

IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No. 114 of 2016

Reena Devi, D/o Devananda Singh, W/o Mithilesh Kumar,
R/o Village – Bajrangi Bagan, Laxmi Nagar, Road No.1,
Q.No.2, P.O. & P.S. – Telco, District – East Singhbhum.

... .. **Appellant**

Versus

1. State of Jharkhand.
2. Mithilesh Kumar, S/o Ramchandra Singh, R/o Chhota Govindpur, Subhash Nagar, P.O. Gadra, P.S. Parsudih, District – Jamshedpur.
3. M.D., Tata Motor, P.O. + P.S. Telco, Jamshedpur, Dist-East Singhbhum.

... .. **Respondents**

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD**

For the Appellant : Mr. Jitendra Nath Upadhyay, Advocate
For the Resp. No.2 : Mr. Dilip Kumar Karmakar, Advocate
For the Resp. State : Mr. Gaurang Jajodia, AC to GP-II
For the Resp. No.3 : Mr. Sankalp Goswami, Advocate

C.A.V. on 07.09.2026

Pronounced on 09/10/2026

Per Sujit Narayan Prasad, J.

1. The instant appeal, under Section 19 of the Family Courts Act, 1984, is directed against the order/judgment and decree dated 22.04.2016 passed by the learned Principal Judge, Family Court, Jamshedpur, East Singhbhum in Matrimonial Suit No.291 of 2008, whereby and whereunder, the suit filed by the respondent-husband for dissolution of marriage by decree of divorce u/s 13(1)(i-a) of Hindu Marriage Act, 1955 against the appellant-wife, has been allowed.

Factual Matrix

2. Brief facts of the case that petitioner Mithilesh Kumar (respondent herein) had solemnized marriage with the respondent Reena Devi (appellant herein) on 23rd February 2003 at Jamshedpur.

It has been stated that marriage was without any dowry and that respondent stayed just for 24 hours at her marital home and latter on accompanied her husband to Ropar Punjab, where the petitioner was an employee of Ambuja Cement. There she insisted to return to her Maika and the parents of the petitioner was called and they brought back the respondent to Jamshedpur after one and half months.

It has been stated that thereafter, respondent father filed a case u/s 498A of the I.P.C. and it is also stated that respondent was ill-tempered and was practically depressed on account of negative attitude of her own parents and family members. Parents of the respondent refused to talk to her and for this reason she used to get depressed and even once tried to commit suicide by hanging herself from ceiling and also once tried to throw herself before a moving vehicle to get herself killed. Both the times the applicant somehow managed to save her.

It has been alleged that respondent avoided doing kitchen work and the mother of the applicant who is an old woman was compelled to do entire household work.

Lastly, it has been stated that on 02.06.2008 respondent filed an application for cancellation of bail of the petitioner and the cause of action arose on the said date.

3. The petitioner husband (respondent herein) on the ground of cruelty, had filed an application under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 before the Family Court for a decree of divorce against his lawfully wedded wife and the same was numbered as the Matrimonial Suit No.291 of 2008 .

4. The case was admitted for hearing.

5. Upon notice, the appellant-wife appeared in the suit proceeding and filed her written statement. She has contested the claim of the applicant, but has admitted that she has filed two cases against the petitioner of the present case, one u/s 125 of Cr.P.C and the other u/s 498A of the I.P.C. She has stated that the case before the Family Court was compromised as she wanted to live-with husband, but again applicant husband physically and mentally tortured her thereafter it has been stated about the fulfillment of demand of dowry which included Rs. 1,50,000/- cash, gold and silver

ornaments, T.V. set, Almirah, utensils and Hero Honda Motor cycle.

Lastly it has been stated that since earlier the petitioner was daily Majdoor, but presently got employment at Telco canteen so he wants to get divorce in order to marry to another girl.

6. The learned Family Judge has taken into consideration the pleading made by the parties and after hearing learned counsel for the parties and taking into consideration the material available on record as also the evidence adduced on behalf of the parties, has framed two issues for adjudication of the *lis*, which is being referred as under:-

“(i) Whether after solemnization of marriage respondent treated the petitioner with cruelty?”

“(ii) To what relief or reliefs the petitioner is entitled to?”

7. Thereafter, the case proceeded for evidence during which the petitioner/ respondent-husband herein has examined three witnesses including himself.

8. The appellant-wife has examined herself as witness.

9. The learned Principal Judge, Family court, after appreciating the evidence adduced on behalf of the parties, came to the conclusion that the respondent-husband, has been able to prove and substantiate the factum of cruelty meted out to him by the respondent-wife, the appellant

herein, as such it was held that the husband, the respondent herein, is entitled to get a decree of divorce, against which, the instant appeal has been preferred by the wife-appellant.

