



RESEARCH QUESTION

"How do Indian courts decide alimony and maintenance, what factors from *Rajnesh v Neha* govern the amount, what interim maintenance exists under Section 144 BNSS, and can working spouses claim maintenance?"

Determination of Alimony and Maintenance under Indian Law: Rajnesh v. Neha Factors, Interim Maintenance under Section 144 BNSS, and the Entitlement of Working Spouses

TL;DR

The Supreme Court in *Sau. Jiya v. Kuldeep* (2025) reinforced the comprehensive guidelines established in *Rajnesh v. Neha* (2020), holding that maintenance and alimony must be determined without a rigid mathematical formula by balancing the parties' financial status, reasonable needs, educational qualifications, and actual earning capacities. Under Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, magistrates are empowered to award interim maintenance during the pendency of proceedings, which must be disposed of within sixty days of notice. Spouses who are qualified or have minor independent incomes are not automatically disentitled from claiming maintenance, as the core test is whether their independent income is sufficient to maintain the standard of living enjoyed in the matrimonial home.

VERIFIED CASES	STATUTES	LATEST RULING
25	5	2025
19 High Courts · 6 SC		Supreme Court of India

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I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 Absence of a Straitjacket Formula for Quantum

The court must eschew any rigid or mathematical formula to determine the maintenance amount, adopting instead a subjective, case-by-case approach that ensures the dependent spouse is not reduced to destitution. In applying this rule, the court evaluates the financial standing of both parties to fix a reasonable sum that allows the wife to live with the same comfort she enjoyed in her matrimonial home, as seen in *Wife v. Husband* (2022).

02 Mandatory Filing of Assets and Liabilities Affidavits

To prevent concealment of income and exaggeration of needs, both parties in all maintenance proceedings must file a comprehensive, uniform affidavit of disclosure of their assets and liabilities. This procedural requirement ensures that courts have accurate financial data to realistically assess and streamline the quantum of maintenance, as established in *Aditi alias Mithi v. Jitesh Sharma* (2023).

03 Adjustment and Set-Off to Prevent Double Enrichment

While a dependent spouse is legally permitted to claim maintenance under multiple overlapping statutes, the court must adjust or set off the amount awarded in previous proceedings when determining subsequent claims. This mechanism ensures that the husband is not burdened with oppressive, duplicate liabilities across different courts while still protecting the wife's right to adequate support, as observed in *Private Party v. Private Party* (2023).

04 Qualifications and Income Capacity of Working Spouses

A wife's professional or educational qualifications do not automatically disentitle her from claiming maintenance if she has no independent income or if her income is insufficient. Courts look at the actual ability of the wife to maintain herself rather than her potential to earn, meaning that even a moderately earning spouse can claim support to match the standard of living of her husband, as demonstrated in *Jaswant v. Rekha Rani* (2025).

05 Expeditious Disposal of Interim Maintenance Under Section 144 BNSS

Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) empowers the Magistrate to grant interim maintenance during the pendency of proceedings, which should ideally be disposed of within sixty days from the service of notice. This statutory remedy provides immediate financial relief for sustenance and litigation expenses, which courts will uphold even if the husband alleges the wife is qualified or has pending civil disputes, as shown in *Sai Kumar Mankunda v. Ankita* (2025).

06 Legally Married Wife Requirement for Summary Maintenance

The summary remedy of maintenance under Section 125 of the CrPC (now Section 144 BNSS) is strictly available only to a legally wedded wife, meaning a second wife whose marriage is void due to a subsisting first marriage is generally excluded. However, courts maintain a heavy burden of proof on the husband to establish the validity of a prior marriage before disentitling a neglected spouse, as illustrated in *Savitaben Somabhai Bhatiya v. State of Gujarat* (2005).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT
POSITION

The apex court has consistently held that the primary objective of maintenance is to prevent vagrancy and destitution, and even where a divorce is granted on the ground of the wife's desertion, the ex-husband's statutory duty to maintain her continues if she is unable to support herself, as established in *Rohtash Singh v. Smt. Ramendri* (2000).

HIGH COURT
VARIATIONS

High Courts have applied these principles to hold that the annulment of a marriage by a civil court does not automatically dissolve a wife's right to seek maintenance under Section 125 CrPC unless she has received adequate permanent alimony under Section 25 of the Hindu Marriage Act, as seen in *Sima Ghosh v. Ashim Bose & Anr.* (2022).

RECENT EVOLUTION

Recent decisions have firmly aligned with the *Rajnesh v. Neha* mandate by directing that maintenance must be awarded from the date of the application filing and that any child's maintenance must be realistically enhanced to secure their overall education and physical well-being, as observed in *Irshadul Haque v. Ateka Sowaid* (2024).

UNSETTLED AREAS OR CAVEATS

Unsettled status of de facto spouses

While the law generally restricts maintenance to legally wedded wives, the courts have noted a significant divergence in judicial opinion regarding whether women in long-term live-in or de facto relationships can claim maintenance, with some benches emphasizing a broad social justice approach to protect women who have been deserted after living together for a long period, as discussed in *N. Usha Rani v. Moodudula Srinivas* (2025).

II. Statutory Provisions 5 PROVISIONS

SECTION 25, HINDU MARRIAGE ACT, 1955 — PERMANENT ALIMONY AND MAINTENANCE

Enables the court to order permanent alimony and maintenance to either spouse, as a gross sum or periodical payment, based on the income, property, and conduct of the parties.

