

Applied to the Santal Parganas, Bihar Govt. Note No. 160-3
of the 9th May, 1940.

Came into force in the Santal Parganas on 21.10.40, see
Gaz. of Ind. 1940 Pt. I, p. 1475.

ACT No. XVII OF 1939.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 21st
April, 1939.)

**An Act to amend the Indian Succession Act, 1925, as
respects intestate succession among Parsis.**

WHEREAS it is expedient to amend the law re-
lating to intestate succession among Parsis ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Succession Short title and commencement.
(Amendment) Act, 1939.

(2) It shall come into force on such date as the Central
Government may, by notification in the official Gazette,
appoint.

2. For sections 50 to 56 (both inclusive) of the Indian Substitution
of new sections
for sections 50
to 56 of Act
XXXIX of
1925.
Succession Act, 1925 the following sections shall be substi-
tuted, namely :—

“ 50. For the purpose of intestate succession among General
principles
relating to
intestate
succession.
Parsis—

(a) there is no distinction between those who were actu-
ally born in the lifetime of a person deceased and
those who at the date of his death were only con-
ceived in the womb, but who have been subsequently
born alive ;

(b) a lineal descendant of an intestate who has died in
the lifetime of the intestate without leaving
a widow or widower or any lineal descendant
or a widow of any lineal descendant shall not
be taken into account in determining the manner
in which the property of which the intestate
has died intestate shall be divided ; and

(c) where

4 12th June 1939, Price anna 1 or 1½, see Gaz. of India 1939, Pt. I, 1939

- (c) where a widow of any relative of an intestate has married again in the lifetime of the intestate, she shall not be entitled to receive any share of the property of which the intestate has died intestate, and she shall be deemed not to be existing at the intestate's death.

Division of a male intestate's property among his widow, children and parents.

51. (1) Subject to the provisions of sub-section (2), the property of which a male Parsi dies intestate shall be divided—

- (a) where he dies leaving a widow and children, among the widow and children, so that the share of each son and of the widow shall be double the share of each daughter, or
- (b) where he dies leaving children but no widow, among the children, so that the share of each son shall be double the share of each daughter.

(2) Where a male Parsi dies leaving one or both parents in addition to children or a widow and children, the property of which he dies intestate shall be divided so that the father shall receive a share equal to half the share of a son and the mother shall receive a share equal to half the share of a daughter.

Division of a female intestate's property among her widower and children.

52. The property of which a female Parsi dies intestate shall be divided—

- (a) where she dies leaving a widower and children among the widower and children so that the widower and each child receive equal shares, or
- (b) where she dies leaving children but no widower, among the children in equal shares.

Division of share of pre-deceased child of intestate leaving lineal descendants.

53. In all cases where a Parsi dies leaving any lineal descendant, if any child of such intestate has died in the lifetime of the intestate, the division of the share of the property of which the intestate has died intestate which such child would have taken if living at the intestate's death shall be in accordance with the following rules, namely:—

- (a) If such deceased child was a son, his widow and children shall take shares in accordance with the provisions of this Chapter as if he had died immediately after the intestate's death:

Provided

Provided that where such deceased son has left a widow or a widow of a lineal descendant but no lineal descendant, the residue of his share after such distribution has been made shall be divided in accordance with the provisions of this Chapter as property of which the intestate has died intestate, and in making the division of such residue the said deceased son of the intestate shall not be taken into account.

(b) If such deceased child was a daughter, her share shall be divided equally among her children.

(c) If any child of such deceased child has also died during the lifetime of the intestate, the share which he or she would have taken if living at the intestate's death shall be divided in like manner in accordance with clause (a) or clause (b) as the case may be.

(d) Where a remoter lineal descendant of the intestate has died during the lifetime of the intestate, the provisions of clause (c) shall apply *mutatis mutandis* to the division of any share to which he or she would have been entitled if living at the intestate's death by reason of the predeceased of all the intestate's lineal descendants directly between him or her and the intestate.

54. Where a Parsi dies without leaving any lineal descendant but leaving a widow or widower or a widow of a lineal descendant, the property of which the intestate dies intestate shall be divided in accordance with the following rules, namely :—

Division of property where intestate leaves no lineal descendant but leaves a widow or a widow of any lineal descendant.