10. After notice by this Court to the respondent-husband, he has put in his appearance.

11. Thereafter, when the case was taken up on 08.08.2018 the parties shown their intent to settle the matter amicably as such the matter was referred to JHALSA for exploring the possibility of amicable settlement through mediation.

12. The mediation failed and, as such, the matter was placed for hearing under the heading “final disposal” on 22.11.2018.

13. On 22.11.2018 learned counsel for the appellant prayed for adjournment and on the prayer of the learned counsel for the appellant the matter was adjourned.

14. Again on 18.12.2018 when the matter was taken up, learned counsel for both the parties prayed for adjourning the matter and on their request, the matter was adjourned.

15. Thereafter, on 10.01.2019 the case was dismissed for default since learned counsel for the appellant failed to appear.

16. The instant appeal was thereafter restored vide order dated 24.07.2024 passed in C.M.P. No.88 of 2019.

17. After restoration, the respondent did not appear in this appeal. Mr. D.K. Karmakar, learned counsel who was appearing in this appeal before dismissal of the appeal, has submitted that although he has filed Vakalatnama on behalf of the respondent-husband but the file has been taken away by the concerned respondent and no counsel has been engaged by him.

18. In view of such submission, fresh notice was issued to the respondent-husband to be executed through the Senior Superintendent of Police, Jamshedpur, East Singhbhum.

19. In pursuance to the notice, the respondent-husband appeared and again he has handed over the file to Mr. D.K. Karmakar, learned counsel.

20. Again, learned counsel for the parties submitted that the matter may be sent for mediation at Jamshedpur. On the submission of learned counsel for the parties, the matter was sent for mediation before the District Legal Services Authority, Jamshedpur. But both the parties did not appear before the Mediator, hence, the mediation failed.

21. Thereafter, the matter was taken up on 23rd July, 2026 to hear it on merits.

22. When the matter was being heard on 23rd July, 2026, learned counsel appearing for the appellant-wife has submitted that the Respondent No.2-husband has already

solemnized second marriage and now only the issue of alimony as mandated under Section 25 of the Hindu Marriage Act, 1955 is to be considered.

23. This Court, has asked the parties to file affidavit giving details of asset/properties as per the judgment of the Hon'ble Apex Court in the case of ***Rajnesh versus Neha reported in (2021) 2 SCC 324***, for passing the order under Section 25 of the Act, 1955.

24. At this juncture, Mr. D.K. Karmakar, learned counsel appearing for respondent No.2/husband, has submitted that it is practically impossible for him to file an affidavit, inasmuch as despite having made nearly twenty-five telephonic attempts to contact respondent No.2, the latter has failed to respond.

25. In view of such submission, this Court has observed that the respondent No.2 is deliberately evading the proceedings by withholding proper instructions from his counsel, notwithstanding, the fact that a duly executed Vakalatnama stands in favour of the said learned counsel and directed the Senior Superintendent of Police, Jamshedpur, East Singhbhum vide order dated 23rd July, 2026 to produce the respondent No.2 in the Court on the next date of hearing.

26. On 3rd August, 2026, the respondent No.2 was produced in the Court. The respondent no. 2 has stated that

the conduct, which he has shown, will not be repeated in future, rather he will appear and abide by any direction passed by this Court in future.

27. Mr. D. K. Karmakar, learned counsel appearing for the respondent no. 2, in presence of the respondent no. 2, has submitted that the affidavit which was to be filed in terms of the judgment rendered in the case of ***Rajnesh v. Neha & Anr., (Supra)*** shall be filed within two weeks.

28. It has also been submitted by Mr. Karmakar, learned counsel appearing for the respondent no. 2 that respondent no. 2 is working in Tata Motors.

29. Therefore, Tata Motors was directed to be made party and further, Tata Motors was also directed to file affidavit with respect to the work, income and salary of the respondent no. 2-husband.

30. The affidavit has been filed by the Respondent No.2 in terms of ***Rajnesh v. Neha & Anr., (Supra)***.

31. The Tata Motors has also filed affidavit in pursuance to the aforesaid order.

32. In the affidavit filed by the Respondent No.2, he has stated that he is having no house in his name and he is residing in his ancestral house with his mother and wife.

33. He has further stated that his mother is of 79 years of age and she is suffering from regular old age disease and

the respondent is to look after her by providing medicines and other day to day requirements.