"(1) Any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondents own income and other property, if any, the income and other property of the applicant, the conduct of the parties and other circumstances of the case, it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent." *Cited in: Chauhan Anjanaben Jayantibhai v. Chauhan Kanaiyalal Mohanlal, Tarun Pandit v. State of U.P., Sima Ghosh v. Ashim Bose & Anr.*

SECTION 144, BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 — ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

Empowers a Magistrate to order a monthly maintenance allowance for neglected wives, children, or parents, and provides for interim maintenance during pendency, to be disposed of within sixty days.

"(1) If any person having sufficient means neglects or refuses to maintain— (a) his wife, unable to maintain herself; or (b) his legitimate or illegitimate child... a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother... Provided further that the Magistrate may, during the pendency of the proceeding... order such person to make a monthly allowance for the interim maintenance... Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding... shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person." *Cited in: Sai Kumar Mankunda v. Ankita (also raised in the research question)*

SECTION 125, CODE OF CRIMINAL PROCEDURE, 1973 — ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

Allows a Magistrate to order monthly maintenance and interim maintenance for wives, children, and parents who are unable to support themselves when a person of sufficient means refuses or neglects to maintain them.

"(1) If any person having sufficient means neglects or refuses to maintain — (a) his wife, unable to maintain herself, or... a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother... Provided further that the Magistrate may, during the pendency of the proceeding... order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable... Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding... shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person." *Cited in: Wife v. Husband, Marryamma v. Shri Mani, K. Vimala v. K. Veeraswamy, Savitaben Somabhai Bhatiya v. State of Gujarat, Rohtash Singh v. Smt. Ramendri, Sau. Jiya v. Kuldeep, N. Usha Rani v. Moodudula Srinivas, Aditi alias Mithi v. Jitesh Sharma, Chauhan Anjanaben Jayantibhai v. Chauhan Kanaiyalal Mohanlal, Pravin Namdeo Gaikwad v. Ashvini Pravin Gaikwad, Kausar Ansari v. The State of Jharkhand, Sushma Kumari v. Pramod Kumar Roy, Mahabir Prasad v. State of Jharkhand, Irshadul Haque v. Ateka Sowaid, Md. Irfan Iraqi v. The State of Jharkhand, Ajay Gagat v. Manisha, Jamil Ahmed v. Khurshidan, Private Party v. Private Party, Tarun Pandit v. State of U.P., Sima Ghosh v. Ashim Bose & Anr., Ruhur Nurmina Bibi v. Hafijul Rahaman*

SECTION 20, PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 — MONETARY RELIEFS

Authorizes the Magistrate to direct the respondent to pay monetary relief, including maintenance in addition to other maintenance laws, to meet expenses and losses suffered due to domestic violence.

"(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include... (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 or any other law for the time being in force." *Cited in: None*

SECTION 24, HINDU MARRIAGE ACT, 1955 — MAINTENANCE PENDENTE LITE AND EXPENSES OF PROCEEDINGS

Enables a court to order interim maintenance and litigation expenses to a spouse who has no independent income sufficient for their support and legal costs.

"Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioners own income and the income of the respondent, it may seem to the court to be reasonable. Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the 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." *Cited in: Saurabh Kohli v. Pooja Kohli, Tarun Pandit v. State of U.P.*

III.

