

# **INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]**

ISSN: 2584-1513 (Online)

Volume 4 | Issue 3 [June, 2026] | Page 228 – 238

© 2026 International Journal of Legal Studies and Social Sciences

Follow this and additional works at: <https://www.ijlsss.com/>

In case of any queries or suggestions, kindly contact [editor@ijlsss.com](mailto:editor@ijlsss.com)

# LEAVING A DIGITAL LEGACY: THE COMPLICATED REALITY OF INHERITING ONLINE ASSETS AND INCOME IN INDIA

- Bhumi Singh<sup>1</sup>

## ABSTRACT

This research article looks at how the definition of personal property has changed because of technology and how this affects inheritance laws in India. The concept of what people can own and pass down to the next generation has undergone a profound transformation because of the deep integration of technology into ordinary life. For many years, the wealth that a person accumulated during their lifetime was visible and touchable. As economies modernized, this definition grew to include financial products like bank savings, stocks and mutual funds, alongside intellectual creations like books, patents and musical compositions. Today, people spend a large part of their lives online and build up valuable digital properties. Some digital things have real monetary value and make steady income, while some might hold deep emotional value for families.

The article further studies the legal problems of valuing and passing down these monetized digital assets under Indian law. It examines how Indian courts are slowly starting to recognize digital items as real property. It highlights that the current system puts too much power in the hands of private tech companies, which can cut off a family's access to a deceased person's lifelong digital work. To fix this, Indian legislature needs to update its laws or make a new law that clearly defines digital assets as inheritable property, allows people to make legal digital wills and forces internet platforms to give legal heirs access to these accounts while still protecting the deceased person's private messages.

## KEYWORDS

Digital Estate Succession, Monetized Digital Assets, Post-Mortem Privacy, Platform Terms of Service, Cryptocurrency Succession Laws, Digital Wills Admissibility.

---

<sup>1</sup> 3rd Year BBA LL.B. Student, Symbiosis Law School (SLS), Nagpur.

## **INTRODUCTION**

The historical development of property law has always been tied to the physical world, where wealth was measured by things you could touch. As economies grew, the law slowly expanded to include intangible items, creating intellectual property rights to protect things like patents, trademarks and copyrights. However, the rise of the internet has completely changed how wealth is created, stored and passed down to the next generation. Today, individuals accumulate vast digital estates that exist only as data on remote servers or decentralized blockchains. These digital assets are no longer just personal hobbies, they have become highly profitable businesses, major investment options and repositories of deep sentimental memories. From YouTube channels with millions of subscribers making monthly ad revenue to large cryptocurrency portfolios, the nature of what a person leaves behind when they die has shifted drastically into digital space. Despite this massive shift in how society holds wealth, the legal systems meant to manage the distribution of a person's estate after death have largely stood still. In India, succession jurisprudence remains anchored in frameworks created during the colonial era or early years of independence. These laws were built around the transfer of land, physical gold, corporate shares and tangible personal items. They do not contain any language or rules that can easily handle unique problems of digital property. This silence in the law creates a dangerous legal gap where the assets of a deceased person are left vulnerable to loss, deletion or permanent lockouts by tech platforms. As digital creations become a primary source of livelihood for many creators, understanding how these assets evolve, how they are valued and how they can be legally passed on to heirs is a critical necessity for modern legal systems.

## **CLASSIFYING THE MODERN DIGITAL ESTATE**

To understand how digital inheritance works, we must first categorize the different types of assets that make up a modern digital estate. Digital assets are not uniform. They vary wildly in their legal character, financial value and emotional importance. The first category consists purely of financial digital assets which include cryptocurrencies like Bitcoin and Ethereum, digital tokens and digital wallets. These assets are unique because they are built to act like traditional money or securities, carrying a direct market price and being actively traded on global platforms. Their value is determined by market demand and they are held either on third-party exchanges or in private self-custodied cryptographic wallets.

The second category involves commercial and revenue-generating digital properties such as monetized YouTube channels, online gaming, blogs, and podcast feeds and social media influencer profiles on platforms like Instagram. These assets are distinct because their financial value is tied to a living person's identity, brand reputation and ongoing intellectual property creation. A successful YouTube channel is not just an online account, it is an online business enterprise that receive monthly payments from advertisers, possesses copyright over past videos and hold contractual ties with brands. The value of such an asset is dynamic and depends heavily on whether the channel can continue to draw viewers and make money after its original creator passes away.

