

When Can a Husband Claim Maintenance?

Under Section 24 and Section 25 of the Hindu Marriage Act, 1955, a husband can seek maintenance if he is financially dependent and does not have an independent income or earns significantly less than his wife. A husband may also claim maintenance if he is unable to work due to physical or mental disability. The court will assess the wife's financial capacity before granting maintenance.

However, courts do not encourage idleness. If a husband is capable of earning but chooses not to, his claim for alimony will likely be rejected.

Legal Provisions That Allow Husbands to Claim Maintenance

Section 24 of the Hindu Marriage Act allows a husband to seek interim maintenance if he cannot afford the cost of the divorce proceedings. The court will assess the income and assets of both spouses before deciding the amount.

Section 25 of the Hindu Marriage Act allows permanent alimony for a husband if he proves financial hardship and the wife has sufficient income. The amount may be given as a lump sum or monthly payments, depending on the case. Courts have the power to modify or revoke maintenance orders if circumstances change.

Landmark Judgments In Regard to Maintenance of Husbands

Several court judgments have clarified when husbands can or cannot claim maintenance.

- In the case of *Nivya V M v. Shivaparsad M K* (2017): In this case, the Kerala High Court ruled that financially capable husbands cannot seek maintenance, as it would promote idleness.
- In *Kamelandra Sawarkar v. Kamelandra* (1992): Here, the Bombay High Court stated that a husband cannot depend entirely on his wife's income for maintenance.
- In *Rani Sethi v. Sunil Sethi* (2011): the Delhi court ordered a wife to pay twenty thousand rupees per month and provide a car for her husband, considering his financial condition.

These cases show that while husbands can claim maintenance, they must prove genuine financial need.

Are Husbands Covered for Maintenance Under Section 125 CrPC?

Unlike the Hindu Marriage Act, Section 125 of the Criminal Procedure Code, 1973, only allows wives, children, and parents to claim maintenance. Husbands are not covered under this law. This has led to petitions in the Supreme Court challenging Section 125 CrPC as gender-biased, arguing that men should also have equal rights to maintenance.

Can a Husband Get Alimony in Restitution of Conjugal Rights Cases?

Under Section 9 of the Hindu Marriage Act, if a spouse leaves the marital home without a valid reason, the other spouse can file for Restitution of Conjugal Rights.

If the wife refuses to return, the husband may later seek divorce and claim maintenance.

However, the Restitution of Conjugal Rights (RAC) is controversial as it has been challenged in courts for violating privacy and autonomy.

What Factors Determine Alimony for Husbands?

If a husband files for maintenance, the court considers the financial capability of both spouses, the husband's earning capacity, health conditions preventing employment, the wife's income, assets, and liabilities, and the standard of living during the marriage.

There is no fixed percentage for alimony. It varies based on the case's circumstances.

Can a Husband Be Denied Alimony?

A husband cannot claim maintenance if he is capable of working but chooses not to, has independent income or assets, has remarried, or is found guilty of domestic violence or adultery.

Expert Divorce Lawyer in Gurgaon

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So, don't just browse. Reach out to an expert divorce lawyer for a consultation.