34. It has been mentioned in the affidavit that after obtaining decree on 22.04.2016 in Matrimonial Suit No.291 of 2008, he performed second marriage on 10.07.2018 and he alongwith his wife and mother is living in the same mess and the entire liability is on the shoulder of the respondent.

35. As regards the income of the Respondent No.2, he has annexed the entire salary slips issued by Tata Motors Limited for the month of February, 2024 to July, 2026.

36. From the current salary slip of July, 2026, it transpires that his current gross salary is Rs. 47,498.18 and the net pay is 34,372.18.

37. The Affidavit filed by M/s. Tata Motors Limited also states that the Respondent No.2 has drawn monthly salary of Rs.47,498.18 for the month of July, 2026 and projected gross annual salary is Rs.6,01,213 and the projected take home net annual salary of Rs.5,26,213/- for the current financial year.

38. The matter has been heard on the point of determination of permanent alimony without going in to the merit of the impugned judgment.

Submission of the learned counsel for the appellant:

39. Learned counsel for the appellant has submitted that there is no chance of mediation/re-union, since, the

respondent/husband has already solemnized second marriage.

40. Learned counsel for the appellant has submitted that since the respondent/husband has now solemnized second marriage, as such the only question remains for alimony.

41. Learned counsel for the appellant has submitted that he will not argue the case on merit and prayed that the matter may be resolved by providing the alimony for one time settlement.

42. Lastly, he has submitted that the appellant-wife has no source of income to survive.

Submission of the learned counsel for the respondent:

43. Learned counsel appearing for the respondent has submitted that he also does not want to go into the merit of issue and he has filed counter affidavit giving details of his income and liabilities.

Analysis:

44. This Court has heard the learned counsel for the parties and gone through the finding recorded by the learned Family Judge in the impugned judgment.

45. Being aggrieved with the impugned judgment passed by the learned family court, the appellant-wife has preferred the present appeal. However, after appearance of the respondent-husband, the parties have agreed for permanent

alimony and accordingly submission has been made in support thereof.

46. This Court has interacted with both parties. It is evident that while the appellant-wife is agreeable to the decree of divorce subject to receipt of permanent alimony, the respondent-husband has pleaded financial incapacity. No consensus has therefore been reached between the parties.

47. This Court in the aforesaid backdrop facts and submission requires to consider as to “*what would be the quantum of permanent alimony to meet the needs of the appellant/wife on the basis of pleadings available on record?*”

48. This Court, before considering the aforesaid issue, needs to refer herein the provision of law as contained under Section 25 of the Hindu Marriage Act, 1955, wherein it has been provided that any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent’s own income and other property, if any, the income and other property of the applicant, it may seem to the court to be just, and any

such payment may be secured, if necessary, by a charge on the immovable property of the respondent. For ready reference, Section 25 of the Act, 1955 is quoted as under:

“25. Permanent alimony and maintenance.—(1) *Any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent’s own income and other property, if any, the income and other property of the applicant 1 [the conduct of the parties and other circumstances of the case], it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.*

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the court may deem just.

(3) If the court is satisfied that the party in whose favour an order has been made under this section has re-married or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual intercourse with any woman outside wedlock, 2 [it may at the instance of the other party vary, modify or rescind any such order in such manner as the court may deem just].”

49. It is evident from the aforesaid provision that concept of permanent alimony as provided under Section 25 have been enacted with the object of removing the hardship of the wife or the husband with no independent income sufficient for living or meeting litigant expenses; such a leave can be

granted as well who may also be deprived of the same on proof of having sexual intercourse outside the wedlock. It is also settled position of law that the Court may grant permanent alimony to the party while disposing of the main application even if application has been moved; meaning thereby the intent of the Act is to remove the handicap/hardship of a wife or husband by passing an appropriate order at the appropriate stage either under Section 24 or 25 of the Hindu Marriage Act, 1955. The basic behind this is to sustain the life of husband or wife, if having no sufficient source of income.

50. The Hon'ble Apex Court has also considered the intent of Section 25 of Hindu Marriage Act in catena of Judgments wherein it has been observed that Section 25 of Act 1955 is an enabling provision. It empowers the court in a matrimonial case to consider facts and circumstances of the spouse applying and deciding whether or not to grant permanent alimony. Sub-section (1) of Section 25 provides that a matrimonial Court exercising the jurisdiction under the Hindu Marriage Act may at the time of passing a decree or at any time subsequent thereto on an Application made to it, order to pay maintenance.

