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Maintenance under Hindu Law

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ABSTRACT

Maintenance is a form of social justice in and of itself. It is a man's fundamental duty to provide for his wife, children, parents, close relatives, and other dependents as long as they are unable to provide for themselves. The goal of maintenance is to prevent immorality and destitution, as well as to improve women's and children's economic circumstances. In India, there are two types of maintenance: permanent maintenance and temporary maintenance. Permanent maintenance refers to the amount that a financially independent party must pay to another financially dependent party after the legal proceedings have concluded. These situations frequently occur when a person is unable to care for himself for any reason. The husband provides permanent support to his wife in the event of a divorce, and the amount is determined by a maintenance petition filed by a divorce lawyer in India. Maintenance on a temporary basis is a type of maintenance that is paid from the time the petition is filed until the case is dismissed. The goal of interim maintenance is to address immediate needs. In nature, nothing is permanent. A monthly sum of money, also known as maintenance awaiting suit, is paid by one spouse or civil partner to the other on a short-term basis until a permanent financial settlement is reached.

I. INTRODUCTION

Maintenance is a form of financial support that is provided to wife, children and old parents. It is provided under matrimonial law maintenance is usually provided so that a person can maintain his common need that is provided before he gets abundant. Suppose when a person is unable to get things done for himself due to any reason then law provides that he has a right to get maintenance.

It is a form of social justice that is given to the women's and children's and old parents that used to get financial support. Under article 15(3) of Indian constitution the state has the power to make special legislation that safeguard the interest of women and children maintenance is usually provided when a person is not in the capacity that he can manage his expenses due to any reason which can be physically or mentally then has a right to get maintenance

It is the duty of the court to find out whether a person is fit or not to maintain himself. The

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court passed the judgement to provide maintenance then it became an obligation to that person to provide maintenance. Section 125 of the Code of Criminal Procedure, 1973 (Section 125), as well as personal legislation, define the term "maintenance" in India. This term is backed up by evidence.

Refers to the wife's right to food, clothing, and shelter, which she typically has.

Parents and children. The term "maintenance" has a broad meaning. The most precise definition is found in Section 3 (b) of the Hindu Adoption & Maintenance Act, 1956, which states: "in all cases, provisions for food, clothing, residence, education, and medical attendance and treatment; in the case of an unmarried daughter, provisions for food, clothing, residence, education, and medical attendance and treatment; in the case of an unmarried daughter, provisions for food, clothing, residence, education, and medical attendance and treatment; in the case of an unmarried daughter, provisions for food, clothing, residence, education, and medical attendance and treatment; in the case of an unmarried daughter, provisions for food.

The maintenance principle was developed to ensure that if one spouse is financially dependent on the other, the other spouse can help him or her make the other's life possible and independent. Maintenance may be paid in a single payment or once a week, twice a week, or once a month. The non-Applicant will not be required to participate in any way pay maintenance for the duration of the non-term. Applicant's When deciding on permanent alimony, consider the following factors. The non-profit sector The applicant's and assets must be considered. Maintenance in the interim from the time the lawsuit is filed until the complaint is dismissed or the order is granted, you must pay.

The basic purpose of maintenance is to maintain a spouse's quality of living that is equivalent to that of the other spouse and that is consistent with their pre-divorce position. It is issued during or after the divorce procedure, and it expires when the divorce is finalised.

If the alimony recipient dies or remarries, the alimony is terminated. It's more generally known as "alimony" or "spousal support" helping hand, "It's also a form of monetary assistance from the partner on the other hand, maintenance".

On the other side, is the act of bearing financial charges or relieving the financial strain of a partner whose financial situation is difficult. Whose financial load has increased and whose economic status has been significantly impacted as a result of the decree of divorce.

There is no standard amount of maintenance that a husband must give his wife, and it is up to a family court to decide how much maintenance the husband must pay, whether on a monthly or lump-sum basis. In several circumstances, it has been determined that maintenance is necessary.

