

Obligations for the Maintenance of Wives and Children in Hindu Family Law

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Abstract - This abstract explores the legal obligations for the maintenance of wives and children under Hindu family law, emphasizing the statutory and judicial frameworks that ensure financial support for dependents.

The Hindu Adoption and Maintenance Act, 1956, serve as the cornerstone of these provisions, delineating the rights of wives and children to receive maintenance and the corresponding duties of husbands and parents to provide it. Additionally, Section 125 of the Code of Criminal Procedure offers a summary remedy for maintenance across all religions, further reinforcing these obligations. This paper examines the scope of maintenance, including the factors influencing the determination and enforcement of maintenance orders, such as financial capacity, standard of living, and special circumstances.

It also highlights the significance of these legal provisions in upholding the social and moral responsibilities within Hindu families, ensuring the well-being and dignity of wives and children. Through a detailed analysis of statutory laws, judicial precedents, and practical implications, this study aims to provide a comprehensive understanding of the maintenance obligations in Hindu family law.

Keywords: IPC, CRPC, HAMA, NHRC.

Introduction - Maintenance refers to payments which are a husband is under an obligation to make a wife either during the subsistence of the marriage or upon separation or divorce under criteria, circumstances. The liability of the husband flows from the bond of matrimony. A wife is entitled to claim maintenance. Under the personal laws as well as under the provision of the Code of Criminal Procedure 1973. In Hindu law, the maintenance of wife and children is a fundamental concept that ensures the well-being and financial support of family members who are dependent. The provisions regarding maintenance are enshrined in various statutes, with the Hindu Adoption and Maintenance Act, 1956, being the cornerstone. This article explores the legal framework, rights, and obligations related to the maintenance of wife and children under Hindu law.

Hindu Law

The Hindu law: There are two statutes which provide for maintenance via the Hindu Marriage Act 1955, and the Hindu Adoption and Maintenance Act 1956.

Hindu Marriage Act : Section 24 of the act state Maintenance a pendent like and expense of proceeding shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband as the case may be. Passing an ex parte decree in favour of a husband who does not comply with the Maintenance order "would be nothing but doing nothing but doing mockery with

the procedure provide for that purpose". The court held The Shashikala Pandey V. Ramesh Pandey a husband obtained a decree of divorce on the ground of wife mental disorder. The wife filed an appeal against the trial court order she also filed in application for maintenance pendente lite under sec 24 which was ordered. However is view of his deliberate non-compliance of this order, not only was his defence against wife appeal stuck down but also the divorce decree was set aside by allowing the wife appeal.

Hindu Adoption and Maintenance Act (HAMA)

A Hindu wife has the advantage of an additional statistics HAMA. Under section 18 of this Act a Hindu wife is entitled to live separately from his husband without forfeiting her claim to maintenance provided his separate living is justified means that the husband:

1. Is guilty of desertion?
2. Has treated her with cruelty?
3. Is suffering from a virulent form of leprosy?
4. Has any other wife living?
5. Keeps a combine in same home, as a living or habitually reside with a combine elsewhere?

Literature Review

To gain a comprehensive understanding of the maintenance of wife and children in Hindu law, several authoritative texts and reference books provide detailed analysis and insights. Here are some highly recommended books:

1. "Hindu Law: Principles and Precedents" by N.R. Raghavachariar. This book provides an in-depth analysis of Hindu law, including maintenance. It covers the principles and judicial precedents that shape the maintenance rights and obligations under Hindu law.
2. "Hindu Adoption and Maintenance Act, 1956" by J.D. Jain. A detailed commentary on the Hindu Adoption and Maintenance Act, 1956, offering insights into each provision of the Act with relevant case law.
3. "Family Law in India" by Paras Diwan. Paras Diwan's book is a comprehensive resource on family law in India, including the maintenance of wives and children. It discusses statutory provisions, case law, and practical aspects of family law.
4. "Family Law Lectures: Family Law I" by Dr. Kusum: This book is a part of the Family Law Lectures series and provides detailed coverage of family law topics, including maintenance. Dr. Kusum offers a thorough examination of the legal principles and their applications.
5. "Introduction to Hindu Law" by B.M. Gandhi: B.M. Gandhi's book serves as an introduction to Hindu law, covering various aspects, including the maintenance of wives and children. It provides historical context and modern interpretations of the law.
6. "Hindu Law and Usage" by John D. Mayne: This classic text offers a detailed exploration of Hindu law, including customs and usage related to maintenance. It is considered a foundational resource for understanding the traditional aspects of Hindu law.
7. "Mulla's Principles of Hindu Law" by Satyajeet A. Desai: Mulla's Principles of Hindu Law is a comprehensive legal text that covers various aspects of Hindu law, including maintenance. It is widely referenced by legal professionals and scholars.
8. "Law of Maintenance: Principles and Practice" by Dr. S.P. Srivastava: This book provides an extensive examination of the law of maintenance in India, covering statutory provisions, judicial interpretations, and practical applications.
9. "Law Relating to Women and Children" by Mamta Rao: Mamta Rao's book discusses the legal provisions related to women and children, including maintenance laws. It provides a gender perspective and covers relevant case law and statutory provisions.
10. "Modern Hindu Law" by Ramesh Chandra Nagpal: This book offers a modern perspective on Hindu law, including the maintenance of wives and children. It covers recent developments and judicial trends in the field.

These books offer a range of perspectives, from traditional interpretations to modern applications of Hindu law regarding maintenance. They are invaluable resources for students, legal practitioners, and anyone interested in understanding the nuances of family law in the Hindu

context.

