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Rights of Senior Citizen

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ABSTRACT

Oldage is an indispensable stage of life of a human being which a man cannot refute except untimely death. The childhood and oldage are natural reliant conditions of life where children depend on parents and vice-versa. The concept of nuclear family affected this usual cycle resulting in misbalance of the normal life of elderly people by defeating thousand years old practice of India where parents are treated as a pious form of God. Nowadays, the parents are becoming burdensome for their child whenever they lost their strength to work and earn. Available legal, social, moral and governmental norms are analyzed in this research paper to find out the possible ways by which elderly people's human rights are infringed and they bound to suffer pain and agony. This research paper also reflects the available laws, policies and guidelines for the protection of the rights of oldage person in India.

Keywords: *Oldage person, Human Rights, Protection.*

I. INTRODUCTION

While looking through a common man's perspective, people who crossed the age of 60 will be considered as one who need proper care and medication as best as possible which shall be provided by his/her children and relatives. We have to face many difficult situations to run the vehicle of our life. When a person is aging his physical, mental as well as economic perceptions change drastically which changes him from an independent to a dependent person. Here comes the importance of providing certain rights to such elders of the society. There is a question that arises at this point of time, that whether this is a right to be enforced in favour of the seniors of the society or it is a mandatory moral duty of each and every person of this country to look after their parents. It is irrelevant to see to the age of his/her parents and whether they have crossed the age of 60 or not. It can be stated undoubtedly that the so-called rights of the senior citizens are more than rights they are the duty of each and every other person. In many families, elders are treated as burden. Law gives certain remedies for senior citizens who are not treated well.

- **Who is a senior citizen?**

A senior citizen is the one who has crossed the age of 60. The Indian government provides

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concession, financial assistance for senior citizens. There are various public/private sectors of the society providing aids for them. We can proudly say that our country has many laws and enactments which play a vital role in protecting the rights of senior citizens. Article 41 of the Constitution of India provides for right to work, to education and to public assistance in certain cases. Article 41 can be made applicable for the senior citizen

II. RIGHTS OF SENIOR CITIZEN

- Right to respect and dignity: Elderly parents have the right to be treated with respect and dignity, just like anyone else.
- Right to healthcare: They should have access to necessary healthcare and medical treatment.
- Right to financial security: Many countries have laws or programs to ensure that elderly parents have financial support, such as pensions or social security.
- Right to housing: They should have a safe and comfortable place to live.
- Right to family support: Elderly parents often have the right to expect emotional and practical support from their adult children or family members.
- Right to make decisions: They have the right to make decisions about their own lives, as long as they are mentally competent to do so.
- Protection from abuse: Elderly parents have the right to be protected from physical, emotional, or financial abuse.

There are certain rights which are provided by various Laws of our country in favour of senior citizen. Some of them include:

- Right for maintenance by children and relatives
- Right for proper medical aids and other related problems
- Right for social security and integrity
- Right for old age pensions and other related benefits.
- Right against exploitation and ill treatment by others

III. LEGAL ANALYSIS

Our society has various customary practices and moral principles in itself. Maintenance of our parents and guardians plays a crucial role among these principles. In India we mainly have Indian Adoption and Maintenance Act along with Maintenance and welfare of parents and

senior citizens Act to protect elders especially for the people who crossed the age of 60.

Section 20(3) of the Hindu Adoption and Maintenance Act provides for the obligation of a person to maintain his or her parent whenever they are unable to look after themselves. This provision does not make it mandatory that each and every person, whether male or female, they has to look after their parents, but the law turns to be mandatory when there is a violation in maintaining our parents. Persons in need of maintenance can claim under section 125 of the Code of Criminal Procedure. There is yet another provision regarding the rights for older people which is well enumerated in various provisions under Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, is designed to provide support and protection to elderly parents and senior citizens in India. It mandates that adult children are legally obligated to provide maintenance and support to their elderly parents or senior citizens. It also establishes specific tribunals to handle cases related to the neglect or abuse of senior citizens.

IV. THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which provides a statutory protection for the Maintenance and Welfare of Parents and Senior Citizens, as guaranteed and recognized under the Constitution, is being implemented in this State with effect from 29.09.2008.