Includes not just food, clothing, and a place to live, but also the comfort essentials and the circumstances in which the entitled person is reasonably expected to reside. The right to be maintained isn't a trait that can be passed on through the generations. Aside from a divorce, a divorce lawyer in India must be hired to file the petition and other legal processes.

Defend a petition for maintenance.

Maintenance is defined as "support or subsistence" in the dictionary. Any religious community's marital norms do not define the term "maintenance." The right to seek maintenance is, however, limited. Almost certainly based on the assumption that the claimant lacks the required credentials. Upkeep expenses are frequently paid by the maintenance of self-sufficiency methods. Essentials or fundamentals are essential for the substance of existence. However, it is more than just a right to the claimant's survival. The Act's words make this clear.

Maintenance is basically provided what is the fulfilment of common need that is place for residence proper hPersonal rules varies according to culture. Various cultures exist in our country, each with its own set of personal rules based on religious scriptures, customs, and traditions.

As a result, a Hindu woman's reasons for seeking divorce and alimony may differ from those of other cultures. The Hindu community is governed by the Hindu Marriage Act of 1955 and the Hindu Adoption and Maintenance Act of 1956, both of which provide women the right to claim maintenance. The amount of maintenance is determined by Hindu law. A lot of circumstances, including the husband's financial status, properties, and other aspects of responsibilities, as well as the state of the wife's job and earning healthcare facilities and good food and clothing.

II. MEASURE TO CLAIM MAINTENANCE UNDER HINDU LAW

The matter relating to the claim of maintenance by the parties Handle in the family court. A person is required to file a maintenance claim in family court. The family court must have the appropriate jurisdiction so it can deal with the matter.

The maintenance claim that has to be filed Must require all the reasons That must satisfy the court to grant maintenance. The maintenance petition must be filed by the assistance of divorce advocate and the advocate must be practising in India.

The petition filed must include all the necessary documents which include affidavit document related to the property and total income of Partners.

III. MAINTENANCE UNDER HINDU LAW

Section 24 under Hindu marriage act both husband and wife are capable of claiming interim maintenance Maintenance is usually given by that person on which the other spouse is depended the amount maintenance is usually decided On the basic Necessities That include health, residents, food and clothing only if he is incapacitated due to some accident or disease and rendered incapable of earning a livelihood. Such an entitlement is not available to an able person, doing nothing for a living or a wastrel. The remedy under Section 125 is prompt and inexpensive, as compared to personal laws. The provision relating to maintenance under any personal law is, however, distinct and separate from Section 125.

There is no conflict between both the legal provisions. A person is entitled to maintenance under Section 125 despite having obtained an order under the applicable personal law. The Act predicts certain positions in which it may become unbearable for a wife to continue to reside and cohabit with the husband but she may not want to break the matrimonial tie for various reasons ranging from growing children to social stigma.

IV. MAINTENANCE ARE OF TWO TYPES

1) Interim maintenance Is a form of maintenance which is paid from the filing of the petition to the date of dismissal of the suit the purpose of interim maintenance is to meet the immediate need. It is not permanent in nature. It is paid to the financially dependent person by the financially independent person in this the expenses of the proceeding is to be paid

According to Section 25 of the Hindu Marriage Act of 1955, an applicant, whether a woman or a husband, is entitled to a gross sum, a monthly or periodic sum, or both, from the spouse for the applicant's maintenance and support for a period not exceeding the applicant's lifetime.

Until he or she remarries or remains chaste for the rest of his or her life. Section 18 of the Hindu Adoption and Child Welfare Act. According to the Maintenance Act of 1956, a Hindu wife has the right to be supported by her husband. For the rest of her life, she will be married to her spouse. You can ask the court for a number of things in addition to your divorce case.

Your husband must pay you permanent support on a monthly, periodic, or lump-sum basis. Interim maintenance is a type of support that can be given to both the wife and the husband. A husband is also eligible for interim support under the Hindu maintenance statute, which means that the husband's wife must pay maintenance to the husband. The court may grant her maintenance if she or her husband files a maintenance petition interim maintenance that they must pay starting from the date the application was filed until the date of dismissal through her

divorce law counsel, either the wife or the husband. It is also known as Maintenance Pendente Lite and is paid to the wife in order for her to pay for the legal fees.

