Estate Planning Made Simple

❖ *Nomination, Wills, Trusts, Probate and How Banks & Financial Institutions Settle Claims in India*

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Part I — Estate Planning: The Foundation

❖ 1. What is Estate Planning and Why It Matters

Everything a person owns — bank deposits, house, land, shares, mutual funds, gold, insurance policies, provident fund, vehicles, even digital assets like online accounts — together forms his or her "estate". Estate planning is simply the art of deciding, well in advance, three questions: **who** should get these assets, **when** they should get them, and **how** they should reach them with the least delay, cost, tax and family friction.

Most Indian families discover the importance of estate planning only after a death, when grieving members run from bank to bank with a bundle of papers. A modest amount of planning during one's lifetime — registering nominations, writing a simple Will, keeping an asset register — can convert months of paperwork into a settlement of a few days. Conversely, the absence of planning is the single biggest reason why over one lakh crore rupees of unclaimed deposits, shares, dividends, insurance and provident fund money lie idle with Indian institutions today.

Estate planning is not only for the wealthy. In fact, the smaller the estate, the more damaging any delay or legal expense becomes for the family. Nor is it a one-time event: marriages, births, deaths, divorces, purchase or sale of property and changes in law all call for a periodic review, ideally once a year.

❖ 2. The Building Blocks of an Estate Plan

A complete Indian estate plan rests on the following pillars, each of which is explained in detail in this article:

- **Nomination** — the quickest route for the family to receive money from banks, demat accounts, mutual funds, insurance and provident funds.
- **Joint holding with survivorship** — 'Either or Survivor' accounts and joint property ownership, which pass control instantly to the survivor.
- **A valid Will** — the master document that decides final ownership of everything you leave behind.
- **Trusts** — for special situations such as minor children, special-needs dependants, business succession or very large estates.
- **Legal representation documents** — probate, letters of administration, succession certificate and legal heirship certificate, needed when nomination or a Will alone is not sufficient.
- **Knowledge of succession laws** — Hindu, Muslim, Christian, Parsi and civil law rules that apply when there is no Will.
- **Good record-keeping** — an asset register and informed family members, without which even the best plan fails.

> *Golden rule: Nomination ensures your family receives the money quickly; the Will decides who finally owns it; succession law takes over only where both are silent.*

Part II — Nomination: The First Line of Defence

❖ 3. What Nomination Is — and What It Is Not

Nomination is a facility by which you name a person to whom the institution can hand over your money or assets after your death. Payment to the nominee gives the bank, depository or fund house a **valid discharge** — it is legally protected once it pays the nominee, and the family is spared succession paperwork at that stage.

However, a crucial legal point must be understood: in the case of bank deposits, lockers, shares and mutual funds, the nominee is only a **trustee or custodian** for the legal heirs. Nomination decides who *collects* the asset, not who *owns* it. Ownership is decided by the Will, and in the absence of a Will, by the personal succession law applicable to the deceased. If your nominee and your intended heir are different persons, the heirs can legally claim the money from the nominee. The practical lesson: **keep your nomination and your Will consistent with each other**.

The one major exception is life insurance. After the Insurance Laws (Amendment) Act, 2015, a nominee who is a parent, spouse or child of the policyholder is a **"beneficial nominee"** — such a nominee is beneficially entitled to the policy money itself, and not merely as a trustee for others.

❖ 4. New Nomination Rules for Bank Accounts and Lockers (Effective 1 November 2025)

The Banking Laws (Amendment) Act, 2025 has modernised bank nominations. The nomination provisions (Sections 10 to 13 of the Amendment Act) came into force on **1 November 2025**. The key changes every depositor should know:

- **Up to four nominees** can now be registered for bank deposits, articles in safe custody and safe deposit lockers, in place of the earlier single nominee.
- **Simultaneous nomination** (deposits only): all nominees hold together, with a percentage share specified for each, totalling 100%. Example: spouse 50%, son 25%, daughter 25%.
- **Successive nomination**: nominees are ranked in order; the second becomes operative only if the first predeceases, the third only if the first two are not alive, and so on. This ensures the nomination never "fails".
- **Lockers and safe custody articles** can have only *successive* nominations (up to four), since physical articles cannot be split by percentage.
- The Banking Companies (Nomination) Rules, 2025 prescribe the uniform forms for making, varying and cancelling nominations across all banks.

Practical advice: visit your bank (or use net banking, where enabled) and upgrade your old single nomination into a well-thought-out multiple nomination. Ensure the nomination is **recorded in the bank's books and acknowledged in writing**, and that the words "Nomination Registered" with the nomination reference appear on your passbook/FD receipt. An unrecorded nomination form lying in a file helps nobody.

❖ 5. Nomination in Shares, Mutual Funds and Demat Accounts

SEBI overhauled nominations in the securities market with effect from **1 March 2025**:

- Investors can appoint **up to ten nominees** per demat account or mutual fund folio, with percentage allocation for each.
- Single-holder accounts must either register a nomination or formally **opt out**; joint accounts may nominate optionally.
- Nomination can be made or changed online with OTP/e-sign validation, and institutions must acknowledge every nomination.
- On death, transmission to the registered nominee requires only the **death certificate and the nominee's updated KYC** — institutions are barred from demanding affidavits, indemnities or notarised documents from nominees.
- SEBI has clarified that the nominee receives the securities **as trustee for the legal heirs**; heirs' rights under the Will or succession law are preserved.
- A useful new facility: an investor who becomes physically incapacitated can authorise one nominee to operate the account on his or her behalf, subject to verification safeguards.

