary outcome. The law gives more emphasis to the dignity aspect of the matter. Therefore, this does not mean that the court will validate invalid marriages or all women involved in invalid marriages become Class I heirs; rather, there is a need for specifying a lighter form of economic protection which can include such criteria as good faith, long-term cohabitation, dependence in a domestic sense, and contributions to the household while maintaining the rights of the recognized husband and children.

Such protection may be justified on considerations of justice, equity and good conscience, rather than by treating the woman as a statutory widow or granting her an automatic right of inheritance. This does mean that the theory that a void marriage is no marriage in a legal sense is preserved, while the reality is that the fact that this marriage was invalid does not mean that a woman had the right to be deprived of her economic rights completely.

Hindu family law is becoming more and more evident in showing that status and judicial consequences need not always operate as identical concepts. Hence there is a question as to the notion of marriage, because it is not about the fact whether a void marriage leads to legal widowhood, but whether this judicial status can erase financial rights of a woman who devoted her life to the relationship which, due to certain circumstances, has been recognized in terms of the law.

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