Expenses that she has incurred. Maintenance on a temporary basis

There are no regulations that specify the amount of this form of maintenance, thus it is entirely up to the court's discretion to determine how much is necessary to keep the wife afloat during the processes.

The court may grant temporary relief while a divorce or separation lawsuit is pending. Maintenance in order to meet the petitioner's immediate requirements If the court is sure that the defendant is guilty. The petitioner does not have sufficient independent income to maintain himself and his family. Neither of the spouses, husband or wife, is responsible for the costs of the procedures that are continuing under the Act.

Section 24 of the Hindu Marriage Act, 1955, may provide relief.

If the district court determines that the wife lacks sufficient independent income for her support and essential expenses of proceedings under Chapters V or VI of the Special Marriage Act, 1954, she may seek reimbursement from the husband. Furthermore, if the Parsi Marriage and Divorce Act, 1936 is in effect, either the Parsi Marriage and Divorce Act, 1936, or the Parsi Marriage and Divorce Act, 1936, is in effect. Expenses can be claimed by either the wife or the Parsi husband. In this regard, Section 39 of the Civil Rights Act of 1964 (C.R.S.A.)

A provision is made in the Act, which is substantially identical to Section 36 of the Special Marriage Act. A woman is also entitled to fees and maintenance while the litigation is pending under the Act.

Section 36 of the 1869 Divorce Act is now in effect.

2) Permanent maintenance is the amount that has to be paid by Financially independent party to another financially dependent dead person even after the judicial proceedings is ended. These cases usually arise when the person is unable to maintain himself due to any reason.

As per section 18 of Hindu adoption and maintenance, 1956 a wife has The right which makes her entitled to get maintenance from the husband until she dies. In the event of a divorce, the husband pays permanent support to his wife, and the amount is set by a maintenance petition submitted by a divorce lawyer in India.

The court might order the husband to pay maintenance to his wife under Section 25 of the Act. According to the Marriage Act of 1955, an applicant, whether a wife or a husband, is entitled to receive a lump sum payment or a monthly or periodic payment from the spouse for his or

her support and maintenance assistance for the rest of the applicant's life or until he or she remarries, whichever comes first stays chaste. The Hindu Adoption and maintenance act , Section 18

If any of the conditions in Section 18(2) [desertion, cruelty, leprosy, any other wife/concubine living in the same house, conversion of property] apply, the wife has a right to separate residence and maintenance.

Until she remains chaste or does not, [religion or any other justifiable cause] is fulfilled to convert to another faith it's also worth noting that this Act's Section 19 has a provision. For a bereaved wife's father-in-law to support her 1973 Criminal Procedure Code.

Section 125 – This section covers not only the wife's rights, but also the rights of the child and the parents. According to Section 25 of the Hindu Marriage Act of 1955, an applicant, whether a woman or a husband, is entitled to a gross sum, a monthly or periodic sum, or both, from the spouse for the applicant's maintenance and support for a period not exceeding the applicant's lifetime.

Until he or she remarries or remains chaste for the rest of his or her life. Section 18 of the Hindu Adoption and Child Welfare Act. According to the Maintenance Act of 1956, a Hindu wife has the right to be supported by her husband. For the rest of her life, she will be married to her spouse. You can ask the court for a number of things in addition to your divorce case. Your husband must pay you permanent support on a monthly, periodic, or lump-sum basis. The old partners were left alone by their family members at the age where they are not able to feed themselves. And the women have been discriminated against and were only treated as child making machines.

The right to maintenance puts the women, child and old parents into better financial conditions so they can feed themselves. The right to maintenance is very ancient in Hindu law as it is described in our ancient scriptures that it is the duty of the man to protect his child and women under manu script and it was one of the most important aspects of the joint family structure. The preservation of women in the joint family structure, according to my and other elderly relatives.

