



Alimony Laws: Are They Becoming a Threat to the Male Spouses?

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ABSTRACT

Alimony is the monetary benefit that is received by the female spouse after the termination of marriage. It is granted to the female spouse so that she can overcome her financial problems or maintain herself after the annulment of her marriage. The provisions for alimony are governed according to the different religious personal laws meaning thereby that Hindu spouses get alimony according to the Hindu personal laws and Muslim spouses get it according to the Muslim Personal laws. The right to get alimony, however, is sometimes misused by the female spouses to threaten their male spouses or to take undue advantage. Alimony can be obtained by a female spouse with the only purpose that she could maintain herself if she is not in a position to bear her and children's expenses, if any. But this right sometimes turns into an instrument for women to extort extra money or to threaten their male spouses. It often becomes a long term financial burden on the male spouses. Moreover, the stigma attached to the men that they are sole breadearners and they bear a greater financial responsibility also encourages women to demand alimony as much as they want. The purpose of this paper is to highlight the challenges faced by the male spouses in alimony cases and how this right of alimony acts like an instrument for women to threaten their male spouses.

What is an Alimony?

Alimony is a kind of legal obligation on the male spouse to provide the financial support to the female spouse after divorce. It is usually given in the condition if the female spouse is not in the condition to fulfill the basic needs of life. Marriage is seen as a sacred bond by the customs surrounding marriage. Even in cases where the husband and wife are physically or mentally separated, the obligations and responsibilities of marriage must be fulfilled for the duration of the couple's lives once the knot is tied. Despite having an alienated relationship with his wife, the husband must assume responsibility for her upkeep and support.¹

After Divorce, a woman is exposed to various challenges of life because when she is deserted by her husband and if she is not financially independent then she has to face various financial, social and mental problems. Alimony is not a charitable right of a woman but it is the lawful right of a woman who has been divorced. Divorce alimony is issued to ease any financial strain between the spouses and is typically paid monthly in the form of lump sum payments or periodic installments. The provisions for alimony is given in various personal laws, like Hindu, Muslim, Christian Personal laws. The main objective of giving maintenance is to secure the rights of the dependents and give them a decent standard of life in which they are entitled to live, even in case of termination of marriage due to whatever reasons.

- **Provisions of Alimony under Hindu personal law**

The Hindu Marriage Act, 1955 deals with several provisions for alimony. Section 24 of this act states that if any of the spouse has no independent and sufficient income to maintain or support his or her basic necessities of life or the expenses of proceedings after the divorce, the court may order payment of monthly allowance on the application of the wife or the husband. This section also talks about the temporary alimony which is also known as interim alimony or pendent lite. The purpose of temporary alimony is to support the financially dependent spouse during the divorce process until the divorce is finalized. The goal of the short-term alimony is to maintain the status quo while providing for immediate need.²

Also covered by section 25 of the Hindu Marriage Act of 1955 is perpetual alimony, which is granted when the court determines that one spouse would require ongoing financial support following the divorce. The dependent spouse needs financial support to maintain the same standard of life as they did during the marriage, and it is typically granted when there is a significant disparity in the earning potential or financial resources of the spouses.³

¹ Alimony in India, available at: <https://www.advocatekhoj.com> (22December 2024)

² The Hindu Marriage Act, 1955, s. 24

³ The Hindu Marriage Act, 1955, s. 25

- **Provisions of Alimony under Muslim Personal Law**

Under Muslim Law, the wife's right of maintenance by her husband is an absolute right. Even if the wife has her own source of income, there is an obligation on the husband to maintain her. According to section 3 of The Muslim Women (protection of rights on divorce) Act, 1986, a divorced woman is entitled to a reasonable and fair amount of maintenance by her ex husband within the period of Iddat. This section mentions the Mehar and other property of Muslim women to be given to her at the time of divorce. Then section 4 states that if a woman has not remarried and is unable to maintain herself after the period of Iddat. The magistrate can order for the payment of maintenance. Additionally, section 5 of this act mentions the amount of maintenance. It states that the determination of maintenance is at the discretion of the court, however, the court shall consider various factors while determining the amount.⁴

