

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.449 of 2005**

1. Smt. Rajkumari, W/o Gokul Prasad Dewangan, aged about 37 years,
2. Ramesh Kumar, S/o Gokul Prasad Dewangan, aged about 15 years,
3. Shiv Kumar, S/o Gokul Prasad Dewangan, aged about 14 years,

Petitioners No.2 and 3 are minor, through their legal/natural guardian mother Smt. Raj Kumari, W/o Gokul Prasad Dewangan

All resident of near Vijay Seeds Shanichari Bazar, P.S. City Kotwali, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh

---- **Petitioners**

versus

Gokul Prasad Dewangan, S/o Roop Ram Dewangan, aged about 44 years, occupation service, working as driver in the office of Executive Engineer, Chhattisgarh State Electricity Board Tifra, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh

---- **Respondent**

For Petitioners	:	None
For Respondent	:	Ms. Sarina Khan, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Order on Board

4.8.2016

1. This petition by the Petitioners is directed against order dated 8.8.2005 passed in Case No.404 of 2005 by the Family Court, Bilaspur, whereby the Family Court has, on the application of the Applicants/Petitioners herein, enhanced the amount of maintenance in favour of the wife from Rs.300/- per month to Rs.750/- per month and in favour of Petitioner No.3, aged 14 years, from Rs.200/- per month to Rs.500/- per month.

2. By now, Petitioner No.3 has become a major and, therefore, he would not be entitled to maintenance. The dispute only relates to the maintenance granted to the wife. From the material available on record, it is obvious that the husband was getting total emoluments of Rs.9,681/- per month and after deduction of the loan advance and Provident Fund, he was getting Rs.4,435/- per month. Even if he was getting Rs.4,435/-

per month, when the wife and the two minor children were living separately from the Respondent, they should have been granted at least 50% of the total emoluments of the Respondent/husband, which would be about Rs.4,500/- per month. Unfortunately, the instant revision petition remained pending for 11 long years and by this time Petitioner No.3 has become major. In the meantime, this Court can take judicial notice of the fact that the pay of the Government Employees has increased many folds after implementation of the report of Sixth Pay Commission, which was effected from 1.1.2006. Now the Seventh Pay Commission Report has been finalised. Though it has not been implemented in the State of Chhattisgarh, it is likely to be implemented very soon. On a very conservative estimate, the income of the husband will be increased to at least Rs.50,000/- per month as on date.

3. I am aware that this Court normally does not enhance maintenance taking into consideration these factors, but one cannot lose sight of the fact that the instant petition of the wife and the minor children has been pending in this Court for 11 years. The wife and the minor children should not suffer for the delayed disposal of their case. Therefore, I take notice of these developments and pass the following orders:

1. With effect from the date of filing of the instant revision petition, i.e., 5.10.2005, the wife shall be entitled to Rs.2,000/- per month as maintenance.

2. Thereafter, after 5 years, i.e., with effect from 5.10.2010, the same shall be raised to Rs.5,000/- per month and with effect from 1.1.2017, it shall be raised to Rs.10,000/- per month.

4. The amount of maintenance is to be paid on or before 15th day of every month. The arrears of maintenance is to be paid in 12 equal

monthly installments on or before 15th day of every month. The wife shall be entitled to file an appropriate application in future for enhancement of amount of maintenance in terms of Section 127 of the Code of Criminal Procedure. The order under challenge is modified to the extent indicated above. The criminal revision is disposed of in the aforesaid terms.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE