

Maintenance/Alimony

Sr. No.	Title	Citation	Question involved	Held
1	Shailja & Anr. Vs Khobbanna	Crl. Appeal No.125-126 of 2017, DOD 18.01.2017 (SC)	Wife capable of earning or actually earning – relevance for determination of quantum of maintenance	<ul style="list-style-type: none"> • Held – wife whether capable of earning of actually earning are two different requirements. • Merely because the wife is capable of earning, is not sufficient reason to reduce the maintenance.
2	Shamim Bano Vs Asraf Khan	CRIMINAL APPEAL NO.820 OF 2014, DOD 16 April, 2014 (SC)	grant of maintenance under Section 125	<ul style="list-style-type: none"> • Petition under Section 125 CrPC would be maintainable before the Family Court as long as the appellant does not remarry. • The amount of maintenance to be awarded under Section 125 CrPC cannot be restricted for the iddat period only.”
3	Padmja Sharma Vs Ratan Lal Sharma	2000(3) BCR 10(SC)	Hindu Marriage Act, 1955, Section 26	<ul style="list-style-type: none"> • Grant of maintenance by Family Court. • Subsequent increase in income of husband. • If circumstances have changed, for enhancement of maintenance concerned party could approach the Family Court again as an order under Section 26 of Hindu Marriage Act is never final and decree passed there under is always subject to modification.
4	Amit Kumar Vs Navjot Dubey	MANU/PH/25 83/ 2016 (P&H)	On a claim of maintenance filed by the wife	<ul style="list-style-type: none"> • Held – wife is entitled to enjoy the same amenities of life as she would have been enjoying had she been staying in the matrimonial home. The fact that the wife is drawing more salary than

				the husband is not a ground to deny her claim of maintenance in view of skyrocketing of prices of basic necessities of life, expenses on education of children besides their needs to grow well and face peer pressure.
5	Ajay Bhardwaj Vs Jyotsna and others	Crl. Revision No.(F) 166 of 2015, DOD 23.11.2016 (P&H)	Whether a woman would be entitled to maintenance u/s 125 Crpc on account of live in relationship with the man, not being the wife and there being no valid marriage between the parties	<ul style="list-style-type: none"> • Held – Since there is no valid marriage between the parties as on the date of the petition, there can be no dispute about the fact that children being born out of this relationship would be entitled to receive maintenance. • Section 125 Crpc has been extended by judicial interpretation to partners of live in relationship but the Apex Court has opined that nature of the live in relationship has to be looked into while determining the entitlement. • Reference made to judgment of the Apex Court in D. Velusamy Vs D.Patchaiammal, 2010 (10) SCC 469 and Indra Sarma Vs V.K.V. Sarma (2013) 15 SCC 755 – wherein held that relationship in the nature of marriage should be akin to marriage.
6	Karam Singh & Ors Vs Jagsir Singh & Ors.	2015 (3) RCR (Civil) 45 (P&H)	Adoption deed under Hindu Adoption and Maintenance Act; S.16	<ul style="list-style-type: none"> • Whether failure by the natural father to append his endorsement, on the adoption deed, at the time of registration, does not raise inference of validity, under section 16 of the Act. • After enactment of the Hindu adoptions & Maintenance Act,

				<p>1956, a Hindu may give or take a child in adoption only in accordance with provisions of the aforesaid enactment.</p> <ul style="list-style-type: none"> • The Act, however, does not require an adoption deed to be compulsorily registered or postulates that if an adoption deed is not registered the adoption is invalid. • Thus, if an adoption deed is reduced into writing and is signed by both sets of parents i.e. parents giving in adoption and parents taking in adoption and the adoption satisfies all statutory requirements set out under the Act. • The mere fact that it is not registered or there is a defect in its registration, would not render the adoption deed or the adoption invalid. • The fact that an adoption, valid in all other aspects, signed/thumb marked by both sets of parents but is not attested by natural father at the time of registration, may if at all, raise a presumption that the registration is defective. • But cannot be reference to any provision of the Act, raise an inference that the adoption is invalid. •
7	Sanjay Kumar Vs Bhateri	(2013) 3 RCR (Civil) 223 (P&H)	(Family law) Maintenance versus 24 of HMA claimed by wife after disobeying the decree for RCR.	<ul style="list-style-type: none"> • Hindu Marriage Act, 1955, Ss.24 & 9. • Maintenance – Decree of restitution of conjugal rights. • Mere grant of a decree for a restitution of conjugal rights