The third category covers digital intellectual property and professional storage which includes website domains, proprietary software code, digital manuscripts and cloud stored data used for business operations. These assets represent traditional intellectual creations moved into a digital medium. Finally, there are social and sentimental digital assets which include personal email accounts, private messaging histories, family photos in cloud storage and casual gaming accounts. While these personal accounts might not have a direct cash value, they hold massive emotional importance for grieving families who wish to preserve the digital legacy of their loved ones. This wide variety of digital assets makes it very difficult to apply a single, uniform rule of inheritance to all of them.

## **THE LEGAL STATUS OF DIGITAL ASSETS AS “PROPERTY”**

A major roadblock in inheriting digital assets under Indian law is the confusion over whether these online items can legally be called “property” at all. Traditionally, Section 3 of Transfer of Property Act of 1882 and various succession laws look at property through the lens of physical ownership or clearly defined actionable claims. For an asset to be inherited, it must be something that a person legally owns and has the right to give away. However, when an individual creates an account on a digital platform, they do not usually buy ownership of that digital space. Instead, they sign a standard Terms of Service agreement, which is a private contract that typically grants the user only a non-transferable, personal license to use the service.

This contractual setup means that when a user dies, tech platforms often argue that the license expires immediately, and the account cannot be handed down to heirs. This creates a direct clash with constitutional protections, specifically Article 300-A of the Constitution of India, which states that no person shall be deprived of their property except by the authority of law. If an online account or a digital creation has real economic value and generates income, treating it as a mere temporary license

that the platform can delete at will looks like an unfair deprivation of property without a proper law passed by parliament. Indian courts have long maintained an expansive view of property, ruling in historical commercial cases that property includes any bundle of well-defined economic rights that can be turned into money.

The legal character of digital assets took a significant step forward with a landmark judgment by the Madras High Court in the case of *Rhuthikumari v. Zama Labs*, 2025. In this case, the court judicially recognized cryptocurrency as property under Indian law that can be owned, held in trust and inherited by legal heirs. The court linked this interpretation to Section 2 (47A) of the Income Tax Act of 1961, which defines cryptocurrencies as Virtual Digital Assets for tax purposes. This ruling set a strong persuasive precedent, showing that if the state treats digital items as property for pulling in tax revenues, it cannot turn around and deny those same items the status of inheritable property when the owner dies.

## **STATUTORY SILENCE IN INDIAN SUCCESSION LAWS**

The primary challenge for digital estate planning in India is that the core statutes governing inheritance are completely silent on the matter. The Indian Succession Act of 1925, which regulates both testamentary and intestate successions for many communities, was written in the era when electronic data did not exist. Section 2(h) of this Act defines will as a legal declaration of a person's intention regarding their property, but the entire procedural machinery of the Act assumes that this property consists of lands, buildings, cash or physical documents. There are no rules explaining how an executor can take control of an encrypted digital file, how to distribute online accounts or how to handle passwords.

Similarly, personal laws such as the Hindu Succession Act of 1956 and the Muslim Personal Law (Shariat) Application Act of 1937 divide estate property based on traditional family lines and blood relations, focusing entirely on tangible assets and family-owned businesses. These personal laws do not provide any guidance on how to split a single, non-divisible digital asset among multiple legal heirs. Because this, executors and legal heirs are often left in a state of deep uncertainty, unsure whether they have the legal right to demand access to these valuable accounts from internet service providers. Furthermore, India's primary technology law, the Information Technology Act of 2000, was built to handle electronic records, digital signatures, cybercrimes and intermediary liabilities, but it completely leaves out any rules regarding post-mortem data transfers or succession. Even worse, Schedule I of

the Act explicitly excludes wills from being executed digitally, meaning that a will must still be written or printed on physical paper and signed by hand with physical witnesses to be valid. This restriction makes it incredibly difficult for tech-savvy individuals to create flexible, digital-first estate plans that can easily adapt to their fast-changing online assets.