Cases Discussed

25 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	<i>Mahabir Prasad v. State of Jharkhand</i> JHHC010060472022	HIGH COURT OF JHARKHAND	2023	Upholds maintenance based on GST and business proof contradicting husband's stated low income.
02	<i>Kausar Ansari v. The State of Jharkhand</i> JHHC010001672022	HIGH COURT OF JHARKHAND	2023	Reaffirms moral duty to maintain wife despite husband's claim of unemployment and prior divorce.
03	<i>Md. Irfan Iraqi v. The State of Jharkhand</i> JHHC010186842022	HIGH COURT OF JHARKHAND	2023	Affirms trial court's maintenance order where contractor-husband denied cruelty and alleged financial hardship.
04	<i>Sushma Kumari v. Pramod Kumar Roy</i> JHHC010009732020	HIGH COURT OF JHARKHAND	2023	Directs determination of maintenance from application filing date, assessing husband's salary and wife's status.
05	<i>Irshadul Haque v. Ateka Sowaid</i> JHHC010176882020	HIGH COURT OF JHARKHAND	2024	Confirms husband's absolute obligation to maintain minor children under Section 125 of the CrPC.
06	<i>Marryamma v. Shri Mani</i> DLHC011646032018	HIGH COURT OF DELHI	2023	Enhances maintenance using Rajnesh v. Neha criteria, balancing living cost and husband's salary growth.
07	<i>Sau. Jiya v. Kuldeep</i> ESCR010002632025	SUPREME COURT OF INDIA	2025	Orders one-time lump sum permanent alimony following irretrievable breakdown of marriage and remarriage.
08	<i>Vasudev Prajapati v. Sunita Kumari</i> CGHC010254542015	HIGH COURT OF CHHATTISGARH	2022	Determines permanent alimony under HMA based on parties' status, needs, and actual liabilities.
09	<i>Ruhu Nurmina Bibi v. Hafijul Rahaman</i> WBCHCA0285112019	CALCUTTA HIGH COURT	2023	Denies maintenance to wife refusing cohabitation without cause, but enhances minor daughter's support.
10	<i>Private Party v. Private Party</i> UKHC010186522018	HIGH COURT OF UTTARAKHAND	2023	Permits parallel maintenance claims provided previous awards are adjusted or set off accordingly.
11	<i>Sima Ghosh v. Ashim Bose & Anr.</i> WBCHCA0185412019	CALCUTTA HIGH COURT	2022	Explores post-annulment maintenance entitlement of wife under Section 125 of the CrPC.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
12	<i>Ajay Gagat v. Manisha</i> PHHC010092262011	HIGH COURT OF PUNJAB AND HARYANA	2011	Rejects rigid one-fifth salary cap for maintenance, prioritizing reasonable comfort and standard of living.
13	<i>K. Vimala v. K. Veeraswamy</i> ESCR010000791991	SUPREME COURT OF INDIA	1991	Places heavy burden on husband to strictly prove prior subsisting marriage to deny maintenance.
14	<i>Jamil Ahmed v. Khurshidan</i> PHHC010229522023	HIGH COURT OF PUNJAB AND HARYANA	2025	Rejects husband's unsubstantiated divorce claims, upholding maintenance to prevent vagrancy and destitution.
15	<i>Chauhan Anjanaben Jayantibhai v. Chauhan Kanaivalal Mohanlal</i> GJHC240058042012	HIGH COURT OF GUJARAT	2012	Directs that only compulsory statutory deductions are excluded when calculating husband's disposable income.
16	<i>Jaswant v. Rekha Rani</i> PHHC010323132025	HIGH COURT OF PUNJAB AND HARYANA	2025	Clarifies that wife's minor independent income does not automatically disentitle her from claiming maintenance.
17	<i>Wife v. Husband</i> APHC010666372011	HIGH COURT OF ANDHRA PRADESH	2022	Directs that maintenance cannot be excessive but must ensure standard of living of matrimonial home.
18	<i>Rohtash Singh v. Smt. Ramendri</i> ESCR010001662000	SUPREME COURT OF INDIA	2000	Confirms divorced wife remains entitled to maintenance despite divorce granted on grounds of desertion.
19	<i>Pravin Namdeo Gaikwad v. Ashvini Pravin Gaikwad</i> HCBM040004832025	BOMBAY HIGH COURT	2025	Remands ex-parte maintenance order for fresh adjudication due to lack of asset-liability disclosures.
20	<i>Savitaben Somabhai Bhatiya v. State of Gujarat</i> ESCR010001402005	SUPREME COURT OF INDIA	2005	Restricts maintenance under Section 125 CrPC to legally wedded wives, excluding void second marriages.
21	<i>Tarun Pandit v. State of U.P.</i> UPHC010829342021	ALLAHABAD HIGH COURT	2022	Confirms parallel maintenance claims are maintainable but subject to set-off of separate alimony awards.
22	<i>Aditi alias Mithi v. Jitesh Sharma</i> ESCR010007092023	SUPREME COURT OF INDIA	2023	Remands cryptic revision order where parties failed to file mandatory asset and liability disclosures.
23	<i>N. Usha Rani v. Moodudula Srinivas</i> ESCR010002672025	SUPREME COURT OF INDIA	2025	Restores maintenance for de facto separated wife despite husband's technical void-marriage defense.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
24	<i>Saurabh Kohli v. Pooja Kohli</i> DLHC011155132018	HIGH COURT OF DELHI	2018	Confirms interim maintenance where wife's alleged income is linked only to her father's business.
25	<i>Sai Kumar Mankunda v. Ankita</i> CGHC010298412025	HIGH COURT OF CHHATTISGARH	2025	Upholds interim maintenance under Section 144 BNSS based on wife's immediate sustenance needs.

IV. Case Details 25 CASE FILES

01 Mahabir Prasad v. State of Jharkhand

HIGH COURT OF JHARKHAND • 2023-07-27 • CR.REV./135/2022

This case concerns a criminal revision petition filed by a husband challenging a family court order that directed him to pay Rs. 15,000 per month in maintenance to his wife. The petitioner argued that his actual income was significantly lower than assessed by the lower court, citing his income tax returns, and contended that he was already under an obligation to provide maintenance through an earlier civil suit. He also alleged that his wife and adult children had ousted him from their matrimonial home.

HELD The High Court held that the primary objective of granting maintenance is to ensure the dependent spouse is not reduced to destitution or vagrancy. It ruled that there is no rigid mathematical formula for fixing maintenance quantum, and an able-bodied, qualified husband is morally and legally obligated to maintain his wife regardless of his asserted lack of income.

“Para-77:- The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.”

HIGH COURT OF JHARKHAND • 2023

SOURCE JHHC010060472022

02 Kausar Ansari v. The State of Jharkhand

HIGH COURT OF JHARKHAND • 2023-09-15 • CR.REV./3/2022

The petitioner challenged a trial court order directing him to pay monthly maintenance of Rs. 5,000 to his wife and Rs. 4,000 to his son under Section 125 of the Code of Criminal Procedure. The wife alleged consistent physical abuse, dowry demands, and abandonment, while the husband claimed he was unemployed and had divorced his wife. The husband failed to comply with previous court-ordered interim payments and had also been convicted in a related criminal case under Section 498-A of the IPC.

HELD The court ruled that an able-bodied husband with educational qualifications cannot escape his moral duty to maintain his wife under the guise of unemployment. The purpose of Section 125 CrPC is to realize social justice as enshrined in the Preamble of the Constitution of India by supporting marginalized sections of society.

“The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications.”

HIGH COURT OF JHARKHAND • 2023

SOURCE JHHC010001672022

03 Md. Irfan Iraqi v. The State of Jharkhand

HIGH COURT OF JHARKHAND • 2023-12-20 • CR.REV./551/2022

This case involved a petition for maintenance filed under Section 125 of the Code of Criminal Procedure by a wife against her husband. The wife alleged she had been subjected to cruelty and neglect, and that her husband, a contractor, had the means to support her and their minor child. The husband denied the allegations, claimed financial hardship, and questioned his wife's character.

HELD The High Court held that courts must realistically determine maintenance by examining the status and reasonable needs of the wife and children, the qualifications of the parties, and the husband's actual financial capacity. The court rejected the husband's defense of financial hardship, finding that his status as a contractor demonstrated sufficient means.

"The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home"

HIGH COURT OF JHARKHAND • 2023

SOURCE JHHC010186842022

04 Sushma Kumari v. Pramod Kumar Roy

HIGH COURT OF JHARKHAND • 2023-07-24 • CR.REV./22/2020

This case concerns cross-revisions filed by a wife and daughter, and a husband, challenging a maintenance order passed by the Family Court in Bokaro. The wife sought an enhancement of the maintenance amount, while the husband challenged his liability to pay maintenance altogether, alleging the wife was earning a sufficient income and had deserted him. The Family Court had directed the husband to pay a total of Rs. 20,000 per month. The High Court reviewed the arguments regarding the husband's salary, the wife's employment status, and the evidence of marital discord. The court adjudicated on the financial obligations of the husband toward his wife and minor daughter.

HELD The High Court held that the trial court committed a gross illegality by directing maintenance to be paid from the date of the order instead of the date of filing the application. It reaffirmed that under the *Rajnesh* guidelines, interim maintenance is conditional on the spouse having no independent income sufficient for support, and an educated wife is not automatically barred from seeking maintenance.

"It further transpires that the learned court below has committed gross illegality by directing to pay maintenance amount from the date of passing of the impugned order i.e. on 17.12.2019 instead of date of filing of application under section 125 Cr.P.C."

HIGH COURT OF JHARKHAND • 2023

SOURCE JHHC010009732020

05 Irshadul Haque v. Ateka Sowaid

HIGH COURT OF JHARKHAND • 2024-03-21 • CR.REV./607/2020

This case involved a petition for maintenance filed by a wife and two children against the husband under Section 125 of the CrPC. The wife alleged cruelty and neglect, while the husband argued he was willing to cohabit and that the wife was living separately by choice. The Family Court ordered the husband to pay monthly maintenance to his wife and children. On revision, the High Court reviewed the evidence regarding the parties' estrangement and the husband's financial obligations. Ultimately, the court upheld the maintenance order, finding that the husband had failed to adequately maintain his family despite having the means to do so, while also noting that the maintenance should be payable from the date of the filing of the application.

HELD The High Court ruled that a father's statutory obligation to maintain his minor children under Section 125 CrPC is absolute and independent of personal laws. Beneficial legislations intended to prevent child destitution cannot be defeated by other statutory provisions unless explicitly stated.

"The effect of a beneficial legislation like Section 125 CrPC, cannot be allowed to be defeated except through clear provisions of a statute. We do not find manifestation of any such intention in the 1986 Act to take away the independent rights of the children to claim maintenance under Section 125 CrPC where they are minor and are unable to maintain themselves."

HIGH COURT OF JHARKHAND • 2024

SOURCE JHHC010176882020

06 Marryamma v. Shri Mani

HIGH COURT OF DELHI • 2023-04-06 • CRL.REV.P./666/2018

This case concerns a wife's petition seeking an enhancement of maintenance under Section 127 of the Code of Criminal Procedure. The petitioner argued that her existing maintenance, set in 1999, was insufficient given the respondent's significant increase in salary as a government employee and her own lack of income. The Family Court previously enhanced the maintenance from Rs. 400 to Rs. 5,000 per month, considering the respondent's financial capacity and obligations. The petitioner challenged this amount as inadequate, seeking a higher monthly sum. The High Court reviewed the matter, noting the duty of a husband to maintain his wife according to his status and means while balancing his existing financial liabilities.

HELD The High Court ruled that under Section 127 CrPC, maintenance can be modified based on changed circumstances, such as inflation or salary growth. The quantum must be realistic and balanced, avoiding extremes that would either oppress the husband or drive the wife to penury.

"The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury."

HIGH COURT OF DELHI • 2023

SOURCE DLHC011646032018

07 Sau. Jiya v. Kuldeep

SUPREME COURT OF INDIA • 2025-01-31 • 2025 INSC 135

The Supreme Court dealt with an appeal regarding a divorce decree and the quantum of permanent alimony. The marriage between the parties had effectively broken down, and the husband had already remarried. Given the irretrievable breakdown of the marriage, the Court upheld the divorce decree granted by the lower courts. Regarding maintenance, the Court found the husband failed to provide transparent financial disclosures and appeared to be evading his obligations. Balancing the parties' financial status, living standards, and the husband's existing responsibilities toward his new family, the Court awarded Rs. 10,00,000 as a one-time settlement to the appellant-wife to ensure equity and meet the ends of justice.