				<p>in favour of a husband and disobedience by wife cannot create a legal bar to claim maintenance by a destitute wife who has no income to maintain herself.</p> <ul style="list-style-type: none"> • Disobedience of a decree for restitution of conjugal rights is not a ground in terms of Section 24 of the HMA to deny a claim for maintenance to a party who otherwise satisfy the ingredients of the said provision.
8	Vijay Kumar Vs State of Punjab & others	LPA No.2149 of 2011 (O&M), DOD 22.03.2013 (P&H)	Maintenance under Section 24 Hindu Marriage Act, 1955.	<ul style="list-style-type: none"> • Criminal Procedure Code, 1973, Section 125. • Benevolent order passed in the spirit for the welfare of wife and children cannot be quashed on the ground of absence of express rule. Employer of the husband, (Director General of Police) passed an order that 50% of the salary of the employee would be deducted and would be given to his destitute wife and two children. • Contention that there are no rules to pass such an order, not relied on. Held: having regard to spirit behind such provisions, there is hardly any ground to quash such a benevolent order. • Husband has to take care only of his father where as wife has to take of herself and her two children. • Order upheld.
9	Smt Raj Bala Vs Krishan Avtar Kaushik	2012(8) RCR (Civil) 51 (P&H)	Permanent Alimony under Hindu Marriage Act, 1955, Sections 13, 25 and 27.	<ul style="list-style-type: none"> • Where there is no evidence to suggest that the husband got increase in the salary. • So the amount of permanent

				alimony cannot be enhanced.
10	Sidharth Vs Smt. Kanta Bai	AIR 2007 (MP) 59	Maintenance u/s 24 of HMA read with S.23(2).	<ul style="list-style-type: none"> • The maintenance and the entitlement under Section 24 of the can be made available even in proceeding pertaining to setting aside of an ex-parte decree and restoration of the main suit. • Any relief that has been used in section 23(2) would not cover an incidental and ancillary relief during the proceeding as that has to be construed in broader canvass and would include only substantive relief and further if there is non-compliance of the same. • It would amount to an irregularity and not an illegality and such irregularity is rectifiable at the appellate stage and would not render the judgment or an order a nullity.
11	Bhausahab @ Sandu S/o Raghuji Vs Leela Leelabai w/o Bhausahab Magar	AIR 2004 (Bombay) 283	Civil Procedure Code, 1908, Section 113 – Maintenance to wife. – Hindu Marriage Act, 1955 – Section 25	<ul style="list-style-type: none"> • Maintenance – Claimed by “illegitimate wife”. • Cannot be granted. • An illegitimate wife has no right for permanent alimony. • In absence of recognition of her status to Act. She cannot be entertained for grant of relief. • It is fundamental principle of law that in order to claim a relief from the court of law, there must be a legal right based on a legal status. • When the status of a woman as “wife” is not recognized by provisions of the Act, which confers the right for

				<p>permanent alimony.</p> <ul style="list-style-type: none"> • She cannot be entertained for grant of relief in the absence of recognition of her status by the Act.
12	<p>Kadia Harilal Purshottam Vs Kadia Lilavati Gokaldas</p>	<p>AIR 1961 Guj 202; (1961) GLR 536.</p>	<p>Alimony – Sections 9, 25 and 28 of Hindu Marriage Act, 1955</p>	<ul style="list-style-type: none"> • Hindu Marriage Act – Section 25 any order for permanent alimony under Section 25 after dismissing the appellant’s petition for restitution of conjugal rights is not sustained. • Held – the section is only applicable where a court has passed a substantive decree granting any of the reliefs provided for in Secs. 9, 10, 11, 12, 13 and 14 and that it is applicable where the court has dismissed a petition seeking any one of the aforesaid reliefs. • The court before it can exercise the powers granted under Section 25 must pass a decree that the section vests the court with wide discretion in the matter of making orders for the maintenance and support of one spouse by the other where it passes any decree for restitution of conjugal rights, judicial separation, dissolution of marriage by divorce or annulment of the marriage on the ground that it was void or voidable.
13	<p>Smt. Yamunabai Anantrao Adhav Vs Anantrao Shivram</p>	<p>AIR 1988 644; 1988 SCR (2) 809 (SC)</p>	<p>Section 125 and Hindu Marriage Act (22 of 1955), Sc. 5 (1) (i) and 11</p>	<ul style="list-style-type: none"> • The marriage of a woman in accordance with the Hindu rites with a man having legal spouse, after coming into force of the Hindu Marriage Act, 1955 is a complete nullity in the eye