❖ 6. Nomination in Insurance, EPF, PPF, Small Savings and Other Assets

- **Life insurance**: nomination under Section 39 of the Insurance Act. Nominees from the immediate family (spouse, parents, children) are beneficial nominees who own the claim proceeds.
- **EPF / EPS / EDLI**: nomination through e-nomination on the EPFO portal; only family members can normally be nominated. Gratuity nomination is made in Form F under the Payment of Gratuity Act.
- **PPF, NSC, SCSS, post office schemes**: nomination under the Government Savings Promotion Act; up to four nominees are permitted. Note that these small savings claims follow the Government's own procedure, not the RBI Directions.
- **NPS**: up to three nominees with percentage shares.
- **Vehicles and property**: there is no statutory "nomination"; transfer happens by Will/succession and mutation. Cooperative housing societies do accept a nominee, but here too the nominee holds only as trustee for the heirs.

> *Review all nominations after every major family event. A forgotten nomination in favour of a parent who has since passed away, or an ex-spouse, is one of the commonest causes of claim disputes.*

Part III — The Will: Your Most Important Financial Document

❖ 7. What is a Will and Who Can Make One

A Will (or testament) is a legal declaration by which a person (the **testator**) directs how his or her property should be distributed after death. It takes effect only on death and can be changed or revoked any number of times during the testator's lifetime; only the **last valid Will** operates. A person who dies leaving a Will is said to die "testate"; without one, "intestate".

Any person of sound mind who has attained majority (18 years) can make a Will — there is no upper age limit, and physical illness or old age does not disqualify a person so long as he or she understands what is being done. A Will can deal only with property the testator is competent to dispose of: self-acquired property fully; a Hindu coparcener can bequeath his *undivided share* in ancestral/HUF property; a Muslim can ordinarily bequeath only up to one-third of the estate without the consent of heirs (explained in Part VI).

❖ 8. How to Make a Valid Will — Essentials, Executor, Codicil and Revocation

The legal requirements are refreshingly simple. Under the Indian Succession Act, 1925:

- The Will must be **in writing** (hand-written, typed or printed — any language). No stamp paper is needed; plain paper is perfectly valid.
- It must be **signed by the testator** (or by someone at his direction, in his presence, e.g., where the testator can only affix a thumb impression).
- It must be **attested by at least two witnesses**, each of whom has seen the testator sign and who sign in the testator's presence. Choose witnesses younger than yourself and, importantly, persons who are **not beneficiaries** — a bequest to an attesting witness (or the witness's spouse) is void for Hindus and Christians, though the Will itself survives.
- Muslims are governed by personal law: a Muslim's Will (wasiyat) may even be oral, and attestation is not compulsory, though a written, witnessed Will is always advisable for proof.

Good drafting practice, learnt from decades of settling claims in banks:

- Begin by revoking all earlier Wills and codicils; date every page and sign every page.
- Appoint an **executor** — the person who will collect the assets, pay liabilities and distribute the estate. An executor can also be a beneficiary. Name an alternate executor.
- Describe assets and beneficiaries precisely (account numbers, folio numbers, survey numbers, full names with relationship). Include a **residuary clause** ("all my remaining assets, present and future, shall go to …") so nothing is left out.
- Provide for contingencies: what happens if a beneficiary predeceases you.
- If you are elderly or the distribution may be questioned, attach a recent **doctor's certificate of sound mind** and consider video-recording the signing.
- A **codicil** is a supplementary document, executed with the same formalities, used to make small changes without rewriting the Will. For major changes, make a fresh Will.

- A Will stands revoked by a later Will, by burning/tearing/destruction with intention to revoke, and (for non-Muslims governed by the Act) by the **marriage** of the testator after making the Will — remember to make a fresh Will after marriage.

❖ 9. Is Registration of a Will Compulsory? — No, but Often Wise

Registration of a Will is **entirely optional**. An unregistered Will is just as valid as a registered one — this is a settled position of law. If you choose to register, it is done with the **Sub-Registrar of Assurances** (the same office that registers property documents) under Section 18 of the Registration Act, 1908, on payment of a nominal fee. The testator and the two witnesses appear before the Sub-Registrar; the registered Will can be kept in the office's safe custody or taken back.

Advantages of registration: it creates strong evidence of the date and genuineness of the Will, makes allegations of forgery or fabrication far harder, and a copy survives in Government records even if the original is lost. Disadvantage: none of substance, except that every subsequent change should ideally also be registered to avoid confusion between a registered old Will and an unregistered new one. Note carefully: a registered Will can still be revoked or replaced by a later unregistered Will — registration does not "lock" a Will.

❖ 10. Can a Will Contain Matters Other Than Financial Assets? — Yes

A Will is not confined to money and property. It may lawfully contain:

- **Appointment of a testamentary guardian** for minor children — perhaps the most important non-financial clause a young parent can write.
- Directions for the care of **dependants** (elderly parents, special-needs family members) and even **pets**.
- Wishes regarding **funeral, cremation/burial and religious ceremonies**. (Courts treat these as morally persuasive wishes rather than strictly enforceable commands, but families almost always honour them.)
- Distribution of **personal and sentimental effects** — jewellery, books, puja articles, family heirlooms — with names against each item, which prevents more quarrels than any other clause.
- **Digital assets**: instructions about email, social media, digital lockers, cryptocurrencies and online businesses, along with where access credentials are kept.
- Statements of **reasons** for unequal distribution or for excluding a person — recording the reason greatly strengthens the Will against challenge.
- Charitable bequests and directions to the executor.