HELD The Supreme Court held that permanent alimony should be evaluated under the comprehensive framework of *Rajnesh v. Neha* to prevent destitution. Key factors include status, reasonable needs, educational qualifications, the standard of living in the matrimonial home, and the husband's financial liabilities and earning potential.

"This judgment lays down a comprehensive framework for determining the quantum of maintenance in matrimonial disputes, particularly focusing on permanent alimony. The primary objective is to prevent the dependent spouse from being reduced to destitution or vagrancy due to the failure of the marriage, rather than punishing the other spouse."

SUPREME COURT OF INDIA • 2025

SOURCE ESCR010002632025

08 Vasudev Prajapati v. Sunita Kumari

HIGH COURT OF CHHATTISGARH • 2022-04-28 • FAM/9/2015

The appellant-husband filed for divorce on grounds of desertion and cruelty under the Hindu Marriage Act. The trial court initially dismissed the plea, finding that the husband's extra-marital relationship justified the wife's separation and that the wife's dowry harassment complaint was not proven false. Upon appeal, the High Court determined that the wife's lodging of a false criminal complaint against her husband under Section 498-A of the IPC, for which he was subsequently acquitted, constituted mental cruelty. Noting that the marriage had irretrievably broken down due to over a decade of separation, the Court set aside the trial court's order and granted a decree of divorce to the husband.

HELD The High Court ruled that upon the passing of a divorce decree, the wife is entitled to permanent alimony for sustenance under Section 25 of the HMA. Since no strict arithmetic formula applies, the court must balance the husband's financial capacity and obligations to ensure the wife can live in reasonable comfort.

“...As a decree is passed, the wife is entitled to permanent alimony for her sustenance. Be it stated, while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude.”

HIGH COURT OF CHHATTISGARH • 2022

SOURCE CGHC010254542015

09 Ruhu Nurmina Bibi v. Hafijul Rahaman

CALCUTTA HIGH COURT • 2023-10-06 • CRR/1755/2019

The petitioner, a wife residing separately, sought maintenance for herself and her minor child from the respondent husband under Section 125 of the Code of Criminal Procedure. While the trial court and the appellate court denied maintenance to the wife on the grounds that she refused to return to her husband without sufficient cause, they awarded a monthly maintenance of Rs. 2,500 for the minor child. Upon revision, the High Court upheld the denial of maintenance to the wife but enhanced the child's maintenance to Rs. 8,000 per month, citing the child's needs. The Court further directed that the original maintenance amount be paid from the date of the application filing, consistent with established precedent.

HELD The High Court held that while a wife's refusal to cohabit without sufficient cause disentitles her to maintenance under Section 125(4) CrPC, it does not affect the independent right of a minor child to receive sufficient support from the father, which must be awarded from the date of the application.

“To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country.”

CALCUTTA HIGH COURT • 2023

SOURCE WBCHCA0285112019

10 Private Party v. Private Party

HIGH COURT OF UTTARAKHAND • 2023-07-13 • CRLR/403/2018

This revision petition challenged a Family Court order granting monthly maintenance to a wife under Section 125 of the Cr.P.C. The husband argued the maintenance application was not maintainable because the wife was already receiving maintenance pendent lite under a separate proceeding before the Allahabad High Court and because a divorce decree had been granted. The court, citing the Supreme Court's decision in *Rajnesh v. Neha*, held that maintenance claims under different statutes are maintainable provided that the court accounts for and adjusts maintenance already awarded in previous proceedings. The court found that the trial judge correctly ordered an adjustment of the payments and dismissed the revision.

HELD The High Court held that maintenance claims under parallel statutes (such as Section 125 CrPC and Section 24 HMA) are maintainable. However, to maintain equity and prevent double recovery, subsequent courts must grant a set-off or adjustment of the maintenance awarded in previous proceedings.

"It would, however, be inequitable to direct the husband to pay maintenance under each of the proceedings, independent of the relief granted in a previous proceeding."

HIGH COURT OF UTTARAKHAND • 2023

SOURCE UKHC010186522018

11 Sima Ghosh v. Ashim Bose & Anr.

CALCUTTA HIGH COURT • 2022-04-22 • CRR/1096/2019

This case concerns whether a wife is entitled to maintenance under Section 125 of the Code of Criminal Procedure after her marriage has been annulled by a civil court decree. The trial court had previously denied maintenance, citing the annulment as a change in circumstances under Section 127 of the CrPC. The petitioner argued for a purposive interpretation of the statute to prevent destitution, while the respondent contended that an annulled marriage precludes the status of a wife for maintenance purposes. The High Court examined the relevant legal precedents, including the scope of 'divorced wife' under Section 125, and considered the interplay between annulment decrees and the right to permanent alimony under the Hindu Marriage Act.

HELD The High Court ruled that the annulment of a marriage does not ipso facto strip a wife of her right to maintenance under Section 125 CrPC. An order of maintenance can only be set aside if the wife has received adequate permanent alimony under Section 25 of the HMA or if statutory exclusion criteria are proved.

"Therefore annulment of marriage ipso facto cannot be a ground for setting aside an order of maintenance until and unless it satisfies that a permanent alimony was received by a wife and also the conditions under Section 125 of Code of Criminal Procedure for which a wife is not entitled to get maintenance is satisfied."

