Subject Name: Hindu Law
Topic Name: Maintenance of Dependents, Children and Daughter in Law

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Maintenance of Dependant

The provision for the maintenance of dependants is outlined in Section 21 of HAMA, encompassing a spectrum of relatives eligible for consideration under the term "dependants."

This roster comprises the father, mother, widow (of either a predeceased son or the son of a predeceased son), minor son/grandson, unmarried daughter/granddaughter, widowed daughter,, and illegitimate son or daughter.

Section 22 further provides that the heirs of a deceased Hindu are obligated to provide maintenance to the deceased's dependants from the estate inherited by them. Each heir bears an individual responsibility proportional to the value of the share received from the estate.

However, a dependant who also qualifies as a Class I heir and inherits a portion of the deceased's property forfeits the right to claim maintenance as a dependant.

Moreover, if a dependant fails to receive a share in the estate of a Hindu who passed away after the Act's commencement, they can petition for maintenance from those individuals, including other dependants, who inherit the estate. The liability of other dependants is confined to ensuring that the remaining portion is sufficient to cover the dependant's maintenance needs.

Maintenance of Children

Section 20 imposes a responsibility on a Hindu individual to provide maintenance for their legitimate and illegitimate children, as well as their elderly or infirm parents, throughout their lifetime.

Moreover, a legitimate child is entitled to claim maintenance from either their father or mother as long as they are minors. Interestingly, the term "parent" encompasses even a childless stepmother.

However, this obligation is contingent upon the parent or unmarried daughter being unable to sustain themselves from their own income or assets. It's worth noting that the duty of a Hindu to support their spouse, minor sons, unmarried daughters, and elderly parents, regardless of their

own possession of property, is intrinsic to the familial relationship and holds a personal and obligatory nature.

In the case of **Padmja Sharma v Ratan Lal Sharma (AIR 2000 SC 1398),** the Supreme Court emphasised the shared obligation of parents to provide maintenance for their minor children, regardless of gender. If both parents are employed, they are duty-bound to contribute to the upkeep of their children in proportion to their respective incomes.

The appellant, the wife, who obtained a divorce decree from the respondent on grounds of cruelty, filed an appeal seeking increased maintenance for their two minor children. She also sought retroactive maintenance from the date of her application under Section 26 of the Hindu Marriage Act, 1955, filed in the Family Court, Jaipur.

Initially, the wife requested maintenance at a rate of Rs. 2575 per month for both children, later clarified to Rs. 2500 per month in her affidavit. She highlighted the husband's monthly salary of Rs. 6233.40 and additionally claimed expenses for the children's school admission and litigation costs.

The Family Court awarded custody of both children to the mother, the appellant, until they reached adulthood, granting maintenance of Rs. 500 per month for each child from October 4, 1997. It also awarded Rs. 1000 as litigation costs to the wife.

The Supreme Court noted that while the term "maintenance" is not explicitly defined in the relevant Acts, the interpretation can be drawn from related legislation such as the Hindu Adoptions and Maintenance Act, 1956 (H.A.M. Act). Section 3(b) of the H.A.M. Act defines maintenance to include provisions for food, clothing, residence, education, medical attendance, and even marriage expenses for unmarried daughters.

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Under Section 20 of the H.A.M. Act, parents are obligated to maintain their minor children during their lifetime, with both mother and father equally responsible for their upkeep. Thus, regardless of the mother's financial status, the father shares the responsibility for the child's maintenance.

Considering the employment of both parents and the increase in their salaries over time, the Court determined that the father should contribute a larger portion due to his higher income. It directed the father to pay Rs. 2000 per month for each child from October 4, 1997, in addition to the Rs. 250 per month already provided under Section 125 of the Criminal Procedure Code.



Maintenance of Daughter-in-Law

According to Section 19 of the Hindu Adoptions and Maintenance Act (HAMA), following the demise of her husband, a Hindu wife retains the entitlement to maintenance from her father-in-law, provided she lacks any means of income, property, or assets from her own endeavours or those inherited from her husband, father, or mother, or even from her children or their estates.

However, this entitlement is contingent upon the father-in-law possessing the means to fulfil this obligation, particularly from any undivided family property in his possession that the daughter-in-law has not previously inherited. Notably, this obligation ceases upon the remarriage of the daughter-in-law.

Amount of Maintenance

The discretion to decide whether and how much maintenance should be granted under the Act lies with the court. When considering maintenance for the wife, children, aged, or infirm parents, the court takes several factors into account:

1. The position and status of the parties involved.

2. The reasonable needs of the claimant.

3. If the claimant is living separately, whether such separation is justified.

4. The value of the claimant's property and any income generated from it, as well as their earnings from other sources.

5. The number of individuals entitled to maintenance under the Act.