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Law of maintenance under hindu law

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ABSTRACT

The wife's maintenance in the "Hindu Marriage Act" is the topic of this article. The idea of maintenance seeks to restore the wife to the same degree of relaxation and lifestyle that she experienced before her marriage. There is no permanent sum of compensation that a husband may give his wife; instead, the amount of maintenance that a spouse may pay, whether on a monthly basis or in one lump sum, is open to the discretion of a family law court. Under the Hindu Marriage Act, alimony to the wife is a rather complicated problem. It's sometimes presented as a way to take advantage of the husband by requesting lifetime alimony. According to the Hindu Marriage Act of 1955, Section 24, either the husband or the wife can seek maintenance pendent lite, or support when the divorce proceedings are pending. Act Section 25 also sets down the basis for permanent support. The contributions that a husband is obligated to provide to his wife in such conditions are referred to as maintenance. Maintenance obligations may arise during the marriage's duration or after it has ended. The most critical part regarding maintenance is that he or she may not have an independent source of revenue to sustain themselves. Except for the Divorce Act, no Indian matrimonial statute specifies the sum of custody and the costs of the proceedings.

Keywords: Permanent, Discretion, Grounds, Spouse, Alimony, Maintenance.

1. INTRODUCTION

Section 24 of the Act of 1955 gives relief and relaxation in respect of money and litigation costs to the partner who has been divorced from the union and is unable to sustain his living during the process of the proceedings. It has already been stipulated that the amounts of money and the costs of the litigation be resolved within sixty days of the wife's or husband's reception of the given document. If any petition has also been filed and she does not have any means of income, the court will award maintenance to the partner as financial aid to the litigating parties. Maintenance has certain laws under accompanying headings as well as subheadings. Wife maintenance under Muslim, Christian Hindu, and Paris Rules:

- Recognizable proof of traps.
- Evaluation of the legal proclamations.
- Analysis of the authoritative arrangements.
- Advocacy of changes and enhancements.

2. RESEARCH PROBLEM

When a couple of divorces, the woman has the freedom to seek financial support from her spouse. Whether or not the wife works and makes a living has little bearing on her entitlement to maintenance from her spouse. The sum of upkeep that the husband would give to her wife, though, is calculated by the following considerations.

- His personal expenses and
- The expenses are borne by him from his dependents.
- The income and property of the husband
- The income earned by the wife

3. RESEARCH OBJECTIVE

The aim of maintenance is to discourage immorality and destitution, as well as to improve women's and children's economic circumstances. Maintenance claims may be made under the specific laws of persons of various religions, and the prosecutions under these personal laws are legal in nature.

4. RESEARCH QUESTION

Problem: Is it true that all divorced women receive maintenance from their husbands?

Intervention: "Hindu Marriage Act"

Comparison: "On Hindu & Muslim Law"

5. HYPOTHESIS

Ho: Under the Hindu Marriage Act, there is no major improvement in maintenance.

Ha: Under the "Hindu Marriage Act", there is a major difference in maintenance.

6. SCOPE OF STUDY

A wife may demand maintenance and reside separately from her husband when her marriage subsists is legal in Section 18 of the "Hindu Adoption and Maintenance Act" and Section 125 of the "Code of Criminal Procedure". There is no doubt that Section 25 of the "Hindu Adoption and Maintenance" Act would apply if the marriage is already going strong. In two enactments, the term "wife" has a different definition. Both spouses may seek maintenance and permanent support by Section 25 of the "Hindu Marriage Act", but only after judicial separation or divorce.

7. RESEARCH METHODOLOGY

The study is doctrinal in nature, with secondary sources such as texts, posts, magazines, and the internet source.

8. MAINTENANCE UNDER VARIOUS LAW

- Maintenance under Paris Law
- Maintenance under Christian Law
- The Maintenance and Welfare of Parents & Senior Citizens Act, 2007
- Maintenance under Hindu Law
- Maintenance under Code of Criminal Procedure 1973
- "Maintenance under Protection of Women from Domestic Violence Act, 2005"
- Maintenance under Muslim Law

9. TYPES OF MAINTENANCE

- Interim Maintenance
- Permanent Maintenance

Interim Maintenance: This is compensated from the moment the claim is lodged until the time the lawsuit is dismissed. Its primary aim is to satisfy the petitioner's urgent needs. It is the sum charged by the individual who is financially self-sufficient and who is financially reliant on the other. This sum covers the proceeding cost and any other costs incurred during the duration of the proceedings.

Permanent Maintenance: That is the sum accrued from one person to another after the conclusion of a legal case, i.e. the termination of a marriage or judicial separation.