## **THE CONFLICT WITH PLATFORM TERMS OF SERVICE**

The fate of a deceased person's digital life is currently governed by private contracts known as Terms of Service agreements because public laws are silent on the issue. When a user opens an account on Google, Meta, YouTube or Apple, they blindly click "agree" to long, complex legal agreements written by these platforms. Most global tech companies include strict clauses designed to protect user privacy and limit corporate liability, often stating that the user's account is strictly personal and non-transferable. These agreements typically specify that any rights to the account terminate immediately upon the death of the holder, and that the platform will not give the password or access rights to anyone else, including family members or legal executors.

This contractual barrier creates a harsh situation for families. For instance, if a prominent content creator dies, their YouTube channel might continue to pull in thousands of dollars from older videos, but the family cannot log in to manage the payouts or change the banking details because the platform's agreement forbids third-party access. If an heir tries to log in using the deceased person's saved passwords, they could technically be violating the law. Under Section 66 of India's Information Technology Act, accessing a computer system or an online account without explicit legal authorization can be viewed as an unauthorized hack or identity theft, exposing the grieving family to potential criminal liability.

Some major technology companies have tried to address this issue by creating internal legacy features. For example, Google provides an "Inactive Account Manager" that allows users to pick who should get access to their data if the account goes dark for months, and Meta allows users to choose a "Legacy Contact" to look after a memorialized profile. However, these internal platform tools are entirely voluntary, and most regular internet users never set them up. More importantly, platforms like X do not offer any legacy systems at all. This leaves a massive systemic problem because a person's fundamental rights to pass down wealth should be protected by the laws of the land, rather than being left entirely up to the internal settings and shifting policies of private tech companies.

## **VALUATION CHALLENGES OF MONETIZED DIGITAL ASSETS**

Valuing physical assets like land or gold during probate is a well established practice with clear rules, but calculating the financial worth of a monetized digital asset is incredibly difficult. For revenue generating accounts like YouTube channels or Instagram influencer profiles, the asset's value is highly volatile and depends deeply on the ongoing presence of the creator. A channel that makes massive amounts of money while the creator is alive might see its viewership drop to zero within a few months of their death because no new content is being produced. Valuing such an asset requires specialized forensic accounting that looks at past ad revenue streams, the value of the back-catalog of videos and ongoing brand sponsorships, while trying to predict how fast the audience will fade away.

Another massive obstacle is platform risk. Since these digital businesses are hosted entirely on third-party websites, their economic life remains at the mercy of changes to the platform's algorithms, monetization rules, sudden policy shifts. If a platform decides to change its revenue-sharing model or bans an account for an alleged policy violation right after the creator dies, the financial value of that digital estate can vanish overnight. This uncertainty makes it hard for courts and tax authorities to establish a stable valuation for calculating court fees during probate or figuring out the true worth of an estate distribution.

For cryptocurrencies and blockchain-based assets like non-fungible tokens, the valuation challenge comes from wild market price swings. A crypto portfolio can lose or gain half its value in a single week, making the date chosen for estate valuation a major point of conflict among heirs. Furthermore, the law must separate the market value of a digital asset from its access risk. If a deceased person leaves behind millions of rupees worth of cryptocurrency in a self-custody wallet but did not write down the private cryptographic key or seed phrase, that wealth is lost forever. No court order or tech company can hack a secure blockchain to retrieve it, meaning the asset becomes financially worthless to the heirs simply due to a lack of physical access.

## **THE POST-MORTEM PRIVACY DILEMMA**

When dealing with digital inheritance, the law must find a delicate balance between the financial rights of the heirs and the post-mortem privacy rights of the deceased person. Physical property inheritance rarely interferes with personal privacy, but a person's digital estate is deeply intertwined with their

private life. An online account contains private emails, direct messages, search histories, location logs and private photos that the deceased individual may have never wanted their family, parents or spouse to see. Automatically, handing complete account control over to legal heirs could expose highly sensitive personal secrets, violating the dignity and privacy of the person who passed away.