What a Will *cannot* do: dispose of property the testator does not own (e.g., the spouse's share, or joint family property beyond his own share), impose conditions that are illegal or against public policy, or defeat statutory rights (such as a Muslim heir's Quranic share beyond the one-third bequeathable limit).

❖ 11. Safe Custody of the Will

- Keep the original in a safe place known to the executor — a bank locker in the joint names of the testator and executor/spouse, with the executor aware of it, or with your lawyer.
- Caution: if the Will is kept in a locker held *only* in the testator's single name, the family may face a chicken-and-egg problem of needing the Will to open the locker. Keep a signed copy at home and tell the executor.

- A Will may also be deposited in a sealed cover with the District Registrar under Section 42 of the Registration Act.
- Tell at least two trusted persons that a Will exists and where it is. A perfect Will that nobody can find is no Will at all.

Part IV — Probate, Letters of Administration, Succession & Legal Heirship Certificates

❖ 12. Probate — and the Landmark Change of December 2025

Probate is the certified copy of a Will granted under the seal of a competent court, establishing that the Will is genuine and is the last Will of the deceased, and authorising the executor to administer the estate. Probate is granted only to the executor named in the Will. The petition is filed in the District Court or High Court; notices are issued to the next of kin and a public citation is published inviting objections; if unopposed, probate issues — typically in six months to a year, and much longer if contested. Court fees on probate vary from State to State and can be substantial (broadly 2% to 7.5% of estate value, with caps in some States, e.g., a maximum of ₹75,000 in Maharashtra).

The historic 2025 reform: For a century, Section 213 of the Indian Succession Act made probate *compulsory* for Wills made by Hindus, Buddhists, Sikhs, Jains and Parsis within the old Presidency towns of **Mumbai, Chennai and Kolkata**, or dealing with immovable property in those cities — no executor or legatee could establish rights in court without probate. The **Repealing and Amending Act, 2025** (assented to on 20 December 2025) has **omitted Section 213 altogether**. Mandatory probate now stands abolished uniformly across India for all communities. The change is prospective and does not affect probates already granted or proceedings already pending.

What this means in practice: probate is now **always optional, never compulsory**. It remains available — and remains valuable — where a dispute is expected, where the Will's genuineness may be questioned, where purchasers of high-value property want a court-certified chain of title, or where an institution abroad requires court validation. But for the ordinary, undisputed family Will, heirs can now act on the Will directly, supported by the settlement procedures described in Parts VII and VIII, without the expense and delay of a probate petition.

❖ 13. Letters of Administration (LoA)

Letters of Administration are the court's grant authorising a person (the **administrator**) to administer the deceased's estate, issued in situations where probate cannot be:

- the deceased died **intestate** (no Will) and an institution or the nature of assets requires a formal court grant;
- there **is a Will but no executor** is named, or the named executor has died, renounced or is incapable — here the court grants "Letters of Administration with the Will annexed";
- assets are located abroad or the institution concerned specifically insists on a court representation.

The procedure and court fees broadly mirror probate. LoA is usually granted to the person with the largest beneficial interest — typically the spouse or a child — and covers both movable and immovable property.

❖ 14. Succession Certificate

A **Succession Certificate** is granted by the District Court under Section 372 of the Indian Succession Act, 1925, in respect of the **debts and securities** of a person who died intestate — bank deposits, shares, debentures, bonds, provident fund, insurance money and the like. It does **not** cover immovable property, and it decides only who may *collect* the debts and give a valid discharge; it is not a final adjudication of ownership among heirs.

Procedure: a petition before the District Judge of the place where the deceased ordinarily resided (or where the assets are), listing the relationship of the petitioner, all legal heirs and the debts/securities claimed. The court issues notice to the other heirs, publishes a citation (typically allowing 45 days for objections) and, if satisfied, grants the certificate — usually within about four to eight months if uncontested. Court fee is payable as a percentage of the value of the debts/securities covered (commonly around 2% to 3%, varying by State, subject to State-specific caps). The court may require the petitioner to furnish a bond or surety. Institutions paying against a Succession Certificate get a complete legal discharge.

❖ 15. Legal Heirship Certificate

A **Legal Heirship Certificate** (in some States called a surviving-member or family-member certificate; “vaarisu certificate” in Tamil Nadu) is issued by the **revenue authorities — the Tahsildar/Taluk office** — and in some States online through e-district portals, usually within 15 to 30 days at a nominal fee. It simply lists the surviving legal heirs of the deceased on the basis of the death certificate, ration card/family records and a local enquiry.

It is the workhorse document for routine settlements: family pension, terminal benefits of government employees, transfer of electricity/property tax/telephone connections, motor vehicle transfer, mutation of property records, and bank/financial claims within the simplified thresholds. It is **not** a conclusive adjudication of title — where heirs dispute, or where the amounts are large, institutions will insist on a Succession Certificate or probate/LoA instead. SEBI regulations also recognise a Legal Heirship Certificate issued by a revenue authority not below the rank of Tahsildar for transmission of securities.

