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Earning Capacity as a Bar to Maintenance: The Allahabad High Court’s Ruling in Dr. Garima Dubey v. Dr. Saurabh Anand Dubey

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A note on First Appeal No. 594 of 2025, decided on April 21, 2026 by the High Court of Judicature at Allahabad (Hon'ble Atul Sreedharan J. and Hon'ble Vivek Saran J.)

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Background

Matrimonial litigation between highly qualified professional spouses throws up questions that courts are increasingly called upon to answer: when both parties hold advanced degrees and possess independent earning capacity, who owes whom financial support during the pendency of divorce proceedings? The Allahabad High Court's decision in Dr. Garima Dubey and 3 Others v. Dr. Saurabh Anand Dubey addresses this question directly and without equivocation. The appellant, Dr. Garima Dubey, is a Post Graduate specialist in Gynaecology holding an M.D. degree. The respondent, Dr. Saurabh Anand Dubey, is a Neurosurgeon. Both parties are residents of Prayagraj. A divorce petition was filed by the respondent-husband, and during its pendency, the appellant-wife along with her three children two daughters and a son filed an application under Sections 24 and 26 of the Hindu Marriage Act, 1955 seeking maintenance pendente lite and expenses of the proceeding. The trial court allowed the application under Section 26 for maintenance of the children, with the respondent undisputedly paying Rs. 60,000 per month. However, the application of the wife under Section 24 was dismissed. Aggrieved, she filed the present first appeal before the High Court. The High Court, by a judgment dated April 21, 2026, dismissed the appeal and affirmed the trial court's order.

The Legal Framework: Section 24 of the Hindu Marriage Act, 1955

Section 24 of the Hindu Marriage Act, 1955 provides that either spouse may seek maintenance pendente lite and expenses of proceedings from the other if they have no independent income sufficient for their support and the necessary expenses of the proceedings. The provision is gender-neutral; a husband can seek it just as a wife can. The threshold condition is the absence of independent income sufficient for support. The operative phrase is 'has not independent income sufficient for her or his support.' Courts have interpreted this broadly to include actual income and the capacity to earn. It is settled law that a spouse who deliberately refuses to earn, despite being fully qualified to do so, cannot take advantage of Section 24 by projecting themselves as financially dependent. The principle is one of good faith: the section is designed to prevent genuine hardship, not to subsidize deliberate idleness in the middle of a matrimonial dispute. Section 26 operates separately. It deals with custody, maintenance, and education of minor children. The trial court's decision to allow maintenance for the children under Section 26 while rejecting the wife's claim under Section 24 reflects exactly this statutory distinction. Children have an unconditional claim to support from their parents regardless of what the parents earn or earn capacity to earn. A parent's professional competence does not diminish the child's right. The mother's professional competence, however, directly bears on her own claim under Section 24.

The Court's Reasoning

The appellant's primary submission before the High Court was that she was not currently working because she had been removed from the hospital after the commencement of litigation by the respondent-husband. She relied upon the Supreme Court's judgment in Chaturbhuj v. Sitabai, reported in 2008 AIR SC 530, where the Court had upheld maintenance under Section 125 of the Code of Criminal Procedure in favour of a wife who was unemployed and the husband had sufficient means. The High Court distinguished Chaturbhuj on facts. In that case, the wife was genuinely unemployed and the husband had the financial means to maintain her. In the present case, the facts presented an entirely different picture. The Income Tax Returns of the appellant on record showed that she had been earning more than Rs. 31 lakhs per annum. The trial court had relied upon these ITRs to arrive at its conclusion. The High Court saw no reason to interfere. The Court then enunciated a principle that is worth

quoting carefully: where a qualified person is capable of earning more than enough through the use of her expertise and still refrains from doing so only to impose a burden upon her husband, courts can deny maintenance under Section 24. The argument that she was removed from the hospital was accordingly rejected. A trained gynaecologist in a city like Prayagraj, the Court appears to have concluded, has ample avenues to practice independently and is not entirely dependent on a single hospital appointment for her livelihood.