	Adhad and another			<p>of law .</p> <ul style="list-style-type: none"> • She is not entitled to the benefit of Sec. 125 <u>of the Criminal Procedure Code, 1973.</u>
14	Bajirao Raghoba Tambre Vs Tolanbai (Miss) D/o Bhagwan Toge and Anr.	1980 CriLJ 473 (BOM)	Maintenance – Section 125 of Criminal Procedure Code, 1973, Section 5, 11, 17, 25 and 25 (1) of Hindu Marriage Act, 1955, Section 488 of Criminal Procedure Code, 1898, Section 20 (3) of Hindu Adoption and Maintenance Act of 1956, Section 495 and 496 of Indian Penal Code, 1860.	<ul style="list-style-type: none"> • “Whether the second wife whose marriage is void in view of the provisions of Sections 5 and 11 of the Hindu Marriage Act, 1855 (Act No.25 of 1955) is entitled to apply for maintenance under Section 125 of the code of Criminal Procedure”. • Held – unless and until the complainant (respondent No.1 herein) proves that she is the legally wedded wife of the petitioner, the Magistrate will have no jurisdiction to pass an order of maintenance in her favour.
15	Nalini Prava Behera and Ors Vs Akshaya Kumar Behera	2003 (1) DMC 544, (ORISSA)	Maintenance under Hindu Marriage Act, 1955, Section 25 and 27.	<ul style="list-style-type: none"> • Permanent alimony and maintenance. • Quantum of amount to be determined. • While deciding amount social status, economic condition and standard of living of parties has to be kept in mind. • To make provision for education of children and marriage of female child, amount of permanent alimony enhanced to Rs.4,50,000/- Further directions issued • Appeal disposed of accordingly.
16	Binod Biswal Vs Smt.Tikli @	2002(7) SLR 107; (2002) DMC	Dissolution of marriage and return of properties under	<ul style="list-style-type: none"> • Petition of wife for dissolution of marriage by decree of divorce and for

	Padmini Biswal	446, 2002 (Orissa)	Hindu Marriage Act, 1955, Sections 13(1)(i)(a) and 27.	<p>permanent alimony.</p> <ul style="list-style-type: none"> • Family court granted decree or divorce and awarded permanent alimony of Rs.400/- p.m for herself and child. • Relationship between spouses became so strained making it impossible to live together. • Wife getting meager salary as an Anganbadi worker. • Finding of Family Court upheld.
17	Sunita Singh Vs Raj Bahadur Singh & anr.	1999(3) RCR (Civil)66 (All)	Maintenance under Hindu Marriage Act, 1955, Sections 25 and 27.	<ul style="list-style-type: none"> • Maintenance • Litigation expenses • Wife not entitled to permanent alimony as she had illicit relations with a person and there is prohibition Under Section 25(3) of Act. • Appellant not entitled to litigation expenses or any maintenance.
18	Patel Dharamshi Premji Vs Bai Sakar Kanji	AIR 1968 Gujarat 150	Section 25 of the Hindu Marriage Act	<ul style="list-style-type: none"> • Sec. 25 of the Hindu Marriage Act, 1955. • Application for permanent alimony u/ 25 is maintainable even after decree of divorce. • U/s 25 permanent alimony can be granted even to erring spouse. • In fixing the amount of permanent alimony the lower appellate court was not entitled to take into consideration the amount of maintenance which would be necessary for the purpose of meeting the needs and requirements of the son and in doing so the lower appellate court clearly took

				<p>into account an extraneous or irrelevant factor.</p> <ul style="list-style-type: none">• This is no to say that the respondent would not be entitled to claim maintenance for the minor son from the appellant but the needs and requirements for the son could not be taken into account in determining what should be the amount of permanent alimony to be awarded to the respondent.
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