❖ 16. Which Document, When — At a Glance

Document	Issued by	When it is needed	Covers
Death Certificate	Municipality / Panchayat (Registrar of Births & Deaths)	Always — the first document for every claim	Proof of death
Legal Heirship Certificate	Tahsildar / Revenue authority (e-district portal)	Routine claims, pension, mutation, claims within simplified thresholds	Identifies surviving heirs; no adjudication of title
Nomination	Registered with the bank/ DP/AMC/insurer	Fastest route — institution pays nominee and gets valid discharge	Collection of the asset (nominee holds for heirs, except beneficial nominees in insurance)
Succession Certificate	District Court (Sec. 372, Indian Succession Act)	Intestate death; debts & securities above thresholds; disputes among heirs	Debts and securities only — not immovable property
Probate	District Court / High Court	Optional since Dec 2025; sought when Will may be disputed or certainty of title needed	Certifies the Will; executor administers whole estate

Letters of Administration	District Court / High Court	Intestate estates needing a court grant; Will without an (available) executor	Whole estate — movable and immovable

Part V — Trusts: When a Will Alone is Not Enough

❖ 17. What is a Trust — Parties and Types

A trust is an arrangement in which the owner of property (the **settlor** or author) transfers it to one or more **trustees**, who hold and manage it for the benefit of named **beneficiaries**, according to a written **trust deed**. Private trusts (for the benefit of specific individuals, typically family) are governed by the Indian Trusts Act, 1882; public charitable and religious trusts are governed by general law and State enactments.

Trusts relevant to family estate planning include:

- **Revocable living trust** — created during the settlor's lifetime; the settlor can remain a trustee and beneficiary, retain control, and revoke or amend the trust. Assets in the trust pass to beneficiaries per the deed without any probate or succession process.
- **Irrevocable trust** — the settlor parts with the property permanently; used for asset protection and ring-fencing, but requires careful tax and clubbing analysis.
- **Testamentary trust** — a trust created *by the Will itself*, springing into existence on death: e.g., "my estate shall be held in trust for my minor grandson until he attains 25 years". It costs nothing during one's lifetime.
- **Special-needs / maintenance trusts** — to provide lifelong care for a differently-abled child or a dependent spouse, with a trusted person or professional trustee managing the corpus.

❖ 18. Will versus Trust — When is a Trust Warranted?

For the vast majority of families, a well-drafted Will plus complete nominations is entirely sufficient. A trust adds real value only in specific situations:

- **Minor or special-needs beneficiaries**: money cannot sensibly be handed to a minor; a trust provides managed, staggered distribution (education at 21, marriage, balance at 30, etc.).
- **Avoiding succession delays altogether**: trust assets do not form part of the estate; there is nothing to probate and no claim procedure — the successor trustee simply continues.
- **Incapacity planning**: a Will operates only on death; a living trust (with a co-trustee/successor trustee) protects you during dementia, coma or prolonged illness — an area where Indian law otherwise offers only cumbersome guardianship petitions.
- **Protecting vulnerable heirs**: spendthrift children, heirs in unstable marriages, or the wish that a second spouse enjoys income for life with the corpus passing to children thereafter — conditions a simple Will handles poorly.
- **Business succession and large estates**: continuity of a family business, keeping property undivided, privacy (a probated Will becomes a public record; a trust deed remains private), and as a hedge against any future re-introduction of estate duty/inheritance tax.
- **Likely disputes**: a lifetime transfer to a trust is far harder to challenge than a Will (no question of the document surfacing only after death).

The trade-offs: a trust involves drafting cost, stamp duty on transferring immovable property into it, annual administration, a separate PAN and income-tax filings for the trust, and careful selection of trustees. Hence the practical rule of thumb: **Will + nominations for normal estates; add a trust where a specific need above exists**. The two are not alternatives — even with a trust, one should have a Will for residual assets.

❖ 19. Must a Trust be Registered — and With Whom?

- **Private trust with immovable property**: the trust deed **must be registered** with the **Sub-Registrar of Assurances** of the district where the property lies (Sections 5 of the Indian Trusts Act read with Section 17 of the Registration Act). Stamp duty is payable as per the State's Stamp Act.
- **Private trust with only movable property** (money, shares, mutual funds): registration of the deed is **not compulsory** — the trust can be created by a written declaration and transfer of the property to the trustee. Registration is nevertheless advisable for evidentiary value; banks and registrars routinely ask for a registered deed to open trust accounts.
- **Public charitable/religious trusts**: the deed is registered with the Sub-Registrar; in States like Maharashtra and Gujarat, registration with the **Charity Commissioner** under the State Public Trusts Act is mandatory. Societies register with the Registrar of Societies; Section 8 companies with the Registrar of Companies.
- **Income-tax registrations** (for charitable trusts): Sections 12AB and 80G registration with the Income Tax Department to obtain exemption and enable donors' deductions.
- Every trust should obtain its own **PAN**, maintain books and file returns; private family trusts are taxed per the beneficiaries' shares (determinate trusts) or at the maximum marginal rate (discretionary trusts) — professional tax advice is essential.

