

Recent release of guidelines governing maintenance in matrimonial cases:
Rajnish v. Neha

“Maintenance laws have been enacted as a measure of social justice to provide recourse to dependant wives and children for their financial support”¹

India is governed by numerous laws which lay down provisions for maintenance of wife and children by the husband in matrimonial cases. However, no guidelines were set up under any statute that laid down a criterion based on which the maintenance is granted. Determination of such a grant is left upon the court giving the judges the ability to decide awarding of maintenance on a case-to-case basis solely upon their discretion, leading to conflicting judgements and uncertainty of the grant. It was only in November 2020 that the issue was addressed by J. Indu Malhotra and J. Subhash Reddy in the case of *Rajnish v. Neha*² where the judges laid down certain guidelines as basis upon which maintenance claims were to be considered. The guidelines and its reasoning are stated below:

1. While tackling the issue of multiplicity of proceedings that tend to arise due to the numerous statutes under which maintenance can be claimed it was laid that that it is essential for the parties to disclose and the courts to ensure that no maintenance claim between the same parties is in progress or has been decreed by any court of law.
2. In order to decide the quantum of maintenance, the judges, while reiterating and adding on the factors of determination laid down in *Bharat Hegde v. Smt. Saroj Hegde*³, held that it is necessary for both the parties to disclose their assets, income, liabilities, financial responsibilities of the respondent, needs of the claimant, age, employment status and any serious disabilities of either parties.⁴ It was held that taking a note of these factors was necessary in order to determine the status of both the parties so that the maintenance can be awarded keeping in mind the husband’s ability to provide for maintenance and the needs of the wife and child in any.
3. For determination of interim maintenance, it was held that affidavits of disclosure of assets and liabilities of both the parties must be submitted within four weeks in order to enable the court in taking speedy decisions for immediate need.⁵
4. Addressing the presence of different methods adopted by courts in determining the date from which maintenance is awarded, i.e, from the date of: application, order or service of summons, it was held by the court that maintenance must be awarded from the date of application made before the court.⁶ Such a decision was taken keeping in mind the

¹ *Rajnish v. Neha*, (2020) S.C.C. OnLine SC 903.

² *Id.*

³ *Bharat Hegde v. Smt. Saroj Hegde*, (2007) 140 DLT 16.

⁴ *Rajnish v. Neha*, (2020) S.C.C. OnLine SC 903.

⁵ *Id.*

⁶ *Id.*

judicial delays in matrimonial cases and the injustice that shall prevail by depriving a dependent wife and a child of maintenance for the entire duration of the case.

5. To ensure enforcement of maintenance orders of the court, it was held that the courts may adopt either: attaching the property of the respondent, issuing contempt of court proceedings or striking off defense as methods against non-payment of maintenance to the wife and child.⁷

The above guidelines definitely seem to be a positive step towards ensuring uniformity in determination of maintenance in matrimonial cases.

⁷ *Id.*