CALCUTTA HIGH COURT • 2022

SOURCE WBCHCA0185412019

12 Ajay Gagat v. Manisha

HIGH COURT OF PUNJAB AND HARYANA • 2011-10-03 • CR/6060/2011

The petitioner challenged a trial court order awarding his wife maintenance of Rs. 4,000 per month and litigation expenses under Section 24 of the Hindu Marriage Act. The petitioner argued that maintenance should be capped at one-fifth of his gross salary, but the High Court rejected this, clarifying that no such fixed formula exists. The court held that maintenance must be determined based on the parties' respective incomes, living standards, and reasonable requirements to ensure the wife can live with dignity without being excessive. Finding the trial court's award reasonable given the husband's income, the High Court dismissed the petition.

HELD The High Court held that the phrase "unable to maintain herself" does not require a wife to be absolutely destitute or starving before applying for maintenance. The test is whether she can maintain a standard of living consistent with her husband's family status, and the amount fixed must allow her to live in reasonable comfort.

"The expression "unable to maintain herself" does not mean that the wife must be absolutely destitute before she can apply for maintenance under Section 125 Cr.PC."

HIGH COURT OF PUNJAB AND HARYANA • 2011

SOURCE PHHC010092262011

13 K. Vimala v. K. Veeraswamy

SUPREME COURT OF INDIA • 1991-03-20 • 1991 INSC 80

The appellant filed for maintenance under Section 125 of the Code of Criminal Procedure, but the husband contested the claim by arguing their marriage was void due to a subsisting prior marriage. The Magistrate initially awarded maintenance, but the High Court set it aside. The Supreme Court overturned the High Court's decision, holding that Section 125 is a social welfare provision intended to prevent destitution. The court ruled that when a husband seeks to deny maintenance by claiming a prior marriage, he bears a heavy burden of proving the existence and validity of that first marriage. Insurance nominations and identity card entries are insufficient as conclusive proof. Absent strict evidence, the marriage remains valid for maintenance purposes.

HELD The Supreme Court held that Section 125 CrPC must be interpreted as a measure of social justice. When a husband attempts to defeat a maintenance claim by raising a defense that the marriage is void due to a prior marriage, the court must demand strict, conclusive proof of the subsistence of the first marriage.

"When an attempt is made by the husband to negative the claim of the neglected wife depicting her as a kept-mistress on the specious plea that he was already married, the court would insist on strict proof of the earlier marriage."

SUPREME COURT OF INDIA • 1991

SOURCE ESCR010000791991

14 Jamil Ahmed v. Khurshidan

HIGH COURT OF PUNJAB AND HARYANA • 2025-09-23 • CRR(F)/275/2023

This case involved a petition challenging a Family Court order that directed a husband to pay maintenance to his wife and child under Section 125 of the Code of Criminal Procedure. The husband contested the order, alleging that the marriage had been dissolved, a settlement had been paid, and the wife had since remarried. He further argued that he lacked the financial capacity to pay the awarded amount.

HELD The High Court held that both parties in a maintenance proceeding must truthfully present their actual earning capacities. It ruled that the quantum must be realistic and justifiable based on "equistatus" principles, designed to prevent the dependent spouse from falling into penury.

"The rival claimants must scrupulously bring on record their actual respective earning capacities in order for the Court to arrive at quantum of maintenance which is just and fair in terms of principle of equistatus."

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC010229522023

15 Chauhan Anjanaben Jayantibhai v. Chauhan Kanaiyalal Mohanlal

HIGH COURT OF GUJARAT • 2012-08-17 • SA/151/2012

The dispute concerned the determination of permanent alimony under Section 25 of the Hindu Marriage Act. The trial court and appellate court had calculated the husband's income based on his net salary after voluntary deductions such as General Provident Fund (GPF) and loan repayments, resulting in a lower maintenance award. The appellant challenged this methodology, arguing that such discretionary deductions should be included in the income calculation.

HELD The High Court held that for calculating permanent alimony under Section 25 of the HMA, only statutory and compulsory deductions (such as income tax and professional tax) can be excluded from the husband's income. Discretionary savings or personal loan deductions must be considered part of his disposable income.

“Even if it is found that the wife is earning or having some income to survive somehow, that is not sufficient to rule out of application under Section 125 of the Code of Criminal Procedure and it has to be established that from the amount she earned she is able to maintain herself.”

HIGH COURT OF GUJARAT • 2012

SOURCE GJHC240058042012

16 Jaswant v. Rekha Rani

HIGH COURT OF PUNJAB AND HARYANA • 2025-03-19 • CRR(F)/287/2025

This case involved a challenge by a husband to a Family Court order awarding his estranged wife monthly maintenance of Rs.15,000 under Section 125 of the Code of Criminal Procedure. The husband argued that the maintenance amount was excessive and that the wife was not entitled to it as she was educated and employed in a private company. The High Court rejected these contentions, noting that the husband earned a substantial salary as a Havaldar in the Indian Army. It Reaffirmed that a wife's modest independent income does not automatically disqualify her from maintenance. Finding no perversity or legal error in the lower court's decision, the petition was dismissed.

HELD The High Court held that the dominant purpose of Section 125 CrPC is to prevent destitution and secure social justice. The fact that a wife is educated or earning a modest income from private employment does not automatically disqualify her from claiming maintenance, especially if her earnings are insufficient to maintain her accustomed standard of living.

“While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support.”