Part VI — Succession Laws: Different Faiths, Different Rules

❖ 20. The Legal Framework in One View

India does not have one uniform inheritance law. **Testamentary succession** (with a Will) is governed by the Indian Succession Act, 1925 for most communities, subject to Muslim personal law for Muslims. **Intestate succession** (no Will) depends on the religion of the deceased:

Community	Governing law (intestate)	Broad scheme
Hindus, Buddhists, Jains, Sikhs	Hindu Succession Act, 1956	Class I heirs share equally; daughters equal coparceners since 2005
Muslims	Muslim Personal Law (Shariat) Application Act, 1937 — Sunni (Hanafi) / Shia rules	Fixed Quranic shares; Will limited to one-third without heirs' consent
Christians & Jews	Indian Succession Act, 1925 (Part V)	Widow(er) one-third + children two-thirds (typical case)
Parsis	Indian Succession Act, 1925 (special Parsi chapter)	Equal shares to spouse and children, with distinct rules
Marriage under Special Marriage Act	Indian Succession Act, 1925 (but HSA continues where both spouses are Hindu/Buddhist/Jain/Sikh)	Civil-law succession for interfaith couples

❖ 21. Hindu Succession Act, 1956 — Hindus, Buddhists, Jains and Sikhs

When a **Hindu male** dies intestate, his self-acquired property devolves first on the **Class I heirs, all sharing equally**: mother, widow, sons and daughters (and the branches of any predeceased son or daughter). The father is a Class II heir and inherits only if there is no Class I heir. Example: a man leaves mother, wife, one son and one daughter — each takes one-fourth.

When a **Hindu female** dies intestate, her property devolves first on her sons, daughters (including children of predeceased children) and husband; then upon the heirs of the husband; property inherited from her parents reverts to her father's heirs if she leaves no children. (The Supreme Court has repeatedly advised Hindu women without close heirs to make a Will to avoid this reversion litigation.)

- The **2005 amendment** made daughters coparceners in ancestral/HUF property by birth, with rights equal to sons — confirmed by the Supreme Court in *Vineeta Sharma v. Rakesh Sharma* (2020) irrespective of whether the father was alive in 2005.
- A coparcener may bequeath his/her undivided HUF share by Will; if he dies intestate leaving Class I female heirs, the share devolves by succession (notional partition), not survivorship.
- Remember: for Hindus the Will can dispose of **100%** of self-acquired property to anyone — there is no forced share; disappointed heirs can challenge only the Will's validity, not the testator's freedom.

❖ 22. Christians and Parsis — Indian Succession Act, 1925

- **Christians (intestate)**: the widow/widower takes one-third and the children two-thirds equally. If there are no children, the widow takes one-half and the deceased's kindred (parents, siblings) the other half; if no kindred, the widow takes all.
- **Parsis (intestate)**: a separate chapter applies — broadly, the spouse and each child take equal shares, with prescribed shares for parents; gender equality among children was brought in by the 1991 amendment.
- Testamentary freedom is complete for both communities — a Christian or Parsi may Will away the entire estate. (For decades their Wills in the Presidency towns needed probate; that compulsion has ended with the December 2025 amendment discussed in Part IV.)

❖ 23. Muslim Law of Succession and Wills

- Muslim inheritance follows the Shariat: heirs and their **fixed fractional shares** are determined at death — e.g., in a typical Sunni (Hanafi) case, a widow takes one-eighth (when there are children), sons and daughters share the residue in the ratio 2:1, and parents take one-sixth each when there are children. Shia law distributes differently through classes of heirs.
- There is **no concept of ancestral/joint family property**; each person owns individually, and an heir's right arises only on death (no right by birth).
- **Wasiyat (Will)**: a Muslim may bequeath only up to **one-third** of the net estate (after funeral expenses and debts) without the consent of the heirs, and a bequest to an heir requires the other heirs' consent (under Sunni law); the remaining two-thirds devolve strictly by Shariat shares. A Muslim's Will may be oral or written and needs no attestation, though writing and witnesses are strongly advisable.
- Probate/succession machinery of the 1925 Act applies to Muslims only in limited ways; in practice banks and institutions settle Muslim estates with the same claim documents — legal heirship/sharers certificate, indemnity, NOCs — with shares as per personal law.
- **Gift (hiba)** is an important Muslim estate-planning tool: an oral gift of even immovable property, completed by declaration, acceptance and delivery of possession, is valid and can distribute property during the lifetime beyond the one-third testamentary limit.

❖ 24. Marriage Laws and Succession — A Point Often Missed

- Marriage under the Hindu Marriage Act does not change succession — the Hindu Succession Act applies.
- A couple married under the **Special Marriage Act, 1954** (typically interfaith marriages) is governed for succession by the **Indian Succession Act, 1925** — not by either spouse's personal law. By Section 21A, however, where *both* spouses are Hindus, Buddhists, Jains or Sikhs, the Hindu Succession Act continues to apply.
- For non-Muslims governed by the 1925 Act, **marriage revokes an earlier Will** — always execute a fresh Will after marriage.
- Children, including daughters and children of predeceased children, adopted children (for Hindus) and children of void/voidable marriages (to the extent Section 16 HMA provides) have inheritance rights; a mother's remarriage does not affect the children's rights in their father's estate.

Part VII — How Banks Settle Claims: The RBI Directions of 2025

❖ 25. The New Uniform Framework

On 26 September 2025 the Reserve Bank issued the **RBI (Settlement of Claims in respect of Deceased Customers of Banks) Directions, 2025**, consolidating four decades of scattered circulars into one binding rulebook for all commercial and cooperative banks, to be implemented not later than **31 March 2026**. Its pillars:

- **15-day settlement**: every deposit claim must be settled within 15 calendar days of receiving the complete documents; for lockers/safe custody, the bank must within 15 days fix the date for inventory.
- **Compensation for delay**: interest at Bank Rate + 4% p.a. on delayed deposit settlements, and ₹5,000 per day of delay for lockers/safe custody, where the delay is attributable to the bank.
- **Standard forms** (claim form, indemnity, disclaimer/NOC, heirship declaration) uniform across banks, available at every branch and on the bank's website; banks must also accept **online lodgement** of claims with acknowledgement and tracking.
- **No extra documents**: banks cannot demand documents beyond those prescribed for each category of claim.