51. Thus, a power is conferred on the Matrimonial Court to grant permanent alimony or maintenance on the basis of a decree of divorce passed under the Hindu Marriage Act even

subsequent to the date of passing of the decree on the basis of an application made in that behalf. Sub-section (2) of Section 25 confers a power on the Court to vary, modify or rescind the order made under Sub-section (1) of Section 25 in case of change in circumstances. The power under Sub-section (3) of Section 25 is an independent power. The said power can be exercised if the Court is satisfied that the wife in whose favour an order under Sub-section (1) of Section 25 of the Hindu Marriage Act is made has not remained chaste. In such event, at the instance of the other party, the Court may vary, modify or rescind the order under Sub-section (1) of Section 25 of the Hindu Marriage Act.

52. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy*, (2017) 14 SCC 200**. For ready reference, paragraph 14 of the judgment is quoted as under:

“14. Section 25 of the Hindu Marriage Act, 1955 confers power upon the court to grant a permanent alimony to either spouse who claims the same by making an application. Sub-section (2) of Section 25 of the Hindu Marriage Act confers ample power on the court to vary, modify or discharge any order for permanent alimony or permanent maintenance that may have been made in any proceeding under the Act under the provisions contained in sub-section (1) of Section 25. In exercising the power under Section 25(2), the court would have regard to the “change in the circumstances of the parties”. There must be some change in the circumstances of either party which may have to be taken

into account when an application is made under sub-section (2) of Section 25 for variation, modification or rescission of the order as the court may deem just.”

53. We may note here that a substitution has been brought to Sub-section (3) of Section 25 of the Hindu Marriage Act with effect from 27th May 1976. Earlier, it was provided under Sub-section (3) of Section 25 that if the Court was satisfied that the party in whose favour an order has been made has not remained chaste, it shall rescind the order. The words “it shall rescind the order” appearing in Sub-section (3) of Section 25 were replaced by the said amendment by the words “it may at the instance of the other party vary, modify or rescind any such order”. The legislature in its wisdom by the said substitution has provided that after the facts stated in Sub-section (3) of Section 25 of the Hindu Marriage Act are established, the Court may vary, modify or rescind any such order under Sub-section (1) of Section 25 of the Hindu Marriage Act. Thus, after 1976, there is a discretion conferred on the Court by Sub-section (3) of Section 25 of the Hindu Marriage Act of declining to rescind, vary or modify the order under Sub-section (1) of Section 25 thereof, even if on an Application made by the husband/wife, it is established that the husband/wife has not remained chaste after the decree of maintenance is passed under Sub-section (1) of Section 25.

54. The Hon'ble Apex Court in the case of ***Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112*** while appreciating the core of Section 25 of the Act 1955 has observed that for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

12. As per Section 25, while considering the claim for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case. It is further seen that the court considering such claim has to consider all the above relevant materials and determine the amount which is to be just for living standard. No fixed formula can be laid for fixing the amount of maintenance. It has to be in the nature of things which depend on various facts and circumstances of each case. The court has to consider the status of the parties, their respective needs, the capacity of the husband to pay, having regard to reasonable expenses for his own maintenance and others whom he is obliged to maintain under the law and statute. The courts also have to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and mode of life she was used to live when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party. These are all the broad principles courts have to be kept (sic keep) in mind while determining maintenance or permanent alimony.

55. It needs to refer herein that no arithmetic formula can be adopted for grant of permanent alimony to wife. However, status

of parties, their respective social needs, financial capacity of husband and other obligations must be taken into account. The Hon'ble Apex Court in the case of **U. Sree v. U. Srinivas, (2013) 2 SCC 114** has observed that while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. For ready reference the relevant paragraph is being quoted as under:

“ 33. We have reproduced the aforesaid orders to highlight that the husband had agreed to buy a flat at Hyderabad. However, when the matter was listed thereafter, there was disagreement with regard to the locality of the flat arranged by the husband and, therefore, the matter was heard on merits. We have already opined that the husband has made out a case for divorce by proving mental cruelty. As a decree is passed, the wife is entitled to permanent alimony for her sustenance. Be it stated, while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations. In Vinny Parmvir Parmar v. Parmvir Parmar [(2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290] (SCC p. 116, para 12) while dealing with the concept of permanent alimony, this Court has observed that while granting permanent alimony, the court is required to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party. “

56. In the case of ***Rajnesh v. Neha & Anr. [(2021) 2 SCC 324]*** the Hon'ble Apex Court has extensively dealt with the issue of granting interim/permanent alimony and has categorically held that the objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded. The Hon'ble Apex Court further held that the Court while considering the issue of maintenance, should consider the factors like the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage, for ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

“ 77. The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

78. The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally

qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. [Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7; Refer to Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112 : (2012) 3 SCC (Civ) 290]

