

271**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-4944-2016 (O&M)****Date of Decision: 12.10.2018****Surjit Kaur and another****...Petitioners****Versus****Surinder Singh****....Respondent****CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. Ashok Kumar Khunger, Advocate
for the petitioners.

None for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this revision, petitioners have sought enhancement of maintenance by modifying order dated 03.11.2016 of the First Appellate Court affirming the order of trial Court dated 30.11.2015 granting maintenance @ ₹ 1200/- per month to petitioner No. 1 and ₹ 800/- per month to petitioner No. 2 i.e. minor son of petitioner No. 1.

In nutshell, petitioner No. 1 was married to respondent in March, 2009 according to Hindu rites and ceremonies. Out of their wedlock, petitioner No. 2 had born. However, their marriage ran into rough weather due to their temperamental differences. Allegations and counter allegations were levelled against each other. Consequently, petitioner No. 1 was thrown out of matrimonial home. Both the husband and wife started residing separately from each other. The petitioners filed application under Section 125 Cr.P.C. against

respondent.

Hearing both the sides after due notice to respondent, the trial Court awarded maintenance @ ₹1200/- per month to petitioner No. 1 and ₹ 800/- per month to minor son of petitioner No. 1 for their proper upkeep and maintenance.

Being aggrieved, the petitioners approached First Appellate Court but remained unsuccessful as his appeal was dismissed vide order dated 03.11.2016.

Learned counsel for the petitioners contends that both the Courts below have failed to appreciate that respondent, being well able bodied person, can earn ₹ 5000/-per month, even as a casual labourer. It is impossible for the petitioners to maintain themselves with the meager maintenance awarded by the trial Court and affirmed by the First Appellate Court @ ₹2000/-per month. Considering the daily wages of a labourer, the maintenance amount may be enhanced to ₹ 5000/-per month each to both the petitioners.

Respondent, despite service, did not appear to contest the instant petition.

Taking into account the prevalent daily wager rates prescribed by the State Government which is around ₹ 5000/- per month and the fact that respondent is a well able bodied person having capacity to earn his monthly income is taken at ₹15,000/- i.e. ₹ 500/- per day. However, 1/3rd has to be deducted towards his personal expenses. Therefore, after deducting the same, net income of the

respondent can be considered as ₹10,000/- per month, but still some deduction has to be made inasmuch as a daily wager does not get work for the entire month.

Considering above factors and circumstances of the case, maintenance of petitioner No. 1 is enhanced to Rs. 3,000/- per month and that of petitioner No. 2 to ₹ 2,000/- considering his age as 8 years and he is a school going minor child, totaling Rs. 5000/- per month, from the date of filing of the application. The impugned order of the Courts below are modified to the above extent.

Disposed of.

12th October, 2018

shabha

**[RAMENDRA JAIN]
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No