❖ 26. Category 1 — Accounts with Nomination or Survivorship

Where a nomination is registered, or the account is joint with a survivorship mandate ('Either or Survivor', 'Former or Survivor', 'Anyone or Survivors'), the bank pays the nominee/survivor on just **three things: the claim form, the death certificate and the claimant's KYC/identity proof**. The bank is expressly prohibited from asking for a succession certificate, probate, legal heirship certificate, indemnity or sureties, whatever the amount involved. Payment is a valid discharge to the bank; the nominee/survivor receives the money as trustee for those entitled under succession law. In a joint account, the nominee's right arises only after the death of *all* holders.

❖ 27. Category 2 — No Nomination: The Simplified Threshold Procedure

Where there is no nomination and no survivorship clause, the Directions mandate a **simplified procedure** where the total claim does not exceed the **threshold limit — ₹15 lakh for commercial banks and ₹5 lakh for cooperative banks** (banks may fix higher limits). Documents:

- claim form signed by all claimants;
- death certificate and identity proof of claimants;
- bond of indemnity by the claimants (on the prescribed form);
- letter of disclaimer / no-objection from legal heirs who are not claiming;
- legal heirship certificate from a competent authority **or** a declaration/affidavit about the legal heirs by an independent person acceptable to the bank.

Crucially, **no third-party surety can be insisted upon** within the threshold. This one reform spares lakhs of middle-class families the humiliating search for guarantors.

28. Category 3 — Above the Threshold, or Where There is a Will or a Dispute

- **Above the threshold (no Will)**: banks require formal legal representation — a Succession Certificate, or Letters of Administration, or a court decree; heirship affidavits must be sworn before a magistrate or notary; the bank may additionally take an indemnity with surety.
- **Where the deceased left a Will**: settlement is made on the basis of probate or Letters of Administration with the Will annexed. However — an important liberalisation — if the Will is **undisputed** and its genuineness is established, and all beneficiaries/legal heirs concur, the bank may settle on the Will itself *without probate*, with indemnity. (This sits well with the abolition of mandatory probate in December 2025.)
- **Where heirs dispute**: the bank will freeze settlement and insist on a court order/succession certificate/probate — no amount of pressure at the branch can (or should) override this.

29. Savings Accounts, Fixed Deposits and Operational Points

- **Date-of-death balance**: the balance with accrued interest till settlement is paid; pipeline credits received after death (e.g., pension credited for months after death) are returnable to the remitter, and banks obtain an undertaking from claimants for such returns.
- **Term deposits**: on the depositor's death, **premature closure is allowed without any penalty**, even during a lock-in. Interest is paid at the contracted rate up to maturity; if the deposit has matured and remained overdue, interest for the overdue period is paid at the applicable rate per the bank's policy. Claimants may alternatively continue the deposit till maturity.
- **Joint FDs with survivorship**: survivors can prematurely withdraw without the deceased's heirs' consent *only if* a joint mandate to that effect was given — one more reason to sign that mandate when opening joint FDs.
- Standing instructions, ECS/NACH mandates and cheques issued by the deceased lapse on death; debit cards and net banking of the deceased must not be used — withdrawal after death using the deceased's card/PIN, however well-intentioned, is irregular and can complicate the claim.
- **Loans/liabilities of the deceased**: the bank has a general lien and right of set-off; deposits may be adjusted against dues (see gold loans below). Heirs inherit assets subject to liabilities — but their personal liability is limited to the estate they inherit.
- **Missing persons**: claims are settled on a court order of presumed (civil) death under Sections 110/111 of the Bharatiya Sakshya Adhiniyam, 2023 (a person unheard of for seven years), the order standing in place of the death certificate. Some banks settle small amounts earlier with FIR + non-traceable report + indemnity as per board policy.

30. Safe Deposit Lockers and Safe Custody Articles

- **With nomination/survivorship**: the nominee/survivor is given access on claim form, death certificate and ID proof — no succession documents. Before release, the bank prepares an **inventory** of contents in the presence of the claimant(s), two independent witnesses and bank officials; the claimant signs the inventory and receives the articles.
- **Without nomination**: the same simplified/threshold logic applies — heirship proof, indemnity and NOCs for modest cases; legal representation for large or disputed ones.

- The nominee is *not* required to open a locker or account with the bank as a condition; sealed packets are handed over unopened where so held.
- If the locker contains a Will, the inventory records it and the Will is handed to the executor/heirs — another reason not to keep the *only* copy of a Will in a single-name locker.
- Remember: bank lockers enjoy limited bank liability (capped at 100 times the annual rent for events like fire, theft, building collapse or employee fraud under the 2021 locker rules) — keep an inventory and consider insurance for valuables.

