



MAINTENANCE FOR HUSBANDS

A SIGNIFICANT judgment by Jammu and Kashmir High Court in *Lalit Mohan v. Tripta Devi*¹ is likely to pave the way for more and more husbands to file claims for maintenance against their earning wives. The facts of the case in brief were as follows. The husband had met with a serious accident as a result of which he lost his mental equilibrium. Relationship between the spouses deteriorated and the wife obtained a decree for divorce on grounds of cruelty and desertion. The husband's appeal against the divorce decree failed but he made an application for maintenance which was granted. The wife was working in the National Hydro Project Corporation and was earning. The husband contended that she had sufficient means whereas he was suffering from permanent impairment because of the head injury owing to the accident. He was incapable of working and had to depend on his close relations. In view of this, he claimed permanent alimony at the rate of Rs. 500 per month from the wife.

The court came to the conclusion that the husband did not have an independent income whereas the wife was in a position to pay maintenance to the husband in terms of sections 30 and 31 of the Jammu and Kashmir Hindu Marriage Act 1955 (corresponding to sections 24 and 25 of the central Act). However, since the wife was in temporary service, the court ordered that she should pay a sum of Rs. 500 as litigation expenses and a sum of Rs. 100 per month as permanent alimony. While granting the maintenance, the court observed:

The object of the section is that none of the parties should suffer to get adequate justice from the court on account of his or her financial difficulties. The reasons for enacting the provisions is that a wife or husband who has no independent income sufficient for her or his support or enough to meet the necessary expenses of the proceedings may not be handicapped. Such a provision was made on social and moral grounds with the motive that the party should be able to maintain himself or herself during the pendency of the proceedings as there was no freedom of contracting another marriage.... The other spouse is under an obligation to provide the indigent spouse financial assistance so that the proceedings may be conducted and he or she be maintained during the pendency of the proceedings and not forced to starvation or moral degradation.²

The idea of a wife paying maintenance to the husband is not very popular as yet since it has always been the man's role to earn and maintain

1. A.I.R. 1990 J. & K. 7.

2. *Id.* at 11.

3. See ss. 24 and 25.



the family. Now with the changing times, however, there are changes in these age old concepts as well. Recognising this change, the Hindu Marriage Act 1955³ made this revolutionary provision whereunder a husband has an equal right to claim maintenance from a wife as she has from him. This is the only Indian statute providing for maintenance to husbands.

Under British law, the husband has a right to claim maintenance from the wife under section 63 of the Domestic Proceedings and Magistrates Courts Act 1978. Liability of the wife is the same as the husband's. In fact in one case, viz., *Calderbank v. Calderbank*,⁴ when the marriage broke down and the husband had no capital of his own, the court awarded a lump sum of £ 10,000 to him. On the wife's appeal against the order, the court observed that the principle of law is that "husbands and wives come to the judgement seat in matters of money and property upon a basis of complete equality."⁵

It is submitted that with more and more women now taking up jobs, courts have come to recognise that they should also share the financial responsibilities in case of need. This is evident from judgments which have extended the duty of maintaining old and indigent parents to daughters⁶ as well, even married daughters,⁷ if they are earning. How many husbands would really want to go to court and seek maintenance from wives is a different matter, but the law should surely make a provision to meet such situations.

*Kusum**

4. [1975] 3 W.L.R. 586.

5. *Id.*, at 593.

6. See *Areefa Beevi v. K.M. Sahib*, (1983) Cri. L.J. 412 (Ker.).

7. *Vijaya v. Kesavrao*, A.I.R. 1987 S.C. 1100.

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