HIGH COURT OF PUNJAB AND HARYANA • 2025

SOURCE PHHC010323132025

17 Wife v. Husband

HIGH COURT OF ANDHRA PRADESH • 2022-09-06 • CRLRC/2128/2011

This case involved a dispute over maintenance payments between a former husband and wife. The wife initially secured an order for Rs. 30,000 per month from a Magistrate, which was later reduced to Rs. 5,000 by a Sessions Judge. The wife filed a revision petition challenging this reduction. The High Court analyzed the husband's financial capacity and current employment as a software engineer. Finding the initial amount excessive given the evidence and the reduced amount insufficient for modern living costs, the Court partially allowed the petition to enhance the maintenance to a reasonable, balanced figure.

HELD The High Court held that while the husband is legally obligated to support his wife, the quantum of maintenance must be realistic and commensurate with his actual job status and income. The court must balance the husband's present earning capacity with the wife's need to avoid destitution, rather than relying on prior speculative income.

"Since it is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband was required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation, except on any legally permissible ground mentioned in the statute."

HIGH COURT OF ANDHRA PRADESH • 2022

SOURCE APHC010666372011

18 Rohtash Singh v. Smt. Ramendri

SUPREME COURT OF INDIA • 2000-03-02 • 2000 INSC 115

This case addressed whether a wife, against whom a decree of divorce was granted on the grounds of desertion, remains entitled to claim maintenance under Section 125 of the Code of Criminal Procedure. The petitioner argued that the divorce decree absolved him of the obligation to pay maintenance based on Section 125(4) of the Code.

HELD The Supreme Court held that a divorced wife who remains unmarried is entitled to maintenance under Section 125 CrPC if she is unable to support herself, even if the divorce was granted on the ground of her desertion. The statutory bar under Section 125(4) only applies during the subsistence of the marriage.

"A woman after divorce becomes a destitute. If she cannot maintain herself or remains unmarried, the man who was, once, her husband continues to be under a statutory duty and obligation to provide maintenance to her."

SUPREME COURT OF INDIA • 2000

SOURCE ESCR010001662000

19 Pravin Namdeo Gaikwad v. Ashvini Pravin Gaikwad

BOMBAY HIGH COURT • 2025-07-30 • REVN/1/2025

This case involved a criminal revision application challenging an ex-parte maintenance order of Rs. 18,000 per month granted by the Family Court. The husband contended that he was denied a fair opportunity to contest the case because his former legal counsel failed to appear or inform him of the proceedings. The High Court observed that the husband had not been given a proper opportunity to submit his assets and liabilities affidavit as required by law. Consequently, the High Court set aside the ex-parte order and remanded the matter back to the Family Court for fresh adjudication. However, the husband was ordered to continue paying the maintenance amount until the case is finalized to ensure the wife's ongoing subsistence.

HELD The High Court ruled that the mandatory requirement to file Assets and Liabilities affidavits as laid down in *Rajnish v. Neha* is foundational for fair adjudication. If a party is denied a reasonable opportunity to file their disclosures, the ex-parte order must be remanded, but interim support must continue to secure the wife's survival.

"The Section 125 Code of Criminal Procedure was conceived to ameliorate the agony, anguish, and financial suffering of a woman who left her matrimonial house for the reasons provided in the provision, so that some suitable arrangements can be made by the court and she can sustain herself and also her children, if they are with her."

BOMBAY HIGH COURT • 2025

SOURCE HCBM040004832025

20 Savitaben Somabhai Bhatiya v. State of Gujarat

SUPREME COURT OF INDIA • 2005-03-10 • 2005 INSC 128

The case addressed whether a woman married through customary rites to a man who already had a living spouse is entitled to maintenance under Section 125 of the Code of Criminal Procedure, 1973. The Court held that the term 'wife' in Section 125 refers strictly to a legally married woman. Because the respondent's previous marriage was established, his second marriage was a nullity, rendering the appellant ineligible for maintenance despite her claims of being unaware of his prior marriage. The Court clarified that while social justice is a goal of the provision, it cannot expand the definition of 'wife' to include parties not lawfully married. However, it maintained the maintenance award for the child, enhancing the quantum.

HELD The Supreme Court held that the term "wife" under Section 125 of the CrPC refers strictly to a legally married wife. A woman who enters into a void marriage due to the subsistence of her husband's prior marriage is not entitled to maintenance under Section 125, although child support remains enforceable.

"But as the position in law stands presently there is no escape from the conclusion that the expression 'wife' as per Section 125 of the Code refers to only legally married wife."

SUPREME COURT OF INDIA • 2005

SOURCE ESCR010001402005

21 Tarun Pandit v. State of U.P.

ALLAHABAD HIGH COURT • 2022-01-06 • CRLR/1154/2021

This case concerns a criminal revision petition against a maintenance order granted by a Family Court under Section 125 of the Code of Criminal Procedure. The revisionist husband contested the maintenance award, arguing that the court lacked jurisdiction and that the wife was not entitled to maintenance because a divorce decree had been passed by a separate court, which included a permanent alimony award of Rs. 25 lakhs. The wife argued that the divorce decree was under appeal, that she had not accepted the alimony, and that she remained entitled to maintenance under the Code of Criminal Procedure. The court examined the principles of parallel maintenance claims and whether the existence of a separate alimony award under the Hindu Marriage Act precludes a claim under Section 125.