(A) Salient features of the act:

A senior citizen or a parent who is unable to maintain himself from his own earnings or out of the property owned by him is entitled to make an application under Section 5 of the Act to obtain maintenance amount from his children / legal heirs.

- An application filed under this Act for monthly allowance shall be disposed off within 90 days.
- If the children or relatives fail to obey the orders of the Tribunal, the Tribunal may levy fines and may sentence such persons for the whole or any part of each month's allowance for the maintenance and expenses of the Senior Citizens or order imprisonment for a term which may extend to one month or until payment is made.
- The maximum maintenance allowance shall not exceed Rs.10,000 per month.
- The Tribunal may, during the pendency of the proceeding, order such children or relatives to provide monthly allowance for the interim maintenance of the senior citizen.

- If the persons responsible for the care and protection of senior citizens abandon the senior citizens, such persons shall be punished with imprisonment for three months or fined up to 5,000 or with both.

Here are some of the key sections of this act:

Section 4: Obligation of children to maintain parents and senior citizens.

Section 5: Maintenance of senior citizens by the State Government

Section 6: Establishment of old age homes.

Section 7: Application to the Tribunal.

Section 23: Penalty for not paying maintenance.

Section 24: Offenses by the children.

Section 25: Transfer of property to the senior citizen.

Section 32: Constitution of the Appellate Tribunal.

(B) Case laws:

1. Ramesh v. Ishwar Devi and Ors.

The Punjab and Haryana High Court emphasized that the Act aims to promote a decent existence for the senior citizen and that it serves as a disincentive to circumstances when children just disregard and leave their elderly parents despite obtaining their wealth.

2. Ravi Shankar v. The State Of Bihar
3. Anil Prakash v. The State Of Bihar
4. S. Krishnamurthy v. Dr. Manivasan
5. Mohamed Dayan v. The District Collector
6. Om Prakash Manchanda v. D.M/ Collector , Kanpur

(C) Section 125 of CrPC:

Section 125 of the Criminal Procedure Code provides for the maintenance to the wife, child, and parents. The purpose of Section 125 CrPC was explained in the case of *K. Vimal v. K. Veeraswamy*, where it was held that Section 125 of the Code had been introduced for achieving a social purpose. The aim of this section is the welfare of the wife by providing her with the required shelter, food after the separation from the husband. It was held in this case that if the wife has lived like a wife and the husband had treated her like a wife for all the years before their separation, then, the wife cannot be denied maintenance by her husband.

Grants of maintenance are a metric of social justice. A man's essential obligation is to provide for his wife, kids, parents, close relatives, etc, while they are incapable of providing for themselves. Preventing immorality and poverty while improving the economic standing of women and children is the motive behind the concept of maintenance. The CrPC requirements obligate a person to fulfil the moral duty to which he owes the community in regard to his wife, children, and parents. The obligation is unquestionably lawful and binding on the person.

a. Purpose of section 125 of CrPC:

1. The intent behind Section 125 of the CrPC is to protect dependents who are unable to support themselves from starvation, misery, and vagrancy. It is social justice legislation that was specifically passed to safeguard women, children, and elderly parents.
2. The main goal of Section 125 of the CrPC of 1973 is to support abandoned and impoverished wives, neglected and abandoned children, and vulnerable, elderly, and disabled parents. As a result, this provision promotes social welfare and social service. The Magistrate's authority is primarily preventative in character rather than penal or punitive.
3. The time-consuming, troublesome, heavy, process of civil law and litigation was sought to be avoided by providing a simple, quick, limited relief. This is because compulsion is (to some extent) imposed upon those persons whose duty it is to support their dependents who are unable to support themselves.
4. No wife, child, or parent should be abandoned on the scrap heap of society to beg or to lure others to commit crimes against them or to commit crimes themselves. A contract that violates this responsibility and totally waives the right to support one's own wife and young children cannot be regarded as legal.

b. Sandeep Walia v. Monika Uppal:

According to the Delhi High Court's decision in the recent case of Sandeep Walia v. Monika Uppal (2022), parties to matrimonial disputes frequently fail to reveal their true income to the Court in an effort to avoid being held responsible for maintenance. Therefore, the Court may decide on maintenance based on the parties' status and their standard of living. This opinion was made in a case where the husband had contested a family court's judgement that partially granted the Petitioner's wife's motion under Section 125 of CrPC and awarded Rs. 10,000 per month in maintenance. The husband had contended that as his wife was well qualified and making a good living while he was unemployed, she was not entitled to maintenance.