(a) If the intestate leaves a widow or widower but no widow of a lineal descendant, the widow or widower shall take half the said property.

(b) If the intestate leaves a widow or widower and also a widow of any lineal descendant, his widow or her widower shall receive one-third of the said property, and the widow of any lineal descendant shall receive another one-third, or if there is more than one such widow, the last mentioned one-third shall be divided equally among them.

(c) If

Indian Succession (Amendment). [ACT XVII

- (c) If the intestate leaves no widow or widower but one widow of a lineal descendant, she shall receive one-third of the said property or, if the intestate leaves no widow or widower but more than one widow of a lineal descendant, two-thirds of the said property shall be divided among such widows in equal shares.
- (d) The residue after the division specified in clause (a), (b) or (c) has been made shall be distributed among the relatives of the intestate in the order specified in Part I of Schedule II. The next-of-kin standing first in Part I of that Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed that each male shall take double the share of each female standing in the same degree of propinquity.
- (e) If there are no relatives entitled to the residue under clause (d), the whole of the residue shall be distributed in proportion to the shares specified among the persons entitled to receive shares under this section.

Division of property where intestate leaves neither lineal descendants nor a widow or widower nor a widow of any lineal descendant.

55. When a Parsi dies leaving neither lineal descendants nor a widow or widower nor a widow of any lineal descendant, his or her next-of-kin, in the order set forth in Part II of Schedule II, shall be entitled to succeed to the whole of the property of which he or she dies intestate. The next-of-kin standing first in Part II of that Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed that each male shall take double the share of each female standing in the same degree of propinquity.

Division of property where there is no relative entitled to succeed under the other provisions of this Chapter.

56. Where there is no relative entitled to succeed under the other provisions of this Chapter to the property of which a Parsi has died intestate, the said property shall be divided equally among those of the intestate's relatives who are in the nearest degree of kindred to him."

3. For

3. For Schedule II to the Indian Succession Act, 1925 the following Schedule shall be substituted, namely :—

the Substitution of
Schedule II
to Act XXXIX
of 1925.

“SCHEDULE II.

PART I.

(See section 54.)

- (1) Father and mother.
- (2) Brothers and sisters (other than uterine brothers and sisters) and lineal descendants of such of them as have predeceased the intestate.
- (3) Paternal grandfather and paternal grandmother.
- (4) Children of the paternal grandfather and the lineal descendants of such of them as have predeceased the intestate.
- (5) Paternal grandfather's father and mother.
- (6) Paternal grandfather's father's children and the lineal descendants of such of them as have predeceased the intestate.

PART II.

(See section 55.)

- (1) Father and mother.
- (2) Brothers and sisters (other than uterine brothers and sisters) and lineal descendants of such of them as shall have predeceased the intestate.
- (3) Paternal grandfather and paternal grandmother.
- (4) Children of the paternal grandfather and the lineal descendants of such of them as have predeceased the intestate.
- (5) Paternal grandfather's father and mother.
- (6) Paternal grandfather's father's children and the lineal descendants of such of them as have predeceased the intestate.
- (7) Uterine brothers and sisters and the lineal descendants of such of them as have predeceased the intestate.
- (8) Maternal grandfather and maternal grandmother.

(9) Children

Indian Succession (Amendment). [ACT XVII OF 1939.]

- (9) Children of the maternal grandfather and the lineal descendants of such of them as have predeceased the intestate.
- (10) Widows of brothers or half-brothers.
- (11) Paternal grandfather's son's widow.
- (12) Maternal grandfather's son's widow.
- (13) Widowers of deceased lineal descendants of the intestate who have not married again before the death of the intestate.
- (14) Maternal grandfather's father and mother.
- (15) Children of the maternal grandfather's father and lineal descendants of such of them as have predeceased the intestate.
- (16) Children of the paternal grandmother and the lineal descendants of such of them as have predeceased the intestate.
- (17) Paternal grandmother's father and mother.
- (18) Children of the paternal grandmother's father and the lineal descendants of such of them as have predeceased the intestate."