10. CONDITIONS FOR CLAIMING MAINTENANCE

The presumption of evidence for the wife, i.e., the complainant, is to demonstrate that the husband, i.e., the other side, has ample resources and has failed or declined to sustain her and that she is unwilling to maintain herself under Section 125.

It may be inferred that a man has adequate means if he is worthy of receiving, regardless of whether he really has the means or not. The onus then moves on to the husband to demonstrate that he lacks the financial resources to help his partner.

The term unable to help herself applies to the money accessible to the abandoned wife when she was still living with her spouse. It is not necessary for an abused wife or a separated woman to become destitute before applying for support for herself and her son. The test is whether the woman can look for herself in the same way she can in her husband's household.

11. PERSON ENTITLED TO RECEIVE MAINTENANCE

Dependent infants, parents, and lawfully bonded wives, including but not limited to separated spouses, mistresses, and illegitimate children, can be given maintenance.

The Indian courts have taken a lenient stance in certain situations under the personal rule and given the spouse the freedom to obtain maintenance. However, such a privilege is conditional, as it is usually granted to the husband only if he is incapacitated owing to an injury or illness, rendering him unable to gain a living. A willing individual who does little for a living or a "wastrel" does not have such a right.

In contrast to personal rules, the recourse under Section 125 is simple and inexpensive. The clause pertaining to the maintenance of some personal statute, on the other hand, is distinct from Section 125. There are no inconsistencies in the two legislative provisions. Despite having received an order under the relevant personal rule, an individual is entitled to maintenance under Section 125.

12. QUANTUM OF MAINTENANCE

This requires not only clothes, food as well as housing, but also extra essentials. The quantity and form of requirements protected under maintenance differ based on the financial condition, status, along with a number of dependents, among other variables, and is at the court's discretion. Prior to issuing an order under 125, the court evaluates the sum of upkeep that has already been directed under "personal rule". The rationale is dependent on the assumption that the wife has the authority to rise to the level and rank of her husband.

13. JUDICIAL PRECEDENT

On the issue of maintenance, there is a slew of judicial precedents. The word "wife" was understood narrowly until recently since the judiciary's goal was to protect destitute and harassed people. Only a lawfully married woman may demand maintenance, according to Indian courts.

The Indian mentality has been affected by a shift in the understanding of social partnerships and the increasing trend of live-in relationships. This is clear in a recent personal law issue verdict by the "Delhi High Court", in which the pair had existed as though they were dating for fourteen years as well as the guy had hidden the reality that he was indeed married. Moreover, the female had assumed the role of housewife, regarded the man as her lord, and had given birth to and raised two of his children. The court ruled that owing to the existence of the partnership and the above evidence, the woman could not be refused maintenance under Hindu personal rule (which constitutes almost 80 percent of Indians).

In a dispute resolved on November 14, 2008, the High court decided that maintenance would provide an allowance for residence, and thereby required that the woman be furnished with a permanent facility comparable to that she had previously been addicted to.

14. MAINTENANCE UNDER MUSLIM LAW IN COMPARISON HINDU LAW -

In comparison to Muslim people, Hindu women have more freedom. The Hindu wife is titled to receive the maintenance number from her spouse before he dies, according to Section 18(1) of the "Hindu Adoption and Maintenance Act", 1956. Only a Hindu can be charged under Section 125 of the "Code of Criminal Procedure". Married women who either separate or are divorced from their husbands and have not remarried are titled to maintenance. A married woman who declines to reside with her spouse because he is responsible for cruelty, desertion, or leprosy, or is responsible for bigamy, or converts his faith without his wife's permission can demand a unique compensation in this Act.

However, under "Muslim rule", separated females do not have the ability to demand maintenance after the time of iddat and only obtain the sum of meher, and since the Muslim Women ("Protection of Rights on Divorce") Act of 1986, Muslim women were unable to assert maintenance by "Code of Criminal Procedure" Section 125.

15. CONCLUSION

The courts in India were more liberal in determining cases including maintenance, as shown by the latest judicial decision. However, the point of the question is whether a paramour should be entitled to maintenance simply by staying with a married individual, as well as whether bigamy is legitimate. Although it seems that the same could be permissible under the personal rule, judicial rulings under Section 125 continue to promote the idea that maintenance may only be sought by a lawfully married wife. It is evident from the preceding that, while Indian Hindu women have increased their rights over time, the rights accessible to them do not equal the rights necessary. Maintenance has become a challenge with not just the poorer parts of the community, but the whole society. It is a concern for poorer parts since their very survival rests on the service rendered accessible as maintenance.

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