IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.8669 of 2014 (O&M)
Date of decision: 11.08.2015

Prakul Vashisht .... Petitioner

versus

Shivangi Vashisht .... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. G.S. Attariwala, Advocate, for the petitioner.

Mr. Anuj Raura, Advocate, for the respondent.

K.Kannan, J. *(Oral)*

1. The revision is against the interim maintenance granted to the wife against the husband who is working in a leading newspaper house in India. The court has awarded, during the pendency of matrimonial proceedings, an amount of ₹30,000/- per month as maintenance. The contention by the husband in revision is that his salary is about ₹62,000 and odd and he has also contracted a loan for renovation of house and the deductions are being made every month from his salary. His own take home pay is only ₹49,000/- and if he should be compelled to pay ₹30,000/-, he will be left with literally nothing to take care of himself and also his mother, who is old, ailing and suffering from cancer.

2. At the previous hearing, the wife confronted the petitioner when the bank credits held jointly in an account of the husband and wife which was started in their good times that showed credit for the month of April, 2015 at ₹1,49,485/- and for the subsequent month i.e. May, 2015, an amount of ₹1,54,825/-. The counsel for the petitioner has obtained instructions and has circulated a calculation memo explaining that ₹1,49,485/- was inclusive of yearly incentives based on performance appraisal and the payment of ₹1,54,825/- included leave travelling allowance to the tune of ₹90,000/-. He would urge that apart from these spikes in credits of the account which could be explained as not regular entitlements of the petitioner per month, his salary has at all times hovered around to ₹67,249/- and after deductions, the amount awarded by the court ought not to have been fixed at ₹30,000/-.

3. The contention of the counsel in reply is that there is evidence of the mother at the trial, she is drawing her own pension and she is not dependent on the son. The additional amounts which the petitioner has obtained either as performance based incentive or a travelling expenses are in any event, the benefits accrued to him and the maintenance assessed at ₹30,000/- ought not to be interfered with.

4. I am convinced that the amounts shown in April and May do not show a recurrent entitlement for every month. One is

seen as a merely incentive and another is seen as a travelling allowance claimed by the employee on production of possibly some bills for leave travel allowance. The salary would seem to be ₹67,299/- and taking note of the fact that the mother was not really dependent on him, in the peculiar circumstances of the case by the evidence disclosed, the amount of ₹30,000/-awarded does not appear to be on the higher side. What is appropriate as maintenance is in some way subjective, for, the social status of parties and the reasonable wants have to be taken into account. There are new concepts recognized legally in the compensation jurisdictions that have reckoned the wife's status as 50% of what the male earns. This is not at all times to state that maintenance can be 50% of what the husband earns. It has ranged between 20% to 50% depending on the circumstances. If the husband was capable of generating higher incomes during certain months that would ultimately average to an earning of about ₹75,000/- per month, considering an yearly incentive and the LTA that he can claim. If his income could average to an amount more than what he is actually earning per month taking note of other incentives, the payment of ₹30,000/- surely accords with the status of parties and the reasonable wants. I will make no intervention. Revision petition is dismissed.

(K.KANNAN)
JUDGE

11.08.2015
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