This issue is complicated by India's newer data privacy laws, specifically the Digital Personal Data Protection Act of 2023. The DPDP Act sets out strict rules on how personal data must be handled and emphasizes that consent is central to processing data. However, the law does not provide clear guidelines on who can exercise control over a person's data after they die or whether an heir can legally consent to opening up a deceased person's private correspondence. The gap leaves tech companies trapped between succession claims from families and their statutory duty under privacy laws to keep user data secure and confidential.

To solve this dilemma, legal scholars argue that the law must separate digital assets into different categories based on their primary use. Assets that are clearly commercial or financial should automatically pass to legal heirs because they are primarily economic tools. On the other hand, purely personal communications should carry a strong legal assumption of absolute privacy. These personal files should remain locked unless deceased person explicitly gave permission in a written will or through a platform's legacy tool allowing their family to access to them.

## **TAXATION OF INHERITED DIGITAL ASSETS IN INDIA**

The financial impact of digital inheritance is heavily shaped by India's strict tax laws. Under the current provisions of the Income Tax Act of 1961, receiving traditional property through a will or through the laws of intestate succession is generally exempt from income tax under Section 56(2)(x). This means that if an heir inherits a physical house, land or money from a deceased relative, they do not have to pay immediate income tax on the value of that inheritance. This same tax-free treatment is expected to apply to Virtual Digital Assets like cryptocurrencies when they are directly passed down to a legal heir's account.

However, the tax rules become incredibly strict the moment the heir decides to sell or cash out those inherited digital assets. Under Section 115BBH of the Income Tax Act, any income earned from the transfer or sale of a Virtual Digital Asset is taxed at a flat, heavy rate of 30%. This tax applies without any deductions for expenses and the seller cannot claim any indexation benefits to adjust for inflation

over time. Furthermore, losses made on one crypto token sale cannot be offset against gains made on another, making it a very rigid tax system.

For monetized social media accounts and YouTube channels, the tax situation is different but equally complex. The ongoing monthly income generated by the channel's past content is taxed as regular business income or income from other sources, which means inheriting heir must report these earnings and pay tax according to their personal income tax brackets. If the heirs decide to sell the entire YouTube channel, its brand name and its subscriber base to a media company, this sale is treated as a transfer of an intangible capital asset, making them liable to pay capital gains tax. The lack of clean, specialized tax rules for digital business transfers often leads to messy compliance disputes with tax authorities.

## **COMPARATIVE INTERNATIONAL FRAMEWORKS**

As India looks for solutions to its digital asset dilemma, it can learn valuable lessons by examining how other countries have updated their laws to handle digital inheritance. The most successful model is found in the United States, where the Uniform Law Commission created the Revised Uniform Fiduciary Access to Digital Assets Act commonly known as RUFADAA. This Act has been adopted by almost all US states and provides a clear, structured framework for digital succession. RUFADAA solves the conflict between estate law and privacy law by setting up a clean legal hierarchy for a person's digital choices.

Under the RUFADAA model, a user's instructions left through an online platform's internal legacy tool take top priority. If the user did not use an online tool but left explicit directions in a traditional written will, those legal instructions take second priority. If the user left no instructions at all, the platform's standard Terms of Service agreement dictates what happens to the account. Most importantly, RUFADAA gives legal executors the explicit statutory right to manage digital financial assets and online accounts, while keeping strict privacy walls around the actual contents of personal electronic communications unless the user explicitly consented to sharing them.

In Europe, the legal approach is heavily shaped by the General Data Protection Regulation, that is GDPR. The GDPR protects the data privacy of living individuals but leaves the rules for post mortem data protection up to individual member countries. For example, France updated its digital laws to grant citizens the explicit right to give directions on how their personal data should be kept, deleted or shared after their death. If a person does not leave instructions, their close heirs can request the

platform to update the account or close it down to protect the family legacy. These international frameworks show that a successful digital inheritance system requires clear statutory laws that prevent private corporations from overriding the core inheritance rights of families.

## **THE PATH FORWARD FOR INDIAN LEGAL REFORM**

To resolve this growing legal mess surrounding digital assets, India must move away from temporary fixes and introduce comprehensive legislative reforms. The most urgent requirement is a formal amendment to the Indian Succession Act of 1925 to clearly include digital assets under the legal definition of inheritable property. The law must explicitly state that monetized online accounts, websites, domain portfolios and digital tokens form a part of a person's estate and can be legally distributed to their heirs, regardless of any restrictive non-transferability clauses buried inside a tech platform's terms of service.

