

Amarjit Kaur Vs Ankit Ratta

**PRESENT Mr.Jatin Hans, Advocate,
for the appellant-wife.**

**Mr.Rajesh Verma, Advocate,
for the respondent-husband.**

The respondent-husband had been granted a decree of divorce by the lower Court vide judgment and decree dated 27.5.2016, aggrieved by which, the wife has filed the present appeal.

During the pendency of the appeal, appellant-wife filed an application under Section 24 of the Hindu Marriage Act claiming maintenance pendent lite @ Rs.10,000/- per month besides litigation expenses of Rs.20,000/- alleging that the respondent-husband is working as a Taxi driver and at present he is working with Jas Taxi Stand, Sector 40, Chandigarh, and is earning a salary of Rs.15,000/- per month. It is also alleged that the respondent-husband is also doing agricultural work and is earning additional sum of Rs.30,000/- per month. It is further pleaded that the respondent-husband is an able bodied person capable of earning. Appellant-wife claims that she is not earning though it appears that she prior thereto has been working in the nursing home as a staff nurse.

In the reply filed by the respondent-husband, he has admitted that he is working as a Taxi driver but denied his income to be Rs.15,000/- per month, however, he has admitted that he is earning only a sum of Rs.5,000/- to Rs.10,000/- per month claiming that his income is not fixed. He has levelled certain allegations of matrimonial wrongs against the

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appellant-wife which are not relevant for the adjudication of the present application under Section 24 of the Hindu Marriage Act.

We have considered the facts and circumstances of the case.

On asking of the Court, it has been informed that the appellant-wife had never filed any application under Section 24 of the Hindu Marriage Act before the Lower Court nor she has filed any other proceedings seeking maintenance. However, a criminal case has been registered against the respondent-husband and his family members. Both the parties have not come forward with any documentary evidence pertaining to the actual income of the respondent-husband. It is observed that the respondent-husband is admittedly an able bodied person capable of driving a taxi. He may not fall under the category of skilled labourer but is considered to be capable to earn equivalent to the minimum wages prescribed. The judicial notice is taken of the said fact and on the basis of reasonable estimation, it is considered that monthly income of the respondent-husband is Rs.15,000/- to Rs.20,000/- even if he is considered to be an unskilled labourer. The appellant-wife, no doubt, is capable of earning but no proof regarding her income has been brought on the record. Merely because appellant-wife is capable of earning, is not a ground to deny maintenance pendente lite to her. Even otherwise, it is the statutory duty of the husband to pay maintenance pendente lite during the pendency of matrimonial litigation.

We are of the considered opinion that a sum of Rs.5,000/- per month will be a reasonable amount for the survival of the

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appellant-wife.

The application under Section 24 of the Hindu Marriage Act is allowed and the appellant-wife is awarded a sum of Rs.5,000/- per month as maintenance pendente lite which will be payable by the respondent-wife from the date of application i.e. September 2017. A sum of Rs.20,000/- is awarded towards litigation expenses. It is not out of place to observe here that this amount though ordered earlier was not paid despite repeated opportunities afforded to the respondent-husband.

For payment of entire arrears of maintenance pendente lite as calculated till 30.9.2018 as well as litigation expenses, to come up on 14.9.2018.

It is made clear that in case the arrears of maintenance pendente lite are not paid on said date, the such act of respondent-husband will entail adverse legal consequences.

(M.M.S. BEDI)
JUDGE

July 6, 2018.
raj arora

(ANUPINDER SINGH GREWAL)
JUDGE