The women were denied maintenance due to their unchastity. The claim was terminated when they remarried, and the amount of maintenance was determined by a variety of factors including the family's status, required conditions, needs, age, and so on. Maintenance is allocated under Section 24 of the Hindu Marriage Act (HMA) of 1955. Only a wife has the right to claim maintenance under this Act.

The Hindu husband has a legal duty to support and care for his wife throughout his life. However, if a wife stops being Hindu or lives alone for no legal reason, she loses her right to maintenance as well. In addition, if a Hindu wife is unchaste or converts to another religion, she would not be entitled to separate housing and maintenance from her husband under this act. The old partners were left alone by their family members at the age where they are not able to feed themselves.

And the women have been discriminated against and were only treated as child making machines. The right to maintenance puts the women, child and old parents into better financial conditions so they can feed themselves. The right to maintenance is very ancient in Hindu law as it is described in our ancient scriptures that it is the duty of the man to protect his child and women under manu script and it was one of the most important aspects of the joint family structure. The preservation of women in the joint family structure, according to my and other elderly relatives. The women were denied maintenance due to their unchastity. The claim was terminated when they remarried, and the amount of maintenance was determined by a variety of factors including the family's status, required conditions, needs, age, and so on. Maintenance is allocated under Section 24 of the Hindu Marriage Act (HMA) of 1955.

Person who can get maintenance under Hindu law

- 1) Divorced wife if she is unfit to maintain herself
- 2) Minor married daughter
- 3) Minor child Illegitimate or legitimate
- 4) Old parents who are unable to maintain them self
- 5) Wife and husband both in case of interim maintenance

The woman is entitled to get maintenance even when she is living separately from her husband under the following circumstances.

- 1) In cases where the husband is liable for desertion. Before a divorce action may be filed, most laws require that the abandonment last for a certain amount of time.

This period can last anywhere from one to five years, but it is most usually one year. The separation time must be constant and unbroken. In most states, evidence that the departing spouse left without the other spouse's permission is also needed.

In most cases, proving desertion is a straightforward factual matter. Courts typically demand proof that the abandonment was voluntary and that the abandoned husband or wife was not provoked or consented to it. When one party makes life so unbearable for his or her partner

that the spouse has no choice but to leave the marital home, this is known as constructive desertion.

In order for a person to have legal reasons for leaving, the partner must often behave in such a way that grounds for divorce are established. If a wife discovers that her husband is guilty of ADULTERY, she will leave him.

If a HUSBAND AND WIFE accept that they cannot cohabit harmoniously, a simple separation does not entail desertion

2) The husband is liable for cruelty. To be considered inhuman, the alleged behaviour must be "grave and weighty," leading to the conclusion that the applicant partner cannot fairly be expected to live with the other spouse. Much more sinister than "normal wear and tear of married life" must be involved.

The conduct must be investigated in light of the circumstances and context in order to determine if the conduct complained of amounts to cruelty under matrimonial law. As previously stated, conduct must be evaluated against a backdrop of many variables, including the parties' social status, schooling, physical and mental health, and customs and practises. It's difficult to provide a clear definition of cruelty or an exhaustive explanation of the conditions that would qualify as such.

It must be of the sort to satisfy the Court's conscience that the parties' relationship had deteriorated to such a degree as a result of the other spouse's actions that they could no longer live together without emotional anguish, torture, or suffering, allowing the complaining spouse to obtain divorce.

3)When the husband has committed bigamy.

Marrying again during lifetime of husband or wife: Whoever having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception-This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction ,nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage

takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

4) Convert his religion without the consent of wife.

5) if the husband is suffering from leprosy.

When Wife is not entitled to get maintenance

1)The wife is not entitled to get maintenance if she converted to other religions and ceased is to be a Hindu

2)Wife cannot claim maintenance if she is involved in any physical relationship with any other man and she has been held guilty for adultery

3)If a wife remarries to another man after her divorce then the right to claim maintenance is no longer available to her.