❖ 31. Gold Ornaments Pledged with the Bank (Gold Loans)

A frequent and delicate situation: the deceased had taken a gold loan, and the ornaments lie pledged with the bank. The legal position and standard bank practice:

- The bank holds the ornaments as a **pledgee with a first charge**; they will be released only against full repayment of the loan with interest, by whoever redeems.
- The legal heirs/nominee of the borrower may **repay the dues and redeem the ornaments**. The claim is processed like any deceased claim: death certificate, KYC of claimants, legal heirship proof or the simplified-threshold documents, disclaimer/NOC from non-claiming heirs and an indemnity; the ornaments are then delivered against a detailed inventory and acknowledgement.
- Alternatively, with the claimants' consent, the bank may **adjust the deceased's deposit balances** towards the loan and release the ornaments, settling only the net amount.
- If nobody comes forward or dues are not paid, the bank, after due notices to the legal heirs, can **auction the pledged gold** and appropriate the proceeds, refunding any surplus to the estate/heirs. Families should therefore act quickly — interest keeps accruing.
- Where the gold loan borrower dies and the ornaments actually belong to another family member (commonly the wife's jewels pledged by the husband), the true owner should assert the claim with proof at the earliest; banks generally still require the loan to be cleared before release.

Part VIII — Shares and Mutual Funds: Transmission and Name Transfer

❖ 32. Transmission of Shares Held in Demat Form

“Transmission” is the devolution of securities by operation of law on death (as distinct from “transfer” by sale/ gift). The claim is lodged with the **Depository Participant** (DP — the bank/broker where the demat account is held).

- **Joint demat account**: the securities are transmitted to the surviving holder(s) on a transmission form and death certificate — simplest of all.
- **Single holding with nominee**: transmission request form, death certificate and the nominee’s KYC/Client Master List of his own demat account. SEBI bars DPs from demanding affidavits, indemnities or notarisation from a registered nominee. The nominee receives as trustee for the heirs.
- **Single holding, no nominee — up to ₹15 lakh per demat account** (value on the previous closing price): simplified documentation — transmission form, death certificate, KYC, a **notarised affidavit and indemnity from the legal heirs**, and NOC from non-claiming heirs (or a family settlement deed). No court documents needed.
- **Single holding, no nominee — above ₹15 lakh**: a Succession Certificate, or probate of Will / Letters of Administration, or a court decree, or a Legal Heirship Certificate issued by a revenue authority (Tahsildar or above) with supporting affidavit/indemnity, must accompany the claim.
- After verification, securities move to the claimant’s demat account (the claimant must have or open one); there is **no income tax on inheritance**, and when the heir later sells, the original cost and holding period of the deceased are inherited for capital gains.

> *Update (for awareness): SEBI has proposed (consultation of March 2026) raising the simplified-documentation limits to ₹30 lakh for demat and ₹10 lakh for physical holdings, a straight-through process for very small claims, and a standard 21-day timeline. Check the prevailing limits with your DP when you actually make a claim.*

❖ 33. Shares Held in Physical (Certificate) Form

- The claim goes to each company’s **Registrar & Transfer Agent (RTA)** separately — form ISR-5 with death certificate, KYC and the securities certificates.
- With nomination: transmission to the nominee on the standard documents. Without nomination: simplified documents (affidavit, indemnity, NOCs) up to **₹5 lakh per company**; above that, succession certificate/ probate/LoA/legal heirship certificate.
- The company issues a **Letter of Confirmation**; the heir must then **dematerialise** the shares within the stipulated period (physical transfer is no longer permitted) — yet another compelling reason for every senior citizen to demat old paper shares now, during their lifetime.

- Old, forgotten holdings: dividends unclaimed for seven consecutive years, and the underlying shares, are transferred to the **IEPF** (Investor Education and Protection Fund); heirs can still recover them by filing Form IEPF-5 with the claim documents — tedious but possible.

❖ 34. Mutual Fund Units — Transmission and Name Change

- Claims are lodged with the **AMC/RTA (CAMS or KFintech)** per folio; AMFI has standardised the forms (T1–T3) and document matrix across the industry.
- **Surviving joint holder**: units continue in the survivor's name on the transmission form and death certificate, with the survivor's KYC.
- **Nominee registered**: transmission on the request form, death certificate and nominee's KYC and bank details — no indemnities or affidavits, as per SEBI's 2025 reforms.
- **No nominee**: legal heirs apply with death certificate, KYC, indemnity-cum-affidavit, NOCs from other heirs; up to the industry threshold (currently ₹5 lakh per AMC) these simplified documents suffice; larger folios require a Succession Certificate/probate/LoA or legal heirship certificate as per the AMC's matrix.
- Once transmitted, the heir may redeem or continue the investment; as with shares, inheritance itself is tax-free and the deceased's cost/holding period carries over. SIPs and STPs of the deceased stand cancelled on intimation of death.
- A very useful facility: intimating any one AMC/RTA or KRA of the investor's death through SEBI's **centralised death-reporting mechanism** flags the KYC across the securities market, so every fund house and DP is alerted in one stroke.