Legal Framework

1. Hindu Adoption and Maintenance Act, 1956 (HAMA):

This act is the primary legislation that governs the maintenance of wives, children, and other dependents in Hindu law. It specifies the rights of individuals to claim maintenance and the corresponding duties of those obligated to provide it.

2. Section 18 of HAMA: This section deals specifically with the maintenance of wives. It entitles a Hindu wife to be maintained by her husband during her lifetime, unless she is unchaste or converts to another religion.

3. Section 20 of HAMA: This section outlines the maintenance of children and aged parents. It mandates that a Hindu is legally bound to maintain his or her legitimate or illegitimate minor children and aged or infirm parents.

4. Section 125 of the Code of Criminal Procedure (CrPC): While not specific to Hindu law, Section 125 CrPC provides a summary remedy for the maintenance of wives, children, and parents across all religions. It is frequently invoked for quick relief in maintenance cases.

Maintenance Of Children: The obligation of parent to maintenance children arises both out of blood relationships as well as moral duty which is reinforcing by statutory provision almost every society recognizes. The duty of a parent is to maintain his child so long as he is minor or unable to maintain himself. The degree and extent of such obligation varies from society to society and from time to time.

Children in India are entitled to be maintained under the two set of laws via (i) The personal laws and (ii) The secular law which is code of criminal procedure 1973.

Hindu Law: There are two personal laws state to amongst the Hindu where under children entitled to claim maintenance. These are the Hindu Marriage Act 1955 and the Hindu Adoption Act and Maintenance Act 1956.

Hindu Marriage Act 1955: The Hindu Marriage Act 1955 is primarily a states governing matrimonial relation and providing to parties but children bring an integral component of Matrimonial Act makes provision to safeguard to interest of the children of marriage section 26 of the act says.

Hindu Adoption and Maintenance Act 1956 section 20 of the act s20 Maintenance of Children:

1. Hindu is bound during his or her lifetime to maintain his or her legitimate or illegitimate of children.
2. A legitimate or illegitimate child may claim maintenance from his or her father or another so long as the child is minor.
3. The obligation of a person to maintain his or her children or her daughter who is unmarried extends in so far as the unmarried daughter is unable to maintain herself her own earning or other property.

Maintenance under Sec 3(B) of the Act include-

1. In all provision for food, clothing, residence, educations and medical attendance and treatment.

2. In the case of unmarried daughter, also the reasonable expenses of an individual to her marriage.

Thus, it is clear under this act

1. The obligation to maintain children lies equally on both the mother and the father.
2. Both legitimate as well as illegitimate children are entitled to Maintenance.
3. The liability of the parents extends to maintain the Children until they as minor, which is two or sec3 of this act, name a person who has not completely the age.

Maintenance Of Wife: A Hindu wife is entitled to maintenance from her husband under various circumstances:

During Matrimonial Life: A wife is entitled to be maintained by her husband throughout her lifetime. This includes the provision of food, clothing, shelter, medical care, and other necessities.

Upon Separation: If the couple separates but the marriage is not dissolved, the wife still has the right to be maintained by her husband. This is particularly relevant in cases of desertion or judicial separation.

After Divorce: Even after divorce, a Hindu wife may be entitled to maintenance, depending on the circumstances of the case and the financial status of the parties involved. The amount of maintenance is determined based on various factors, including the husband's financial capacity, the wife's needs, and the standard of living enjoyed during the marriage.

Maintenance Of Children: The maintenance of children is an essential obligation under Hindu law. This includes:

Legitimate and Illegitimate Children: Both legitimate and illegitimate children are entitled to maintenance. The obligation continues until the child reaches the age of majority. However, if the child is unable to maintain themselves due to physical or mental abnormalities or injury, the duty to maintain may extend beyond adulthood.

Education and Welfare: Maintenance covers not only basic necessities like food, clothing, and shelter but also educational expenses, healthcare, and other aspects crucial for the child's overall development.

Custody and Guardianship: Maintenance issues often arise in conjunction with custody disputes. The parent granted custody is usually entitled to claim maintenance for the child's upkeep from the non-custodial parent.

Determination and Enforcement: The determination of maintenance involves judicial discretion, taking into account

various factors such as the claimant's needs, the respondent's financial status, and any special circumstances of the case. Courts aim to balance fairness and equity, ensuring that dependents are adequately provided for without unduly burdening the provider.

Enforcement of maintenance orders can be sought through civil or criminal courts. Non-compliance can lead to legal consequences, including attachment of property, fines, and even imprisonment.

Conclusion : I would like to conclude this legal research by saying that according to section 125(1) (a) of criminal proceeding code 1973 provide that if any person having sufficient means neglects or refuse to maintain his wife, who is unable to maintain herself them in such a case imagination of the first class may upon proof of such neglects or refusal order such person to pay a monthly rate which the magistrate think fit.

The wife under section 125(1)(a) means a legally married wife and can be of any age, minor or major.

However, it should always be kept in mind that there should not be any misuse of the provision. The court must apply its judicial mind every minute detail of the husband and the dependents regarding this means to livelihood and the accordingly pass or order.

The maintenance of wife and children under Hindu law underscores the importance of family support and responsibility. The legal provisions aim to ensure that dependents are not left destitute and can live with dignity. By providing a structured framework for maintenance, Hindu law upholds the social and moral obligations of family members towards each other, reflecting the enduring values of care and support in Indian society.

References:-

1. "Hindu Law: Principles and Precedents" by N.R. Raghavachariar
2. "Hindu Adoption and Maintenance Act, 1956" by J.D. Jain
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