- **Section 144 of Bhartiya Nagrik Suraksha Sanhita, 2023**

The provision of alimony is also embedded in section 144 of the Bhartiya Nagrik Suraksha Sanhita, 2023. It states that if a person is having sufficient means yet he neglects or refuses to maintain his wife who is unable to maintain herself or his legitimate or illegitimate child who is unable to maintain itself, or his parents who are unable to maintain themselves, the magistrate of the first class may upon proof of such neglect or refusal, order such person

to make a monthly allowance for the maintenance of wife or such child, father or mother as the court may think fit.⁵

Basis on which Alimony is granted

The award of alimony to the female spouse depends upon various factors. There are certain conditions that the court keeps in mind while granting alimony to the wife. The supreme court in *Rajnish v. Neha*⁶ outlined eight key factors that determine alimony. Those are as follows;

- **The social and financial standing of the parties**
- **The wife's standard of living in the marital residence**

Under this head, the court will have to evaluate the financial resources, lifestyle, and social standing of the parties involved. Other factors that may be considered including the size of the properties owned, the number and value of cars owned, the number of air conditioners, and other amenities such as a swimming pool. Since the wife is allowed to retain the same lifestyle as the husband, alimony may be higher if the couple came from a wealthy household with all the comforts of life.

- **Reasonable requirements for the dependent children and the wife**

It is crucial that the wife's demands are fair, even though she has the right to continue living at the same level as before the marriage. For instance, it would be reasonable for the wife to demand all three of the husband's properties if he owned them.

- **Qualifications and job status of each party**

Determining alimony heavily relies on the work situation, education, and abilities of both spouses. According to the *Rajnish v. Neha* case, alimony should be decided in long term marriages if the wife is educated but has to quit her job to support the family.

- **Any compromises made at work to attend to family obligations**

The court must take the wife's income into account while determining alimony if she is highly qualified and currently makes enough money to support herself. When determining alimony, the court may even quantify the wife's loss of income if she is qualified and unemployed or had to quit her job, particularly due to circumstances caused by the husband and his family.

- **The applicant's assets or independent income**

The amount of alimony is determined by the wife or husband's personal income or liabilities, but the court may also take into account if the spouse has a portion or interest in the family property. When determining alimony, the court may also take into account the wife's income from family assets or her right to inherit money or property from her family.

- **Reasonable legal fees for a wife who is not employed**

In family proceedings, the courts always award the woman ad hoc litigation costs, nevertheless, the wife is also entitled to the full cost of her legal defense. This is often given upon verification of payment at the time of the final verdict. The alimony includes provisions for a non working wife's legal costs.

⁴ The Muslim Women (protection of rights on divorce) Act, 1986, s. 3

⁵ Bhartiya Nagrik Suraksha Sanhita, 2023, s. 144

⁶ (2021) 2 SCC 324

- **The husband's financial stability, including his earnings, maintenance commitments, and liabilities**

The courts have ruled over and again that a husband has an obligation to provide for his wife and give her the same quality of life as she had at the time, within the limits of his financial means. Additionally taken into account are the husband's earnings, debts and dependents.

Challenges faced by male spouses in Alimony cases

After getting divorced, not only the female spouse suffers but the male spouse also suffers equally. The separation of couples brings with it various challenges to both of them. The notion that only the wife suffers after termination of marriage and not male is deeply rooted in the society. When two persons are united through a pious ritual known as marriage then they are considered as a one body or entity that's why both bear equal responsibilities towards each other. But when the marriage is annulled they come face to face to oppose each other and in some cases they made false allegations on each other as a reason for the termination of marriage. It is necessary to understand that when a marriage breaks, husband and wife both are exposed to various challenges. The major challenge is the grant of Alimony. After the termination of marriage, the wife seeks alimony from her ex husband. Alimony is the legal obligation on the husband to pay allowance either monthly or whole amount at once to the wife so that the wife could maintain herself and live a decent standard of life as she was living during marriage. During the alimony cases, not only the female spouse faces troubles and difficulties but her ex husband also comes to tackle with various problems. It is not always a man who is guilty sometimes a woman may be guilty for the termination of marriage. The laws for the protection of women are like a weapon to the female spouses who think that they can do anything under the protection of law but the law is meant to protect not to threaten someone. Some women who claim alimony think that they can demand whatever they want from their ex husband. But it should be understood that the purpose of alimony is to give women a decent standard of life and she is not entitled to ask for any unreasonable demand.

