INDIALAW



FAMILY LAW

Delhi High Court Upholds Maintenance Obligations Under Section 24 Of The Hindu Marriage Act

AUTHOR Saliha M. Ismail

PUBLISHED 7 June 2025

Introduction

The Delhi High Court in the case of Subhash v. Mamta @ Raksha[1], the Court reaffirmed that a husband's statutory obligation to maintain his wife and child under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as "**HMA Act**"), which provides for interim maintenance during matrimonial proceedings, cannot be reduced by citing personal financial commitments such as loan EMIs or insurance premiums. The Court held that maintenance must be based on the husband's earning capacity and gross income, excluding voluntary expenses, thereby protecting dependent spouses and children from attempts to evade maintenance.

Table of contents

- Introduction
- Background of the Case
- Court's Analysis and Key Observations
- Comparative Insight with Section 125 CrPC
- Family Court's Evidence-Based Findings
- Legal Implications
- Author's View
- Conclusion

Background of the Case

The parties to the dispute, married in 2009, began living separately in 2020 due to marital discord. They have a minor child, with custody granted to the wife. The husband filed for divorce, while the wife sought interim maintenance. The Family Court, after assessing the husband's declared monthly income of approximately ?47,000, directed him to pay a monthly maintenance amount of ?15,000, i.e., ?8,000 for the wife and ?7,000 for the child.

Challenging this order, the husband contended that his actual disposable income was significantly lower due to ongoing financial obligations. He cited servicing multiple personal loans, including a home loan on a jointly owned property, and payment of an annual Mediclaim insurance premium covering the wife and child. Additionally, he argued that his employment was on a contractual basis, and highlighted the wife's qualifications and potential to earn as reasons for reducing his maintenance liability.

Court's Analysis and Key Observations

- **Voluntary Financial Obligations Do Not Reduce Maintenance:**
  The division bench comprising Justice Navin Chawla and Justice Renu Bhatnagar, rejected the husband's contentions and held that maintenance under Section 24 is a statutory and mandatory duty that cannot be circumvented by citing voluntary personal financial liabilities.

The Court observed that deductions such as house rent, electricity charges, repayment of personal loans, premiums towards life insurance, or EMIs for voluntary borrowings:

"These are considered to be voluntary financial obligations undertaken by the earning spouse, which cannot override the primary obligation to maintain a dependent spouse or child."

Further, it stated:

"A person cannot wriggle out of his/her statutory liability to maintain his/her spouse and dependents by artificially reducing his/her disposable income through personal borrowings or long-term financial commitments undertaken unilaterally."

Specifically, the Court clarified that payments like Mediclaim insurance premiums, though covering dependents, are voluntary and do not qualify as deductions for maintenance calculations.

This position is consistent with the Supreme Court's reasoning in *Manish Jain v. Akanksha Jain*[2], where it held that voluntary financial commitments like home loans cannot dilute the legal duty of maintenance, and that standard of living must be a guiding factor in assessing maintenance.

- **Basis for Maintenance Calculation: Gross or Free Income:** The Court emphasized that maintenance must be determined not on the net income after all deductions but on the concept of *free income*, defined as the portion of income available after deducting only necessary and non-discretionary expenses such as taxes and mandatory contributions. Voluntary financial obligations, including personal loans, EMIs, or insurance premiums, are excluded from this calculation. This approach ensures that the assessment reflects the spouse's true earning capacity and standard of living, thereby preventing attempts to reduce liability through artificially self-imposed financial commitments.
- **Wife's Earning Potential and Willful Unemployment**: The Court emphasized that the wife's current unemployment must be viewed in light of her dual responsibilities: caring for a minor child and managing her own medical condition. It held that the physical, emotional, and financial burdens associated with single-handedly raising a child, particularly while coping with health constraints, preclude the expectation of full-time or gainful employment.

"In such circumstances, the inability to engage in full-time or gainful employment cannot be viewed as a voluntary choice, but must be seen in light of the practical limitations imposed by her dual responsibilities."

Accordingly, the Court found her unemployment to be genuine and driven by compelling personal circumstances. This aligns with the Supreme Court's ruling in *Shailja & Anr. v. Khobbanna*[3], which held that even a qualified wife is entitled to maintenance if she is not earning due to legitimate caregiving duties.

Even if the husband is on a contractual job, the Court affirmed that he cannot shirk his statutory obligation under Section 24 of the Hindu Marriage Act by invoking voluntary financial liabilities.

Comparative Insight with Section 125 CrPC

Although the ruling was delivered under Section 24 of the Hindu Marriage Act, courts often interpret it alongside Section 125 of the Criminal Procedure Code, 1973. Both provisions share the same objective preventing destitution and securing financial stability for dependents. Courts have consistently maintained that voluntary liabilities under neither law justify reducing maintenance.

Family Court's Evidence-Based Findings

The Family Court's findings, upheld by the Delhi High Court, were grounded in a thorough examination of documentary evidence, including bank statements, tax returns, income affidavits submitted by both parties, and other relevant financial documents. This comprehensive approach ensured that the maintenance order was based on accurate and reliable financial data.

Legal Implications

This ruling reaffirms the judiciary's commitment to protecting the financial well-being of spouses and children post-separation. It makes clear that voluntary personal expenses, such as loans or insurance payments, cannot be used to reduce statutory maintenance obligations. The judgment reinforces maintenance as an effective financial safeguard rather than a mere legal formality and cautions against attempts to evade liability by inflating personal debts.

The ruling would mandate lower courts to apply a consistent and stringent approach in maintenance assessments, focusing on actual disposable income after necessary expenses. It also highlights the need for clearer judicial guidelines or legislative reforms to address complex financial circumstances and prevent abuse in maintenance proceedings.

Author's View

This judgment affirms the statutory right to maintenance and reflects the judiciary's fundamental role in ensuring the financial protection of vulnerable family members. It also points to the need for increased awareness among spouses regarding their legal entitlements and the importance of clearer procedural guidance to address complex financial matters in maintenance proceedings.

Conclusion

The Delhi High Court's decision in *Subhash v. Mamta @ Raksha* reaffirms the primacy of maintenance obligations under the Hindu Marriage Act. It clarifies that voluntary personal liabilities like loan EMIs or insurance premiums cannot diminish this responsibility. The ruling strengthens the legal safeguards ensuring financial security for spouses and children and will guide

family courts in future maintenance disputes. For more details, write to us at: **contact@indialaw.in**

[1] Subhash v. Mamta @ Raksha, MAT.APP. (F.C.) 195/2025, (2025) Delhi HC 195

[2] Manish Jain v. Akanksha Jain (2017) 15 SCC 801

[3] Shailja & Anr. v. Khobbanna (2018) 12 SCC 199

Related Practice Areas

Family Law Dispute