79. *In Manish Jain v. Akanksha Jain [Manish Jain v. Akanksha Jain, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the court should mould the claim for maintenance based on various factors brought before it.*

80. *On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications. [ReemaSalkan v. Sumer Singh Salkan, (2019) 12 SCC 303 : (2018) 5 SCC (Civ) 596 : (2019) 4 SCC (Cri) 339]*

81. *A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008)*

1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort. “

57. The Hon'ble Supreme Court in the case of **Rajnesh v. Neha** (supra), provided a comprehensive criterion and list of factors to be looked into while deciding the question of permanent alimony. This judgment lays down an elaborate and comprehensive framework necessary for deciding the amount of maintenance in all matrimonial proceedings, which specific emphasis on permanent alimony and the same has been reiterated by Hon'ble Supreme Court in **Kiran Jyot Maini v. Anish Pramod Patel reported in 2024 SCC OnLine SC 1724**.

58. The Hon'ble Supreme Court in **Kiran Jyot Maini (supra)**, while discussing the husband's obligation to maintain the wife and the importance of his financial capacity in deciding the quantum, observed under para 26 that:-

"26. Furthermore, the financial capacity of the husband is a critical factor in determining permanent alimony. The Court shall examine the husband's actual income, reasonable expenses for his own maintenance, and any dependents he is legally obligated to support. His liabilities and financial commitments are also to be considered to ensure a balanced and fair maintenance award. The court must consider the husband's standard of living and the impact of inflation and high living costs. **Even if the husband claims to have no source of income, his ability to earn, given**

his education and qualifications, is to be taken into account. The courts shall ensure that the relief granted is fair, reasonable, and consistent with the standard of living to which the aggrieved party was accustomed. The court's approach should be to balance all relevant factors to avoid maintenance amounts that are either excessively high or unduly low, ensuring that the dependent spouse can live with reasonable comfort post- separation."

59. The Hon'ble Supreme Court in the case of **Pravin Kumar Jain v. Anju Jain** reported in **2024 SCC OnLine SC 3678** has taken note of the various judgments to clarify the position of law with regard to determination of permanent alimony and the factors that need to be considered in order to arrive at a just, fair, and reasonable amount of permanent alimony. In para 31 it is held as under:

"31. There cannot be strict guidelines or a fixed formula for fixing the amount of permanent maintenance. The quantum of maintenance is subjective to each case and is dependent on various circumstances and factors. The Court needs to look into factors such as income of both the parties; conduct during the subsistence of marriage; their individual social and financial status; personal expenses of each of the parties; their individual capacities and duties to maintain their dependents; the quality of life enjoyed by the wife during the subsistence of the marriage; and such other similar factors. This position was laid down by this Court in Vinny Paramvir Parmar v. Paramvir Parmar, and Vishwanath Agrawal v. Sarla Vishwanath Agrawal."

60. Recently, the Hon'ble Apex Court in the case of **Rakhi Sadhukhan Vs. Raja Sadhukhan [2025 SCC OnLine SC1259]** has enhanced the amount of alimony subject to increase of alimony in every two years.

61. This Court has considered the factual aspect of the said case and on perusal of the fact, referred therein, it is evident that in the said case, the appellant-wife and respondent-husband were married on 18.06.1997. A son was born to them on 05.08.1998. In July 2008, the respondent-husband filed Matrimonial Suit No. 430 of 2008 under Section 27 of the Special Marriage Act, 1954 seeking dissolution of marriage on the ground of cruelty allegedly inflicted by the appellant-wife. Subsequently, the appellant-wife filed Misc. Case No. 155 of 2008 in the same suit under Section 24 of the Hindu Marriage Act, 1955, seeking interim maintenance for herself and the minor son. The Trial Court, by order dated 14.01.2010, awarded interim maintenance of Rs. 8,000/- per month to the appellant-wife and Rs. 10,000/- towards litigation expenses. The appellant-wife then instituted Misc. Case No. 116 of 2010 under Section 125 of the Criminal Procedure Code, 1973. The Trial Court, *vide* order dated 28.03.2014, directed the respondent-husband to pay maintenance of Rs. 8,000/- per month to the appellant-wife and Rs. 6,000/- per month to the minor son, along with Rs. 5,000/- towards litigation costs. The Trial Court, *vide* order dated 10.01.2016, dismissed the matrimonial suit, finding that the respondent-husband had failed to prove cruelty. Aggrieved, the respondent filed FAT No. 122 of 2015 before the High Court of Calcutta. During the