❖ 35. Master Checklist — What Institutions Will Ask For

Situation	Core documents normally insisted upon
Every claim (all cases)	Claim/transmission form; death certificate (original for verification); claimant's KYC (PAN, Aadhaar/address proof); claimant's bank details/demat CML; photographs
Nominee / surviving joint holder	Only the above — no legal documents, no indemnity, no surety, irrespective of amount (banks & securities)
No nominee — within simplified threshold	Above + indemnity bond + NOC/disclaimer of non-claiming heirs + legal heirship certificate or independent declaration/affidavit of heirs
No nominee — above threshold	Above + Succession Certificate / Letters of Administration / court decree (or Legal Heirship Certificate for securities), affidavits before notary/magistrate; surety may be asked (banks)
Will exists — undisputed	Will (with probate where obtained; without probate now permissible with beneficiaries' concurrence + indemnity)
Will exists — disputed / heirs quarrel	Probate / court order only — institutions will not settle otherwise
Missing person	Court order of presumed death (Ss.110/111, Bharatiya Sakshya Adhiniyam 2023) in place of death certificate

Part IX — Other Assets: Property, Insurance, PF and Digital Wealth

❖ 36. Immovable Property

- Title passes under the Will or succession law; the heirs then apply for **mutation** (patta/khata/record-of-rights change) with the revenue authorities/municipality, producing the death certificate, Will/heirship documents and, where applicable, a registered release or partition deed among heirs.
- Mutation is for revenue records and tax; it is not itself a conveyance of title. For clean marketable title — particularly for later sale — heirs execute and register a **family settlement/partition deed** or obtain a court decree where disputed.
- Housing societies transfer the share certificate to the nominee (as trustee) or heirs; after the December 2025 abolition of compulsory probate, societies and buyers in Mumbai/Chennai/Kolkata can no longer insist on probate as a legal precondition, though many may still seek it for comfort in high-value flats.

❖ 37. Insurance, EPF, Gratuity, Pension and Small Savings

- **Life insurance**: claim with the policy, claim form, death certificate and nominee's KYC; beneficial nominees own the proceeds. Death claims are normally payable within 30 days of complete documents (IRDAI norms); early-duration claims may involve investigation within prescribed timelines.
- **EPF/EPS/EDLI**: online claims by the nominee/family members; EDLI provides insurance up to ₹7 lakh linked to the PF account.
- **Gratuity** is paid to the Form-F nominee/heirs by the employer; **family pension** follows the pension rules with the legal heirship certificate.
- **PPF/NSC/SCSS/Post Office**: nominee is paid on standard forms; without nomination, simplified settlement up to ₹5 lakh with annexures/witness declarations, and succession certificate beyond — as per Government Savings Promotion Rules.

❖ 38. Digital Assets — the New Frontier

- List digital assets in your asset register: net-banking IDs, demat/MF logins, UPI wallets, crypto exchanges and cold wallets, DigiLocker, email, social media, domain names, monetised channels.
- Cover them in the Will with clear directions; keep credentials separately in a sealed 'digital locker letter' or a password manager whose master access the executor can obtain — never write passwords in the Will itself (a probated Will is a public document).
- Crypto and foreign brokerage assets pass under the Will/succession law like any movable property, but access is impossible without keys — planning here is not optional, it is everything.

Part X — Safeguards, Common Mistakes and Your Action Plan

❖ 39. Ten Practical Safeguards from a Banker's Desk

- 1. Register (and periodically re-verify) nominations in *every* account, folio, policy and locker — and upgrade to the new multiple/successive nominations.
- 2. Prefer 'Either or Survivor' joint accounts for the couple's day-to-day banking, with the survivorship mandate signed for FDs.
- 3. Write a Will — today, not "someday". Review it every year and after every family event.
- 4. Keep nomination, joint holding and the Will **consistent** — conflicts breed litigation.
- 5. Maintain a one-page **asset register** (institution, account/folio, nominee, approximate value, where documents are kept) and share its location with your spouse/executor.
- 6. Consolidate: fewer banks, fewer folios, demat all physical shares, close dormant accounts — every extra institution is one more claim your family must file.
- 7. Keep KYC, mobile number and email updated everywhere; mismatched names (initials vs expanded names) are a silent claim-killer — align names across PAN, Aadhaar and records.
- 8. Tell your family what exists and where; hold a yearly 'family finance hour'.
- 9. For minor/special-needs beneficiaries or complex estates, take professional advice on a trust; for everyone, name guardians for minor children in the Will.
- 10. Preserve claim-friendly proof: death certificates (obtain 10–15 originals), marriage certificate, ration card/family ID — they establish heirship quickly.

❖ 40. Common Mistakes to Avoid

- Assuming the nominee is the owner — and equally, assuming nomination is unnecessary because "there is a Will anyway". You need both.
- Making a beneficiary an attesting witness to the Will.
- Keeping the only copy of the Will in a single-name locker, or telling nobody it exists.
- Leaving old single nominations (often a deceased parent) unrevised after marriage and children.
- Withdrawing money with the deceased's ATM card "to avoid formalities" — it complicates and can vitiate the claim.
- Ignoring small/old assets — paper shares, old LIC policies, dormant accounts — which quietly drift into unclaimed funds and the IEPF.
- For Muslims: bequeathing beyond one-third or to an heir without consent — the excess simply fails.
- Believing registration makes a Will unchangeable, or that an unregistered Will is invalid — both are myths.

❖ 41. Conclusion

Estate planning in India has never been easier than it is today. Multiple nominations in banks (November 2025), ten nominees and paperwork-free transmission in the securities market (2025), the RBI's 15-day claim settlement discipline (2026) and the abolition of compulsory probate (December 2025) together mean that a family which has done the basics — nominations, a simple Will, an asset register and an informed spouse — can receive every rupee within days, not years.

The finest gift you can leave your loved ones is not just wealth, but wealth that reaches them *smoothly*. Spend one weekend on the checklists in this article; your family will silently thank you for decades.

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