

Alimony guidelines

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Despite a plethora of maintenance laws, women are left empty-handed for years, struggling to make ends meet after a bad marriage. The new guidelines issued by the supreme court helps the women to lead a normal life who are otherwise destituted due to lack of means after broken marriages.

In news: The Supreme Court has laid down guidelines for matrimonial cases.

Placing it in syllabus: Society

Static dimensions

1. Provisions of Maintenance Laws

Current dimensions

1. Guidelines outlined by SC
2. Importance of the Ruling

Content:

Guidelines outlined by SC:

- The Supreme Court held that **deserted wives and children are entitled to alimony/maintenance from the husbands from the date they apply for it in a court of law.**
- It laid down a uniform and comprehensive guidelines for family courts, magistrates and lower courts to follow.
- This is **based on the rationale that the primary object of maintenance laws is to protect a deserted wife and dependent children from destitution and vagrancy.**
- Any violation would lead to punishments such as civil detention and even attachment of the property of the husband.
- The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his

moral duty to maintain his wife, if he is able-bodied and has educational qualifications.

- Both the applicant wife and the respondent husband have to **disclose their assets and liabilities in a maintenance case.**
- Any earlier case filed or pending under any other law should also be revealed in court.
- Though, the **education expenses of the children** are normally borne by the father, if the wife is working and earning sufficiently, the expenses may be shared proportionately between the parties.
- The **duration of a marriage** should be accounted for while determining the permanent alimony.

Importance of the Ruling:

- As girls are married off early and bear children long before they should, the possibility of a marriage not working out for varied reasons, leaves the young woman and child in extreme distress because often she is not financially independent.
- The judgement is important as women deserted by husbands were reduced to destitution, for lack of means to sustain themselves and their children.
- It **ensures that the judicial orders for grant of maintenance are duly enforced** by husbands, which if neglected leads to punishment.
- As alimony cases are known to drag on for years, the guidelines give a **clarity** regarding the same.

Provisions of Maintenance Laws:

There are **four different types of provisions** regarding maintenance:

1. Provisions under the Hindu Marriage Act, 1955.
2. Provisions under Code of Criminal Procedure, 1973.
3. Provisions under the Hindu Adoptions and Maintenance

Act, 1956.

4. Provisions under the Protection of Women from the Domestic Violence Act.

Provisions under the Hindu Marriage Act, 1955:

- An order may be made by the Court for maintenance (interim or temporary) and expenses of the proceedings under **Section 24** and for permanent maintenance and alimony under **Section 25** of the act.

Provisions under the Code of Criminal Procedure, 1973:

- **Section 125** of the Code provides that “if any person, having sufficient means, neglects or refuses to maintain his wife, unable to maintain herself, a Magistrate of the first class orders such person to make a monthly allowance for the maintenance of his wife.
- The **term “wife” includes a woman who has been divorced by, or has obtained divorce from her husband and has not remarried.**

Provisions under the Hindu Adoptions and Maintenance Act, 1956:

- The Hindu husband is under a duty to maintain his wife during life time.
- Maintenance is a personal/legal obligation.
- The meaning of the **term ‘maintenance’** is given in **Section 3(b)** of the Act which includes provision for food, clothing, residing, education, and medical treatment and in case of an unmarried daughter, also the reasonable expenses of an incident to her marriage.
- **Section 18** states that a Hindu wife, whether married before or after the commencement of this Act, shall be entitled to the maintenance by her husband during her lifetime.
- **A wife who has ceased to be Hindu cannot claim maintenance.**

- However, an unchaste wife who lives with her husband can claim maintenance.

The Protection of Women From Domestic Violence Act, 2005:

- It provides for a specific and effective remedy to an aggrieved person, who is victim of domestic violence while living in the shared household along with the respondent including husband.
- The scope of legislation is wide as it covers not only the wife but every woman who has been living in the relationship in the nature of marriage.
- Maintenance is to be granted under **Section 20** of the Act.
- While disposing of application under **Section 12**, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person as a result of domestic violence.
- The **basic condition for claiming right under the Act is causing violence.**

Mould your thought:

1. What are the different types of provisions regarding maintenance laws in India? Explain the importance of recent Supreme court guidelines on the alimony.

Approach to the answer:

- Write the maintenance laws and provisions
- Write the recent supreme court guidelines
- Conclude by stating its importance