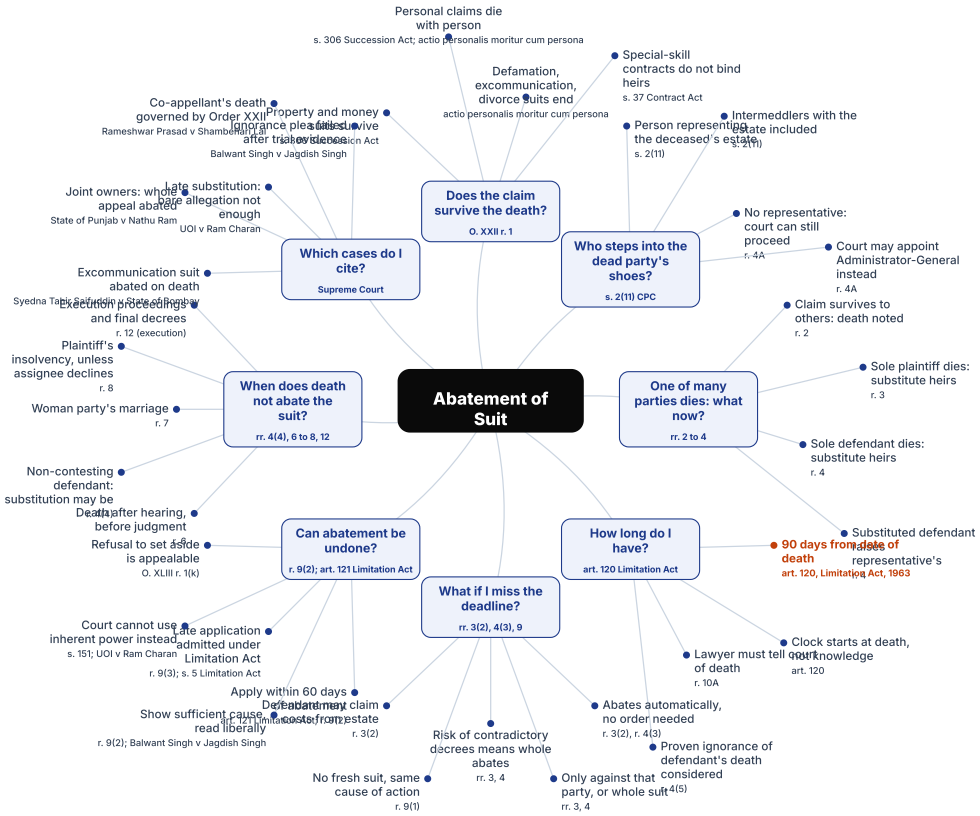
Abatement of Suit: Mind Map

CONCEPT MAP

Revise Abatement of Suit in two minutes. The highlighted point is the one examiners test most. Read the full explainer: Abatement of Suit explained.



Remember: Exam trap: 90 days to substitute, 60 days to revive; the clock starts at death, not when you hear of it.

- Does the claim survive the death? (O. XXII r. 1)
  - Property and money suits survive (s. 306 Succession Act)
  - Personal claims die with person (s. 306 Succession Act; actio personalis moritur cum persona)
  - Defamation, excommunication, divorce suits end (actio personalis moritur cum persona)
  - Special-skill contracts do not bind heirs (s. 37 Contract Act)
- Who steps into the dead party's shoes? (s. 2(11) CPC)
  - Person representing the deceased's estate (s. 2(11))
  - Intermeddlers with the estate included (s. 2(11))
  - No representative: court can still proceed (r. 4A)
  - Court may appoint Administrator-General instead (r. 4A)
- One of many parties dies: what now? (rr. 2 to 4)
  - Claim survives to others: death noted (r. 2)
  - Sole plaintiff dies: substitute heirs (r. 3)
  - Sole defendant dies: substitute heirs (r. 4)
  - Substituted defendant raises representative's defences (r. 4)
- How long do I have? (art. 120 Limitation Act)
  - **90 days from date of death** (art. 120, Limitation Act, 1963)
  - Clock starts at death, not knowledge (art. 120)
  - Lawyer must tell court of death (r. 10A)
  - Proven ignorance of defendant's death considered (r. 4(5))
- What if I miss the deadline? (rr. 3(2), 4(3), 9)
  - Abates automatically, no order needed (r. 3(2), r. 4(3))
  - Only against that party, or whole suit (rr. 3, 4)
  - Risk of contradictory decrees means whole abates (rr. 3, 4)
  - No fresh suit, same cause of action (r. 9(1))
  - Defendant may claim costs from estate (r. 3(2))
- Can abatement be undone? (r. 9(2); art. 121 Limitation Act)
  - Apply within 60 days of abatement (art. 121 Limitation Act; r. 9(2))
  - Show sufficient cause, read liberally (r. 9(2); Balwant Singh v Jagdish Singh)
  - Late application admitted under Limitation Act (r. 9(3); s. 5 Limitation Act)
  - Court cannot use inherent power instead (s. 151; UOI v Ram Charan)
  - Refusal to set aside is appealable (O. XLIII r. 1(k))
- When does death not abate the suit? (rr. 4(4), 6 to 8, 12)
  - Death after hearing, before judgment (r. 6)
  - Non-contesting defendant: substitution may be excused (r. 4(4))
  - Woman party's marriage (r. 7)
  - Plaintiff's insolvency, unless assignee declines (r. 8)
  - Execution proceedings and final decrees (r. 12 (execution))
- Which cases do I cite? (Supreme Court)
  - Excommunication suit abated on death (Syedna Tahir Saifuddin v State of Bombay)
  - Joint owners: whole appeal abated (State of Punjab v Nathu Ram)
  - Late substitution: bare allegation not enough (UOI v Ram Charan)
  - Co-appellant's death governed by Order XXII (Rameshwar Prasad v Shambehari Lal)
  - Ignorance plea failed after trial evidence (Balwant Singh v Jagdish Singh)

Abatement is the end of a suit or appeal, wholly or against one party, when a party dies and nobody is brought in within time. First ask whether the right to sue survives; personal claims like defamation die with the person. If it survives, the legal representative must be substituted within 90 days of the death, counted from the death itself. Missing that deadline abates the suit automatically and bars a fresh suit on the same cause of action, but an application within 60 days showing sufficient cause can set the abatement aside. Death after the hearing, a woman party's marriage, and execution proceedings do not cause abatement.

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