Earning Capacity versus Actual Earnings: The Emerging Judicial Approach

The distinction between actual income and earning capacity is one that courts across India have been grappling with for several years. In cases involving highly qualified professionals, doctors, lawyers, engineers, chartered accountants there is an increasing judicial trend to look beyond the income shown on paper and assess whether the claimant spouse is suppressing income or deliberately underutilising their qualifications to strengthen a maintenance claim. This approach reflects a significant shift in judicial thinking about financial dependency in marriage. The traditional assumption that a wife is the financially weaker party has been progressively questioned in cases where the wife holds professional qualifications that, in market terms, command substantial income. The law does not require that a party be earning at the time of the application; it requires that there be no income sufficient for support. A gynaecologist with an M.D. degree and a demonstrated track record of earning over Rs. 31 lakhs annually does not fall within the category of a person who has no income sufficient for her support.

This does not mean that a professionally qualified wife can never claim maintenance under Section 24. If she can demonstrate genuine unemployment through loss of licence, incapacity, market conditions, or other credible factors and the husband has substantially greater means, a court may still grant interim support. The key question is always good faith: is the claim of financial need genuine, or is it a tactical position adopted for the purposes of litigation?

The Question of Standard of Living

The appellant had also argued that she was entitled to be supported by the respondent-husband to ensure that she could sustain the same standard of living which she had enjoyed before the separation. This is a recognized consideration in maintenance law. Courts have, in various contexts, acknowledged that a spouse should not be required to suffer a dramatic downgrading of their standard of living on account of a matrimonial dispute still pending adjudication.

However, the standard of living argument works against a party who has the means to maintain that standard themselves. It is an argument designed to bridge the gap between a weaker party's actual resources and the lifestyle the marriage had provided. It does not operate as a stand-alone entitlement. A specialist doctor earning more than Rs. 31 lakhs per year is not in a position of genuine hardship relative to the standard of living the marriage afforded. The Court, therefore, found no merit in this submission either.

Significance and Takeaways

The judgment in Dr. Garima Dubey v. Dr. Saurabh Anand Dubey carries several important implications for family law practitioners and for spouses navigating the procedural aspects of matrimonial litigation.

First, it reinforces that Section 24 is not an automatic entitlement. It requires demonstrating actual financial need, and that demonstration must be honest. ITRs, bank statements, and professional registration records are evidentiary tools that courts will and should examine carefully. A claim of non-employment must be credible in light of the claimant's professional profile.

Second, the judgment affirms the distinction between a parent's claim under Section 24 and a child's claim under Section 26. These are separate statutory provisions serving distinct purposes. The rejection of the wife's claim did not affect and correctly did not affect the children's maintenance, which the Court left undisturbed.

Third, the principle that deliberate non-use of professional qualifications to impose a financial burden on the other spouse can disentitle a party to interim maintenance is now clearly articulated by this Court. This has practical consequences for how lawyers advise clients who are professionally qualified but temporarily not practising.

Fourth, from the respondent's perspective, the case demonstrates the evidentiary value of financial documents filed in court. The ITRs proved decisive. Spouses who seek maintenance while concealing income through strategic non-disclosure do so at considerable risk when the other side places documentary evidence on record.

Conclusion

The Allahabad High Court's decision in Dr. Garima Dubey is a measured and fact-specific ruling. It does not lay down a universal rule that professionally qualified wives are disentitled to maintenance. It holds that where a professionally qualified spouse, with a documented history of substantial earnings, claims financial dependency without credible justification, courts are entitled to be sceptical. Section 24 exists to prevent genuine hardship. Where hardship is not genuine, the provision has no work to do. The judgment will likely be cited in cases involving professional spouses across matrimonial courts. It is a reminder that maintenance law, while sensitive to the vulnerabilities of the financially weaker party, is equally sensitive to good faith. Courts do not look kindly upon the weaponization of financial dependency as a litigation strategy, and this decision makes that position unmistakably clear.

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