Maintenance under crpc

The CrPC is secular in character, as it allows any woman, regardless of religion or beliefs, to petition the Court for maintenance. The law of maintenance is civil in nature and is included in Sections 125-128 of the Criminal Procedure Code. The wife, children, and parents can all seek maintenance under this section. Sections 125 to 128 provide a quick, effective, and relatively low-cost remedy for people who ignore or refuse to support their dependent spouses, children, or parents (R. V. Kelkar, Criminal Procedure 833 (K. N. Chandrasekharan Pillai ed., 6th ed. 2014)). The term "wife" includes a woman who has been divorced by, or has sought a divorce from, her husband and has not remarried, according to the (b) portion of the Explanation to Section 125. As a result, the provision for maintenance under this section applies to divorced wives as well as married wives.

This law is gender specific in one respect, despite being secular. The wife, not the husband, is the only one who can seek maintenance under this statute. It's also worth looking into how the word "wife" is interpreted.

The term "wife" under Section 125(1) exclusively refers to a legally married wife, according to the Supreme Court decision in *Savitaben Somabhai Bhatiya v. State of Gujarat*. However, the Supreme Court recently ruled in the cases of *D. Velusamy v. D. Patchaiammal* and *Chanmuniya v. Virendra Kumar Singh Kushwaha* that a woman in a marriage-like relationship can still claim maintenance under the Protection of Women from Domestic Violence Act, 2005, even if she is not considered a legally wedded wife under Section 125.

Maintenance Under The Special Marriage Act, 1954

Inter-caste and inter-religion marriages are covered by the Special Marriage Act. Intercaste marriage occurs when two persons from different castes marry. People used to marry wherever their parents selected on the spur of the moment. The youth today have their own voice and preference, preferring to marry someone with whom they are better compatible rather than marrying someone from their caste or religion. They are the ones who will have to spend the rest of their lives with their partner, thus caste or religion are no longer important considerations.

Love is a great emotion that should not be weighed down by factors such as caste or religion.

All religions are equal, and marriage between them should not be a huge problem. Why are people of the lower castes seen with shame and disdain? We are given caste or religion by birth, not by choice, so why are people of the lower castes seen with shame and disdain? It's terrible to see things like these occurring in India, which is a varied country.

As a result, the Special Marriage Act is a one-of-a-kind statute designed to allow for a unique type of marriage by registration in which the spouses do not have to renounce their religion.

A husband's obligation to keep his wife is determined by the condition of the marriage. Personal law governs the entitlement to maintenance. Under the Code of Civil Procedure, the right to maintenance applies not only to the wife and minor children, but also to poor parents and divorced wives. 1973 Code of Criminal Procedure (2 of 1974). For example, the wife's claim is conditional on the husband's success. Financial riches of her husband and the right to maintenance was included in the Code of Conduct.

Criminal Procedure has the considerable advantage of expediting and lowering the expense of the legal process and remedy personal rules varies according to culture. Various cultures exist in our country, each with its own set of personal rules based on religious scriptures, customs, and traditions. As a result, a Hindu woman's grounds for divorce and alimony may be limited. They are distinct from those of other civilizations. The Hindu Marriage Act of 1955 and the Hindu Adoption Act of 1955 are two laws that govern Hindu marriage. Both the Equal Pay Act of 1946 and the Maintenance Act of 1956 give women the right to seek maintenance. The Hindu community is ruled The amount of maintenance is determined by a number of factors, including the husband's financial income, assets, and liabilities, as well as the wife's employment and earning position, according to Hindu law. Women of the Muslim Faith The (Protection of Rights on Divorce) Act of 1986 gives the wife the right to compensation.

Personal law in Islam. The 1869 Indian Divorce Act allows divorced Christian women to

remarry. The Act's total maintenance amount is one-fifth of the total income of the husband. A wife's right to divorce is established under the Parsi Marriage and Divorce Act of 1936. One of a wife's rights following divorce in India is to claim maintenance from her husband.