"Wife cannot seek Alimony to equalize husband's current wealth", the Supreme Court declared in a divorce case. It further clarified that the stringent legal requirements are meant to protect women's rights rather than be used as a means of "chastising, domineering, or extorting" their spouses.⁷

The challenges faced by male spouses are as follows:

- **Stigma in society**

The pre established notion of society that male is the real torchbearer of the family and he is bound to provide financial help to any member of the family is one of the reason that male spouses suffer during alimony cases. It is also embedded in the society that male is always responsible for the termination of marriage and hence it is his responsibility to provide monetary help to his wife.

- **Proof of financial need:** During the alimony cases, it is on the wife to prove that she is in need of great financial help from her husband. But sometimes the husband is actually not so well off to provide a large amount of alimony to his wife. But the wives always present in the court that their ex husbands have enough assets to give them as alimony and hence it becomes difficult for the male spouses to prove that their real financial status.
- **Gender Bias in legal system:** It is said that alimony laws are gender neutral but it is not true. Man is also entitled to receive alimony from his ex wife if he is not able to maintain himself but it is not usually granted and it is always presumed that only woman is entitled to get alimony. So this is one of the challenge that men have to face during alimony cases and he is bound to provide it any how.
- **Intricate Computation of Alimony:** Sometimes the calculation of alimony is such that men have to bear extra expenses. It means that the court orders the grant of alimony of such a large amount which may become difficult for the husband to pay.
- **False allegations:** In some of the alimony cases, women may use false allegations of domestic violence or dowry exploitation to claim for extra alimony and to gain an advantage in alimony negotiations.

Societal Perceptions and the need for awareness

It is the pre conceived notion of the society that male is the sole bread earner of the family and he has the authority to do anything. The societal construction of male figure resembles that the males are those who have great strength, great intellect and they are always right. But this perception of the society needs a break. As the current scenario explains a different thing, now the male and female are considered as equal and they enjoy the same rights and duties. There are various laws which say that there should not be any kind of discrimination on the basis of gender. In the cases of Alimony, it is always presumed that only male will provide alimony to his wife and this presumption has acted like a weapon to women. They under the veil of alimony try to threaten and extort extra money from their ex husband. It is always believed that men are guilty in cases of divorce but this notion should be corrected. Sometimes a woman may be

⁷ <https://m.economictimes.com>

guilty for the termination of marriage. The social stigma attached to men that they have the capacity to provide alimony to their ex wives is one of the major reason that males suffer a lot.

The society is in great need of reformation. It should be realized by each members of the society that once a knot of marriage is tied, two persons become equally responsible to each other even after the dissolution of marriage. It is not only the male spouse who has to bear all the liabilities and duties after and before the dissolution of marriage. The female spouse should behave like a reasonable and prudent person while asking for alimony. The male spouse is not only entrusted with the liability if maintaining and supporting his wife but he has his parents also to whom he has to look after.

The male spouse too suffers mental strain due to divorce like if he has any children then he has to face the challenges of custody apart from alimony. And he suffers emotionally because of alienation from children. Alimony is not the only problem that a person has to face but the divorce brings with it various challenges to the male spouses.

Recent Case on Alimony Threat:

A 34- year- old Indian man Atul subhash who was an AI technical software engineer committed suicide on 9 December, 2024. He left a 24 page suicide note and 90 minute long video on internet in which he accused his wife of torture and harassment. He before dying not only accused his wife but his mother in law and his brother in law of sustained harassment. Apart from this he raised his objection on the fair trial of the courts and also targeted the judicial system. He wrote in his suicide note that justice is due. In the video that he uploaded on social media, he alleged his in laws family of “extortion” and said that they demanded a certain amount to withdraw the case and they also demanded that the monthly allowance that he was paying to his wife to be raised from 40 thousand to 2 lakhs.

He then questioned the working of judiciary in a fair manner. He talked about the many visits that he made to the courts to attend court hearings and accused a judge of harassment, seeking a bribe from him and mocking him.

His wife, her mother, her brother were arrested and they are charged with Abetment of suicide.⁸

Conclusion:

It can be said that women protection laws are for their benefits and it can't be used to threaten their partners. The alimony laws are provided to women to give them a decent standard of life after the dissolution of marriage and not to extort their husbands. The misuse of women centric laws can have serious repercussions on their partners. Women should behave reasonably while seeking for alimony. The concept of equality irrespective of gender must be followed in every case. There is a need of change in societal perception that only males are foundation of every household but a woman can also be a tough and strong foundation for a household and she also has the capacity to run the world.

⁸ Bbc.com