pendency of the appeal, the appellant-wife filed CAN No. 4505 of 2025 seeking interim maintenance of Rs. 30,000/- for herself and Rs. 20,000/- for the son, along with Rs. 50,000/- towards litigation expenses. The High Court, by order dated 14.05.2015, directed the respondent-husband to pay interim maintenance of Rs. 15,000/- per month. Subsequently, by order dated 14.07.2016, the High Court noted that the respondent-husband was drawing a net monthly salary of Rs. 69,000/- and enhanced the interim maintenance to Rs. 20,000/- per month. Finally, the High Court, by the impugned order dated 25.06.2019, allowed the respondent's appeal, granted a decree of divorce on the ground of mental cruelty and irretrievable breakdown of marriage, and directed the respondent-husband to redeem the mortgage on the flat where the appellant-wife was residing and transfer the title deed to her name by 31.08.2019; allowed the appellant-wife and their son to continue residing in the said flat; and continue to pay permanent alimony of Rs. 20,000/- per month to the appellant-wife, subject to a 5% increase every three years. Additionally, the High Court directed payment of educational expenses for the son's university education and Rs. 5,000/- per month for private tuition.

62. Aggrieved by the quantum of alimony awarded, the appellant-wife approached the Hon'ble Apex Court.

63. The Hon'ble Apex Court, by interim order dated 07.11.2023, noting the absence of representation on behalf of the respondent-husband despite proof of service, enhanced the monthly maintenance to Rs. 75,000/- with effect from 01.11.2023. The respondent-husband subsequently entered appearance and filed an application seeking vacation of the said interim order.

64. The appellant-wife contended that the amount of Rs. 20,000/- per month, which the High Court made final, was originally awarded as interim maintenance. She submitted that the respondent-husband has a monthly income of approximately Rs. 4,00,000/- and the quantum of alimony awarded is not commensurate with the standard of living maintained by the parties during the marriage.

65. In response, the respondent-husband submits that his current net monthly income is Rs. 1,64,039/-, earned from his employment at the Institute of Hotel Management, Taratala, Kolkata. He has placed on record salary slips, bank statements, and income tax returns for the year 2023-2024. It is further stated that he was earlier employed with the Taj Hotel, drawing a gross annual salary of Rs. 21,92,525/-. He also submits that his monthly household expenses total Rs. 1,72,088/-, and that he has remarried, has a dependent family, and aged parents. The respondent-husband contends

that their son, now 26 years of age, is no longer financially dependent.

66. The Hon'ble Apex Court taking note of the quantum of permanent alimony fixed by the High Court has come to the conclusion that it requires revision. The said revision is on the basis of the respondent-husband's income, financial disclosures, and past earnings which establish that he is in a position to pay a higher amount. The Hon'ble Apex Court has observed that the appellant-wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoyed during the marriage and which reasonably secures her future. It has also been observed, the inflationary cost of living and her continued reliance on maintenance as the sole means of financial support necessitate a reassessment of the amount.

67. Therefore, Hon'ble Apex Court has held that, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. The said amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, the Hon'ble Apex Court has expressed its view that the Court is not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him

with educational or other reasonable expenses. It has been clarified that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

68. Accordingly, the appeal was allowed and the order of the High Court was modified to the extent that the permanent alimony payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, for ready reference the relevant paragraph of the said order is being quoted as under:

“7. Having considered the submissions and materials on record, we are of the view that the quantum of permanent alimony fixed by the High Court requires revision. The respondent-husband's income, financial disclosures, and past earnings establish that he is in a position to pay a higher amount. The appellant-wife, who has remained unmarried and is living independently, is entitled to a level of maintenance that is reflective of the standard of living she enjoyed during the marriage and which reasonably secures her future. Furthermore, the inflationary cost of living and her continued reliance on maintenance as the sole means of financial support necessitate a reassessment of the amount.

8. In our considered opinion, a sum of Rs. 50,000/- per month would be just, fair and reasonable to ensure financial stability for the appellant-wife. This amount shall be subject to an enhancement of 5% every two years. As regards the son, now aged 26, we are not inclined to direct any further mandatory financial support. However, it is open to the respondent-husband to voluntarily assist him with educational or other reasonable expenses. We clarify that the son's right to inheritance remains unaffected, and any claim to ancestral or other property may be pursued in accordance with law.

9. In view of the above, the appeal is allowed. The impugned order of the High Court is modified to the extent that the permanent alimony

payable to the appellant-wife shall be Rs. 50,000/- per month, subject to a 5% increase every two years, as noted above.”

69. In the backdrop of the aforesaid settled position of law this Court is now re-adverting to the factual aspects of the instant case.

70. It is admitted fact that the marriage of appellant-wife and respondent-husband was solemnized on 23rd February 2003 at Jamshedpur according to Hindu rites and customs prevailing in their society in presence of friends and relatives of both the sides and the respondent-husband has filed the suit for divorce in the year 2016 i.e., after 13 years of marriage, on the ground of cruelty.

71. The suit filed for divorce by the respondent-husband has been allowed, against which the present appeal has been filed.

72. Before this Court, the learned counsel for the parties, on instruction, has submitted that there is no chance of re-union since the respondent-husband has solemnized second marriage.

73. Learned counsel for the appellant-wife has submitted that since the respondent has solemnized second marriage, as such the parties agreed for settlement by way of permanent alimony. Accordingly, affidavit has been filed on behalf of appellant-husband showing his income etc.

74. We have perused the affidavit filed by the respondent-husband annexing therewith salary slips of the respondent-husband for the last more than two years.

75. From perusal of the salary slip of July, 2026 it appears that the current gross salary of the respondent is Rs. 47,498.18 and after deductions the net pay is 34,372.18.

76. This Court, taking into consideration, the salary of the respondent-husband, is of the view that the respondent-husband has constant source of income but the appellant-wife is to survive on the amount of interest to be received from the amount of permanent alimony and the future inflation etc. is also required to be kept in mind before allowing the permanent alimony.

77. Further it needs to refer herein that in maintenance proceedings it is of primary importance that the income of the spouse is first assessed. The process of determining maintenance cannot begin or end with assumptions and it must rest on an assessment of the earning capacity of the person from whom maintenance is sought. If both spouses are earning, the income of each must be examined. However, where the wife is not employed or has no independent source of income, the focus naturally shifts to the income of the husband, which becomes the foundation for fixing the amount of maintenance payable.

78. Such assessment of income may be of two kinds. In cases where documentary evidence such as salary slips, bank statements, or income tax returns are available, the Court can take the actual income as discernible from the record. However, in many cases, husband either fail to disclose his true income, conceal relevant details, or claim to be unemployed despite indications to the contrary. In such circumstances, the Courts must make a reasonable and fair assessment of the husband's income, taking into account his educational qualifications, professional background, past employment, lifestyle, bank transactions, and other material placed on record.

79. Once the income, whether actual or notional, is determined, the Family Court must then proceed to apportion the same among the dependents, including the wife and any children, keeping in view their reasonable needs and standard of living. Therefore, assessing income is the first and most crucial step, as maintenance cannot be determined in vacuum. Only after establishing what the earning spouse actually earns, or can reasonably be expected to earn, can a just and proportionate amount be fixed towards the sustenance of those who are entitled to be maintained.

80. The fact that the wife is earning some amount cannot, by itself, be a ground to deny her claim for maintenance. In the case of **Sunita Kachwaha & Ors. v. Anil**

Kachwaha: (2014) 16 SCC 715, the Hon'ble Supreme Court has observed that even if the wife is employed and earning, that alone does not disentitle her to maintenance if her income is insufficient to enable her to maintain herself with the standard of living that she enjoyed in the matrimonial home. Maintenance, after all, is not a matter of charity but of right – a continuing obligation flowing from the marital relationship, which the husband cannot evade merely by pointing to the wife's limited earning capacity.

81. Further, in **Manish Jain v. Akanksha Jain (supra)**, which has also been referred to in **Rajnish v. Neha (supra)**, the Hon'ble Supreme Court categorically held that the financial position of the parents of the applicant-wife is immaterial while determining the quantum of maintenance. The responsibility to maintain a wife flows from the marital relationship itself and cannot be shifted upon her parents, however well-off they may be.

82. The object of law of maintenance is precisely to prevent such dependence. The grant of maintenance ensures that a woman is not forced to rely on her parents or relatives for basic needs, but can live with dignity and autonomy. Only when adequate maintenance is granted, she can hope to secure independent accommodation, meet her daily expenses and denying or reducing maintenance on the assumption that her parents can support her effectively undermines the very

purpose of law of maintenance, which seeks to protect a deserted or destitute spouse from financial helplessness. The duty to maintain a wife rests primarily on the husband, in case she is not earning for herself, and cannot be diluted on the ground that she is presently living with her parents or that her parents have means to assist her.

83. In every proceeding of determination of alimony, there are two sides to a human story- that of the wife and that of the husband. Each brings forth a version shaped by their experiences, grievances, and perceptions. It is the duty of the Court to assess these narratives not mechanically but pragmatically, and to arrive at a conclusion that is grounded in both evidence and social reality.

84. Thus, the principle governing grant of permanent alimony is that it must be fair, reasonable, and commensurate with the status of the parties, the income and capacity of the husband, and the needs of the wife. The Court cannot impose an amount which is beyond the paying capacity of the husband, nor can it leave the wife without adequate financial security.

85. The average life expectancy of a female in India is approximately 70 years. In the present case, from the trial Court record wherein evidence on affidavit has been filed by the appellant wife it is evident the appellant-wife is presently about 47 years of age. Accordingly, while determining the

quantum of permanent alimony, this Court has considered the period of the next twenty three years as the relevant span for calculation.

86. The learned Family Court had awarded a sum of Rs.3,000/- per month towards maintenance, as disclosed in the affidavit filed by the respondent. However, this Court finds that the said amount is wholly inadequate and meagre. Upon consideration of the current salary slip of the respondent-husband for the month of July, 2026, it is evident that his gross salary is Rs.47,498.18 and the net take-home pay is Rs.34,372.18. If even one-fourth of the net salary is computed under the head of permanent alimony to the appellant/wife the monthly entitlement of the appellant-wife would approximately come to Rs.8500/-. and if same will be Calculated on the basis of the life expectancy of the appellant-wife for the next twenty-three years, the total quantum of permanent alimony would amount to Rs.24,00,000/- (Rupees Twenty-Four Lakhs approximately).

87. This Court, considering the submissions advanced on behalf of parties and law laid by Hon'ble Apex Court as referred hereinabove, has again perused the affidavit filed by the respondent-husband and found therefrom that the respondent's income for the current financial year is about Rs.6,01,213/-. Whereas on the other hand, the appellant-wife

has to survive for his livelihood solely on the amount of permanent alimony so given by the respondent-husband.

88. This Court, taking life expectancy of the wife and the status of the parties, their respective needs, the capacity of the husband to pay, having regard to reasonable expenses for his own maintenance and others whom he is obliged to maintain under the law and statute vis-à-vis the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and mode of life she was used to live when she lived with her husband.

89. This Court is conscious that the respondent-husband is also to survive and he has other liability and responsibility but it is also his utmost duty to maintain the standard of life of the appellant-wife, she would have enjoyed during subsistence of the marriage as per income and status of her husband, the respondent herein.

90. It needs to refer herein that there is no rigid mathematical formula to determine maintenance. However, the Supreme Court in ***Kalyan Dey Chowdhury vs Rita Dey Chowdhury*** (Supra) observed that around 25 per cent of the husband's net salary may serve as a reasonable benchmark, though this is not a universal rule. Courts generally assess the paying spouse's "free income", allowing deductions only for statutory liabilities such as income tax or provident fund,

while disregarding voluntary expenses like equated monthly instalments (EMIs) on loans or insurance premiums.

91. Considering the monthly salary of the respondent-husband at Rs.47,498/-, his obligations, and the reasonable requirements of the appellant-wife, this Court is of the view that a lump sum of ₹20,00,000 (Rupees Twenty Lakhs only) would be just, fair, and reasonable as permanent alimony. This amount balances the financial capacity of the husband with the legitimate entitlement of the wife to secure the future of the appellant-wife, who has no other source of income other than the amount of alimony so received from the respondent-husband for her livelihood and sustenance.

92. The aforesaid amount shall be paid by the respondent-husband in four equal installments within a period of 12 months from the date of passing of the order and first installment shall be paid within a period of two months from today.

93. This Court, considering the factual aspect involved in the case and particularly the fact that due to financial crunch the survival of the appellant-wife may not get disturbed, grants liberty to the appellant-wife that if the amount is not credited to her account, as per the direction passed by this Court, the appellant-wife will be at liberty to approach the court of law in accordance with law.

94. This Court, however, hope and trust that the respondent husband will not invite such situation and will abide by the direction so passed by this Court for permanent alimony in favour of appellant-wife.

95. Accordingly, the order/judgment dated 22.04.2016 passed by the learned Principal Judge, Family Court, Jamshedpur in Matrimonial Suit No.291 of 2008, is hereby affirmed with the aforesaid modification of final payment of alimony to the tune of Rs.20,00,000/- [Rupees Twenty Lakhs] by the respondent/husband to the appellant/wife as directed by this Court.

96. With the aforesaid the directions and observations, as made hereinabove, the instant appeal stands disposed of and decreed in the above terms.

97. Pending Interlocutory Application, if any, stands disposed of.

I Agree

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

Dated : 09/10/2026

Birendra/**A.F.R.**

Uploaded on 09.10.2026