

# CLASS 01

## Hindu Marriage: When Is It Valid?

Family Law · Unit 1 of 3

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### TODAY'S TWO PILLARS

#### **A** The Five Conditions

Section 5 sets five gates a Hindu marriage must clear — monogamy, capacity, age, prohibited degrees, sapinda.

Validity engine

#### **B** Void vs Voidable

Some breaches kill the marriage from day one (s.11); others let a party annul it later (s.12). The gap decides everything.

The CLAT favourite

## ROADMAP

# Where We Are Going

From 'who is a Hindu' to 'is this marriage good in law?'

### GROUNDWORK

#### WHO

Who the Act governs — s.2

#### WHAT

Marriage as sacrament + status

### TODAY'S BUILD

1

Five conditions of a valid marriage — s.5

2

Ceremonies & registration — s.7, s.8

3

Void marriages — s.11

4

Voidable marriages — s.12

5

Legitimacy of children — s.16

6

Apply it to a CLAT fact pattern

## FOUNDATION

# What the Act Treats Marriage As

*“Under the Hindu Marriage Act, 1955, a Hindu marriage is both a sacrament and a legal status — the law does not ask for a written contract, but it does fix conditions, ceremonies and consequences that turn a ceremony into a marriage recognised by the State.”*

### 01

#### Applies To

Hindus, Buddhists, Jains and Sikhs by religion (s.2). Not Muslims, Christians, Parsis or Jews — they have their own personal laws.

### 02

#### Not A Pure Contract

Unlike Nikah, no offer-acceptance-dower model. Validity flows from STATUS conditions, not bargaining.

### 03

#### Consequences Follow

Once valid, rights of maintenance, succession and matrimonial relief attach automatically.

## SECTION 5

# Five Conditions of a Valid Marriage

Break any of these and the marriage is either void, voidable, or merely penalised — know which.

**i**

### **Monogamy** **VOID IF BREACHED**

Neither party has a living spouse at the time of marriage. A second marriage during a subsisting one is void.

**ii**

### **Capacity to Consent** **VOIDABLE**

Sound mind, fit for marriage & procreation, free of recurrent insanity. Defect makes the marriage voidable.

**iii**

### **Age** **PENALTY ONLY**

Bridegroom 21, bride 18. Breach is punishable (s.18) but does NOT by itself make the marriage void or voidable under HMA.

**iv**

### **Prohibited Degrees** **VOID IF BREACHED**

Parties must not be within prohibited degrees of relationship — unless a valid custom permits it.

## SECTION 7 & 8

# From Ceremony to Recognition

A marriage is complete in law at a precise moment — and registration is not that moment.

### STAGE 1

#### Customary Rites

Solemnised per the customary rites of either party (s.7). Where saptapadi is part of the rites, the marriage is complete on the SEVENTH step.



### STAGE 2

#### The Binding Moment

Marriage becomes complete and binding when the prescribed ceremony is finished — not when guests arrive or vows are exchanged informally.



### STAGE 3

#### Registration (s.8)

Provides proof. It is directory, not mandatory — non-registration does NOT invalidate a properly solemnised marriage.

“

*A Hindu marriage may be solemnised in accordance with the customary rites and ceremonies of either party thereto.*

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Section 7(1), Hindu Marriage Act, 1955

THE CORE DISTINCTION

# Void vs Voidable

	VOID (s.11)	VOIDABLE (s.12)
<b>Status</b>	No marriage in the eyes of law, from the start (void ab initio)	A valid marriage until a court annuls it by decree
<b>Trigger</b>	Breach of s.5 (i), (iv) or (v) — bigamy, prohibited degrees, sapinda	Impotence, unsound mind, consent by force/fraud, pre-marriage pregnancy by another
<b>Who acts</b>	Either party (or anyone, since it is a nullity)	Only the aggrieved party, within limits of time
<b>Decree needed</b>	Not strictly — declaration may be sought	Yes — annulment decree is essential

## CONSEQUENCES

# What Happens to the Parties & the Children

Knowing the breach is half the answer; knowing the fallout is the other half.

### §11 Void Marriage **VOID**

Treated as if it never existed. No mutual rights of a spouse; either party is free to remarry.

### §12 Voidable Marriage **VOIDABLE**

Fully valid — and produces all marital rights — UNTIL a competent court passes a decree of nullity.

### §16 Children Are Legitimate **PROTECTED**

Children of void AND voidable marriages are legitimate by statute (s.16) — even though the marriage itself fails.

### ! Age Is Different **CLAT TRAP**

## LANDMARK

# Conversion Cannot Buy a Second Marriage

## *Lily Thomas v. Union of India*

2000 · (2000) 6 SCC 224, Supreme Court of India

### HOLDING

A Hindu husband who converts to Islam and marries again — without first dissolving his Hindu marriage — does not escape the monogamy rule. The second marriage is void and he is liable for bigamy under Section 494 IPC.

### WHY IT MATTERS FOR CLAT

It locks in s.5(i): a subsisting Hindu marriage cannot be side-stepped by changing religion. Follows and affirms *Sarla Mudgal v. Union of India* (1995).

**Q1.** Rohit, a Hindu aged 22, marries Meera, a Hindu aged 17, with all customary rites including saptapadi. The marriage is later challenged. Which statement is correct in law?

(A) The marriage is void ab initio because Meera was under 18

(B) The marriage is voidable at Meera's option only under s.12

**(C) The marriage is valid under HMA, though the breach of age is punishable**

(D) The marriage is incomplete because registration was not done

**TRAP** Options (A) and (B) bait you into mapping 'age breach' onto s.11/s.12. The Act does not.

**REASONING** Breach of s.5(iii) (age) is penalised under s.18 but is NOT a ground of voidness (s.11) or voidability (s.12). Saptapadi completed the marriage (s.7); registration (s.8) is only directory. So the marriage stands as valid, with separate penal liability for the age breach.

**ANSWER - (C) Valid under HMA; the age breach is separately punishable**

LOCK THESE IN

# Vocabulary You Must Carry Forward

## **Void ab initio**

A nullity from the very beginning — never a marriage in law.

## **Voidable**

Valid until the aggrieved party gets it annulled by a court decree.

## **Saptapadi**

The seven steps; where part of the rites, marriage is complete on the seventh.

## **Sapinda**

Relations within a defined degree of common ancestry; marriage between them is barred (s.5(v)).

## **Prohibited degrees**

Close relations within which marriage is void unless custom permits (s.5(iv)).

## **Solemnisation**

Performing the customary ceremony that the law requires (s.7).

## TAKEAWAYS

# Carry These Into Class 02

**01** Section 5 has FIVE conditions — only (i),(iv),(v) breaches make a marriage void.

**03** Age breach is punishable only — neither void nor voidable under HMA.

**05** Void = nullity from day one; Voidable = valid until a decree annuls it.

**02** Capacity defects (s.5(ii)) make a marriage voidable, not void.

**04** Saptapadi (where applicable) completes the marriage; registration is directory.

**06** Children of void & voidable marriages are legitimate under s.16.



# THANK YOU

Next — Class 02: Cracks in the Marriage — Restitution, Judicial Separation & the Road to Divorce

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KEEP IN TOUCH

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