Second, India needs to modernize its rules regarding how wills are made. The Indian legislature should amend Schedule 1 of the Information Technology Act of 2000 to remove the absolute ban on digital wills. Allowing people to create secure, digitally signed wills, perhaps backed by secure video recordings or blockchain validation, would make estate planning much easier for creators who hold vast online portfolios. This reform must also allow individuals to formally appoint a specialised digital executor, a person given the specific legal power and technical authority to handle digital accounts, bypass encryption keys, manage online business earnings and close down profiles according to the deceased person's wishes.

Finally, India should introduce a unified, standalone piece of digital legacy legislation, similar to the American RUFADAA model. This new law should assert the supremacy of public succession rights over private corporate contracts, preventing global tech companies from locking families out of economically valuable digital properties. The statute should mandate all internet intermediaries operating within Indian jurisdiction to provide straightforward, standard operational pathways for legal heirs to submit death certificates and claim financial or commercial accounts. By taking these steps, India can bridge its legal gaps, protect the hard-earned wealth of its online creators and provide clarity to families navigating the complex world of digital grief and inheritance.

## CONCLUSION

The shift from tangible wealth to complex digital estates has exposed deep cracks in India's legal architecture. For nearly a century, succession laws functioned under the reliable assumption that property was physical, static and easily controlled by local courts. Today, the rise of high-value digital properties has completely shattered this old framework. By remaining silent on electronic estates, current Indian laws have accidentally handed immense control over to global technology platforms, leaving families and legal heirs dependent on rigid, private terms of service contracts that often prioritize corporate privacy over family inheritance rights.

Fixing this legal vacuum requires a deliberate effort from lawmakers and judges to modernize the country's statutory framework. India must expand its legal definition of property, allow the creation of secure digital wills and establish clear default rules that protect both a person's financial wealth and their post-mortem privacy. As the digital economy grows and more citizens build their lives and businesses online, updating inheritance laws is no longer a futuristic luxury. It is an immediate economic necessity to ensure that a person's digital creations, hard work and financial assets can be safely and smoothly passed down to the people they love.

## REFERENCES

- Finnovate, 'Crypto and Digital Asset Inheritance in India: Law, Planning and Tax' (*Finnovate Blog, January 2026*) <https://www.finnovate.in/learn/blog/digital-assets-crypto-inheritance-india>
- Karan Kaushal, 'Digital Inheritance In India: Legal Gaps And Future Solutions' (*International Journal of Advanced Legal Research, 2024*) [https://ijalr.in/volume-6-issue-2/digital-inheritance-in-india-legal-gaps-and-future-solutions-karan-kaushal/#google\\_vignette](https://ijalr.in/volume-6-issue-2/digital-inheritance-in-india-legal-gaps-and-future-solutions-karan-kaushal/#google_vignette)
- RMLNLU Law Review Blog, 'Succession Of Digital Assets: Challenges And Path To Delineate An Indian Framework' (*The RMLNLU Law Review Blog, November 2025*) <https://rmlnlulawreview.com/wp-content/uploads/2025/11/succession-of-digital-assets-law-review-volume-15.pdf>
- Shweta Chaturvedi, 'The Digital Afterlife: Post-Mortem Privacy and Proprietary Rights in the Information Age' (*SCC Online Blog, February 2026*)

<https://www.sconline.com/blog/post/2026/02/27/digital-afterlife-post-mortem-privacy-succession-india/>

- Vidhi Chetnani, 'Digital Assets and Death: A Legal Vacuum in Indian Succession Law?' (*TaxTMI Article, August 2025*) <https://www.taxtmi.com/article/detailed?id=14823>
- The Amikus Qriac, 'Succession In The Digital Era: Legal Challenges Of Inheriting Monetized Youtube Channels' (*The Amikus Qriac Research Journal, October 2025*) <https://theamikusqriac.com/succession-in-the-digital-era-legal-challenges-of-inheriting-monetized-youtube-channels/>