

Legal heir vs nominee explained: Why estate planning is crucial before writing your will

Planning your will? There is a difference between a legal heir and a nominee when it comes to inheritance. Here is how estate planning can help your family sidestep complications in the event of a sudden death...

Jocelyn Fernandes

Updated 29 Mar 2026, 11:07 AM IST



Planning your will? There is a difference between legal heir and nominee when it comes to inheritance. (This is an AI-generated image)

When it comes to estate or succession planning, ensuring clarity of words and intent in the legal document is key to preventing complications for your heir(s) when it is executed.

Today, we will discuss the difference between legal heirs and nominees, especially when it comes to inheritance, and how timely planning can help eliminate hurdles for your family in case of sudden death.

Who is considered the legal heir?

Under Indian law, those considered legal heirs include the deceased's spouse, children, and parents. If the deceased has no immediate relatives, their grandchildren will be considered the legal heirs; if there are no grandchildren, the deceased's sibling(s) will be considered the legal heirs.

Notably, in the absence of a will, a legal heir certificate is an important document for identifying and establishing the relationship between the legal heir and the deceased.

Who is a nominee?

Nominees are usually named or designated by a bank account holder as the receiver of the account's funds in the case of their demise. The aim is to ensure smooth settlement and transfer of assets from the bank without the need for legal intervention.

Notably, however, a nominee need not be the legal heir and may act as the trustee for the legal heirs, e.g., in the case of minor children. The account holder usually designates a trusted person as a nominee, who can be a child, spouse, sibling, family member, or relative.

What is the difference between a nominee and a legal heir?

- While a nominee is designated to receive assets or funds upon the account holder's death, a legal heir is entitled to the inheritance as per law or a will. Sometimes, the nominee and the legal heir are the same person.
- Nominees have limited rights and usually act as custodians for the legal heirs who have complete ownership rights over the assets.
- The role is the key difference here: a nominee is responsible for managing and transferring assets, while a legal heir is the beneficiary of those assets.
- Notably, you can change or update your nominee at any time, but a legal heir once chosen cannot be revoked, according to ClearTax.

Can nominees contest the inheritance of legal heirs?

"Anyone is free to contest the inheritance of legal heirs, including nominees. However, a nominee cannot claim ownership rights as a result of the nomination. That being said, the legal heirs would be able to prove their right to such estate, by way of relation (for intestate succession) or will (for testamentary succession)," according to Bijal Ajinkya, Partner at Khaitan & Co.

He added that the legal heirs' right to the estate is not impacted by the naming of a nominee, subject to certain exceptions — such as a life insurance policy.

Explaining further, Tanmay Patnaik, Partner - Private Client Practice at Trilegal, said that under the Insurance Act, 1938, certain "beneficial nominees" (such as the spouse, children, or parents of the policyholder) may be treated as having beneficial entitlement to policy proceeds. He, however, added that the Supreme Court has not fully settled whether such provisions override succession law. "For insurance policy proceeds, it is recommended to nominate those individuals who are intended to be the ultimate beneficiaries, and to draft the bequest of the life insurance proceeds under the Will accordingly," Patnaik advised.

Nikita Seth, Legal Associate at Jotwani Associates, noted that a will allows individuals to deviate from statutory succession laws to choose beneficiaries. "If a person dies without a Will, assets are distributed based on personal laws, such as the Hindu Succession Act or Muslim Shariat laws," she added.

What happens in case there is no will?

According to Patnaik, the legal heirs retain the ultimate entitlement to the assets regardless of the nomination. He further added that if nominees fail or refuse to transfer the assets, the legal heirs are entitled to initiate civil proceedings to recover the same. "In practice, many financial institutions now expressly communicate to nominees that the nominee's role is limited to receipt and facilitation of transfer to the rightful heirs," he said.

Ajinkya noted that, for minor children, a major (parent, sibling, etc.) will hold the asset in a trust as a nominee. "If the nominee does not transfer the assets to the rightful legal heirs, being the minor children, then the minor children, through their legal representatives, will have to seek enforcement of title against the nominee," he added.

Seth concurred that for minors, assets can be held in a fixed deposit or other secure form until they attain majority (age). She added that this is applicable across assets for:

- Bank deposits: The nominee receives the funds as a trustee for the legal heirs.
- Provident Fund: Nominee does not become the absolute owner.
- National Savings Certificates: Legal heirs have superior rights.
- Insurance, property, shares, and funds.

What can you do to ensure inheritance for your spouse/children is smooth?

- Seth suggests that a proper will be executed and registered, clearly defining the asset wise distribution. "A registered will clearly expresses testamentary intentions and supersedes nominations in determining ownership, though nominees may still receive assets initially as trustees," she added.
- For minor children, it is also advisable to appoint a clear financial guardian and/or caretaker in the will. It should also specify how assets should be managed until children attain majority, Seth suggested.
- She further noted that a private trust can be created under Indian Trusts Act, 1882 a reliable trustee (reliable person). "Align nominations with succession. The most effective protection is to ensure that nominees are also the legal heirs or beneficiaries under a will and avoid a mismatch between the names of intended beneficiaries vs nominees," she added.
- Patnaik concurred, "A well-drafted Will should clearly identify assets and specify the intended beneficiaries and proportions. Correspondingly, nominations for each asset should ideally mirror the testamentary intent reflected in the Will."
- He added that it is also advisable to periodically review and update both Wills and nominations following major life events such as marriages, births, or deaths in the family.