i. Facts of the case:

1. On October 25, 2015, the parties' marriage was conducted. Due to disagreements among their own families shortly after their marriage, they began living separately. Before the family court, the Respondent (wife) had made a prayer under Section 125 of the Code of Criminal Procedure, 1973. She claimed that she had to endure excruciating mental pain as a result of her husband's harassment at the marital home. She provided numerous examples in her counter statement and added that her husband, a revisionist, works as a graphic designer for an NIIT company in Gurugram and makes Rs. 40,000 a month.
2. She added that her husband received an additional amount of Rs. 40,000 per month in addition to the rental money from the residence. She went on to say that her husband had no debts to pay, that he was the only son, and that his mother received a pension of Rs. 25,000 a month. She sought for a grant of Rs. 40,000 per month for maintenance and Rs. 25,000 for court costs in response.
3. The husband claimed that the respondent-wife had tortured and been abusive to him mentally. He claimed that she had left the marital home without cause or explanation, that she had falsely reported the situation to the CAW cell, and that she had then skipped out on the counselling sessions.

ii. Judgement delivered by the delhi high court:

1. The High Court noted that until the Court issues a ruling stating that the wife is not entitled to receive maintenance from the husband on any legally permissible basis, it is the husband's sacred responsibility to provide for the wife financially.
2. The spouse claimed that he was keeping a three-bedroom apartment and paying rent of Rs. 12,000 per month, discounting energy costs of roughly Rs. 2,000, according to the High Court. It further stated that the husband's monthly expenses were roughly Rs. 35,210 and that he had invested money in mutual funds, from which he received regular dividends.
3. The Court also believed that the petitioner's husband's outright claim that he had no income could not, under the circumstances of the case, be used as a defence to absolve him of his responsibility to provide for his wife.

c. Pradeep Kumar v. Smt Bhawana and Anr:

In a recent case of Pradeep Kumar v. Smt Bhawana and Anr (2022), Justice Asha Menon of the Delhi High Court observed that "to deny maintenance to an estranged wife and child is the worst

offence, even from a humanitarian perspective.” While dismissing a petition by a husband contesting a Trial Court decision, Justice Asha Menon made an observation directing him to pay a sum of Rs. 20,000 as a consolidated amount towards interim maintenance to the wife and child till the resolution of the matrimonial dispute.

i. Facts of the case:

The petitioner’s husband’s attorney claimed that Rs. 1,000,000 had been deposited with the Court Registry in accordance with this decision in order to cover the discrepancy. The petitioner further asserted that he was prepared to give the wife and child Rs. 4,000 per month in accordance with his monthly earnings of Rs. 28,000, which he had previously stated to the Family Court in his affidavit of income and expenditure. Additionally, it was claimed that the petitioner was open to keeping the wife and child as well as renting out a space for them to live separately.

ii. Observation of the Delhi High Court :

1. Although the petitioner’s husband stated that the money had been paid through February 2022, the court noted that the wife and kid indicated that payments had only been made up until September 2021, or for seven months.
2. The Court also voiced worry that spouses are pressuring their wives to file execution petitions in order to stop payments, even after a court has ruled that she is entitled, even if only temporarily. By judgement dated April 20, 2022, the High Court instructed the husband to deposit the difference between the amount determined by the Trial Court and the amount he was ready to pay, or Rs. 4,000, which he claimed he had paid to the wife in the form of an FDR up until February 2022.
3. With the aforementioned observations, the court dismissed the petition and ordered the wife to pay Rs. 20,000 in fees in front of the Family Court on the next hearing date that had been scheduled.

V. CONCLUSION

As a conclusion, it can be thus stated that there are various problems faced by senior citizen of our country like lack of proper care, good medication and negligence from the part of family members as well as the society and various acts which may affect even their life and property as well. Government has implemented various schemes and projects like pension scheme in favour of the senior citizens of the society. Above all such benefits, they are in need of love, care and affection from their relatives and the society. We have to just keep this in our mind

that our attitude towards them should be positively changed so that they also will have a better tomorrow. Democracy is for all, and should be for all.
