

Maintenance In Family Disputes: How Courts Decide The Amount

Rising family disputes essentially give rise to maintenance claims, which lead to long battles in the courts. Know the maintenance rules in family disputes

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Summary of the article: *Indian courts treat maintenance as a tool to ensure a separated spouse, usually the wife, can live at a standard comparable to the matrimonial home, not mere survival. Recent rulings, including from the Gujarat High Court, stress that a wife's income or qualifications do not bar support; judges weigh the husband's rising salary, dependants, liabilities, and the lifestyle enjoyed during marriage.*

The Gujarat High Court recently dismissed a revision application filed by a man challenging an order that enhanced his wife's maintenance from Rs 5,000 to Rs 15,000 per month. The argument was that his wife earned income from tailoring, and he has his own financial obligations, and, thus, the monthly maintenance amount should not be increased. However, the

court noted that over the course of the trial, his salary had increased to Rs 90,000. After considering aspects like his financial obligations, his parents' financial dependence, and his wife's salary, the court upheld the award of Rs 15,000 as just and reasonable. The court reaffirmed that a wife's earning capacity does not disqualify her from support and emphasised the husband's duty to maintain his spouse at a standard consistent with his own.

The court said this was to ensure that the maintenance was not for bare survival, but to ascertain parity in lifestyle in case of family disputes. However, it is not an automatic entitlement but is granted when a spouse cannot maintain the same standard of living they enjoyed during the marriage. Incidentally, while maintenance is a periodic financial support, alimony is a one-time payment.

While most women exit the workforce after marriage and typically after childbirth to take care of the child, the family, and other related responsibilities, the law ensures that in case of family disputes, if they have to move out of the marriage, they remain financially secure.

How Is Maintenance Decided In Divorce And Family Cases?

The factors a court consider while determining maintenance include, status of the parties, provisions for food, clothing, shelter, education, medical attendance and treatment, etc., of the applicant, claimant's independent income and [property](#), duration of marriage, maintenance of minor children, non-applicant's liabilities, payment capacity, the number of persons financially dependent on the non-applicant, says Aseem Chaturvedi, partner at Khaitan & Co., a full-service law firm.

"While there is no straightjacket formula, the courts, as reaffirmed by the Supreme Court, have set out certain guidelines for the grant of maintenance," he adds.

The purpose is to ensure a similar lifestyle for the partners that they enjoyed in the matrimonial home.

Says Tanmay Patnaik, partner-private client, Trilegal, a full-service law firm: "Indian courts do not follow a rigid mathematical formula to determine maintenance. However, the Supreme Court in *Kalyan Dey Chowdhury vs Rita Dey Chowdhury* observed that around 25 per cent of the husband's net salary may serve as a reasonable benchmark, though this is not a universal rule. Courts generally assess the paying spouse's "free income", allowing deductions only for statutory liabilities such as income tax or provident fund, while disregarding voluntary expenses like equated monthly instalments (EMIs) on loans or insurance premiums."

While the courts determine the [maintenance](#) amount, many a time the non-applicant (who pays the maintenance) challenges the order, citing wife's qualification or working status, just as in the aforementioned case in the Gujarat High Court.

Does Wife's Qualification Affect Maintenance Claim And Amount

Patnaik says, "Indian courts draw a sharp legal distinction between the 'capacity to earn' and 'actual earnings'. Merely possessing a professional degree does not disqualify a wife from claiming maintenance. If an [educated wife](#) has no actual independent income, she remains entitled to maintenance."

He further clarifies that it's a myth that a working wife cannot claim maintenance. The legal test is not whether the wife has an income, but whether that income is sufficient. If a working wife's income falls short of providing her the same standard of living as she was accustomed to in her matrimonial home, the court may direct the husband to pay the differential amount as maintenance to bridge that gap.

Can A Qualified Wife Who Quit Job For Kids Be Denied Maintenance

Chaturvedi says that the courts consider the reasons for leaving the job, the wife's ability to secure a new job, and also the corresponding effect of the pending dispute on her capability to work in such a scenario.

Patnaik cites the landmark Rajnesh vs Neha ruling, in which the Supreme Court mandated that courts must consider whether a wife sacrificed employment opportunities for nurturing the family and rearing children when determining the appropriate amount. "The courts rigorously account for this 'career penalty' faced by spouses (typically women who step away from the workforce to manage the household and raise children)," he says.