HELD The High Court held that a wife can legally claim maintenance under multiple overlapping statutes (such as Section 125 CrPC and the DV Act). While subsequent courts must adjust or set off previous awards, the mere passing of an unaccepted civil permanent alimony decree under appeal does not preclude her Section 125 claim.

“The Hon’ble Apex Court has thus held that a wife can make a claim for maintenance under different statutes. 10 There is no bar to seek maintenance both under the protection of Women against Domestic Violence Act, 2005 and Section 125 of the Cr.P.C., or under Hindu Marriage Act.”

ALLAHABAD HIGH COURT • 2022

SOURCE UPHC010829342021

22 Aditi alias Mithi v. Jitesh Sharma

SUPREME COURT OF INDIA • 2023-11-06 • 2023 INSC 981

This appeal concerned a dispute over the maintenance amount awarded to a minor daughter. The High Court had reduced the monthly maintenance from ₹20,000 to ₹7,500, citing the father's alleged financial distress. The Supreme Court observed that the High Court's order was cryptic and failed to provide adequate reasoning. Furthermore, the record did not indicate that the parties had filed mandatory Affidavits of Disclosure of Assets and Liabilities, as required by the Supreme Court's guidelines in the case of *Rajnish v. Neha*. Consequently, the Supreme Court set aside the High Court's order and remanded the matter for a fresh consideration in accordance with established legal procedures.

HELD The Supreme Court held that the directives in *Rajnish v. Neha*, particularly the mandatory filing of Assets and Liabilities Affidavits by both parties, are strictly binding on all courts. Cryptic orders that modify maintenance without reviewing these affidavits are legally unsustainable and must be set aside.

“Guidelines were issued in exercise of powers under Article 136 read with Article 142 of the Constitution of India, prescribing a uniform form at of Affidavit of Disclosure of Assets and Liabilities to be filed in maintenance proceedings.”

SUPREME COURT OF INDIA • 2023

SOURCE ESCR010007092023

N. Usha Rani v. Moodudula Srinivas

SUPREME COURT OF INDIA • 2025-01-30 • 2025 INSC 129

The case addressed whether a woman could claim maintenance under Section 125 of the Code of Criminal Procedure from her second husband when her first marriage had not been formally dissolved by a court decree. The husband had knowingly entered into a marriage with the appellant twice, despite being aware of her previous union, which had effectively ended through a separation agreement. The Supreme Court emphasized the social welfare objective of maintenance provisions, aimed at preventing destitution. The Court held that since the appellant was de facto separated and not receiving support from her first spouse, she could not be denied maintenance. The Family Court's original award was restored, rejecting the technical defense that the marriage lacked legal validity.

HELD The Supreme Court held that the term "wife" under Section 125 CrPC should receive a broad and purposive interpretation to advance social justice and protect deserted women. When a husband knowingly enters into a marriage despite an undissolved prior union, he cannot rely on a technical defense of nullity to escape his maintenance obligations.

"We are of the opinion that a broad and expansive interpretation should be given to the term "wife" to include even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time"

SUPREME COURT OF INDIA • 2025

SOURCE ESCR010002672025

24 Saurabh Kohli v. Pooja Kohli

HIGH COURT OF DELHI • 2018-05-02 • MAT.APP.(F.C.)/90/2018

This case involves an appeal by a husband against a Family Court order directing him to pay Rs. 10,000 per month as interim maintenance to his wife under Section 24 of the Hindu Marriage Act. The husband contested the order, alleging that the wife was gainfully employed and financially independent. Upon reviewing the bank statements and evidence, the High Court found that the funds in the wife's account were merely related to her father's business and not personal income. Consequently, the court affirmed the maintenance order, noting that the husband failed to demonstrate that the wife possessed sufficient independent income to support herself, and dismissed the appeal with costs.

HELD The High Court held that the objective of Section 24 HMA is to enable the court to grant reasonable interim maintenance and litigation expenses to a spouse who lacks sufficient independent income. It ruled that where a husband fails to disclose his true business income, the court must estimate it using available capital assets and lifestyle data.

"Section 24 of the Hindu Marriage Act makes a provision for award of interim maintenance to a spouse who has no independent income sufficient to support her and fight the legal battle."

HIGH COURT OF DELHI • 2018

SOURCE DLHC011155132018

25 Sai Kumar Mankunda v. Ankita

HIGH COURT OF CHHATTISGARH • 2025-07-29 • CRR/917/2025

The applicant challenged a Family Court order directing him to pay Rs. 3,000 per month as interim maintenance to his wife. The applicant argued that his wife was employed and capable of supporting herself, and that he had filed for restitution of conjugal rights. The High Court upheld the maintenance award, noting that the Family Court had appropriately considered the wife's allegations of cruelty and dowry demands, as well as her immediate financial needs. Finding no illegality or infirmity in the lower court's reasoning, the High Court dismissed the revision while directing the Family Court to expedite the final proceedings.

HELD The High Court held that interim maintenance under Section 144 BNSS is designated to provide immediate sustenance to a dependent spouse during the pendency of proceedings. A wife's professional qualifications do not bar her from receiving interim maintenance where she is shown to lack independent financial stability.

“The Court carefully noted the allegations of cruelty and dowry demand made by the non-applicant, her lack of independent financial stability despite her qualifications, and the fact that she has been residing at her parental home since 19.05.2024.”

HIGH COURT OF CHHATTISGARH • 2025

SOURCE CGHC010298412025

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