

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 8641 of 2014 (O&M)

Date of decision: 28.05.2015

Ashish Gupta

... Petitioner

versus

Sofia Gupta

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sanjay Jain, Advocate for the petitioner.

Mr. Aman Dhir, Advocate for the respondent.

K.Kannan, J.

I will make no modification of the order passed for interim maintenance in a petition filed under Section 24 of the Hindu Marriage Act. The Court while awarding maintenance of ₹ 40,000/- to the wife has noted the fact of the husband as an employee in an American multinational company drawing a salary of over ₹ 87,000/-. The husband stated that he had some deductions and his take home salary was in the range of ₹ 68,000/- but the Court found that the take home salary was after the deduction of advance salary receipt which was not a compulsory deduction. Taking the overall situation of an income of more than ₹ 85,000/-, the court has provided for an amount which was less than 50% of the salary.

There are various theories for what would be appropriate as maintenance, the values ranging between the $\frac{1}{2}$ to $\frac{1}{5}$ th. A new approach was brought out by a decision in National Insurance Company and others Vs. Minor Deepika, 2009 (6P MLJ 1005, recognizing the wife to be deemed to contribute to 50% of what the husband earns which incidentally translating the mythical notion in India of her being is half the man's body (Ardhnari). The decision in

minor Deepika case (supra) was approved by the Supreme Court in the judgment in Arun Kumar Agrawal and another Vs. National Insurance Company, 2010 RAJ 262, that he will give the benefit to wife close to half of the amount of what the husband was earning. I will not subject this to a modification though, it may seem a liberal approach by a Judge. If it was liberal, so be it.

The counsel says that he has secured information under RTI that the wife is an income tax assessee. If there are any particular circumstances that can justify the modification of the order on the husband securing new proof of the wife's means, it shall be open to the husband to apply to the Court below, which passed the order for modification and as of now, I will find no reason to make reduction of the amount already assessed.

The civil revision petition is dismissed with these observations.

(K.KANNAN)
JUDGE

28.05.2015
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