

How to reduce maintenance to wife

Maintenance or alimony is a right exercised by either of the spouse if they can prove that they are not able to maintain themselves financially. In majority of the cases, it is the wife who requires the maintenance which includes basic necessities such as food, clothing, and shelter and cover rational needs to lead a normal living and to ensure financial sustenance and well being. This maintenance to wife is something that a husband cannot escape from. However, most of the times, the question 'how to avoid maintenance' gets asked. There are a few ways to avoid such meaningless maintenance settlements.

Can the husband claim maintenance from the wife?

Yes. Just like the maintenance to wife, it includes food, shelter, and clothing and should cover the expenses for a decent living. Under section 24 and 25 of the Hindu Marriage Act, 1955, when the husband is not financially independent, he can claim maintenance from his wife who can afford it. However, the court may decide if the same can be awarded after analysing the reasons for financial dependency of the man.

On what basis a husband is not entitled to maintenance?

Just because the husband is not financially independent, he would not be automatically granted maintenance by wife if he has wilfully abandoned his wife or neglected her on his own will or if he has tortured her or subjected her to cruel treatment; if he is suffering from a virulent or venereal disease; if he is living with another wife or if he has a concubine which he keeps in the same residence where his wife lives, or he lives with the concubine at some other place

When can a husband deny maintenance to wife?

While it is the right of a wife to seek maintenance, it can be denied under certain circumstances. According to Section 125 (4) of the Criminal Procedure Code (CrPC), a wife is not entitled to maintenance if she has committed adultery or is infidel or if she is refusing to live with her husband without any sufficient reason or if the divorce is sought by mutual consent or if the husband does not have source of income or the means to provide maintenance. On sufficient proof, the husband can deny maintenance based on one of the above grounds.

What if the husband is not willing to pay maintenance?

When the court has ordered to pay for maintenance and the husband fails to comply without any sufficient cause, the wife can file for execution proceedings. The court may issue warrant against the husband for every breach of the order and may even attach the husband's property and recover the maintenance amount from it.

Can wife claim maintenance when she is capable of earning a sustainable living yet refuses to work?

No. when the wife is qualified enough and is capable of earning well, she is not entitled to claim maintenance from her estranged husband. Even if she claims interim maintenance until she starts working again, it depends on the case whether she would be granted or not.

What happens if the husband is unable to pay maintenance on account of his job loss?

If any such circumstance arises, the husband can move the application to the family court that passed the original order requesting to alter the order to pay maintenance. If the reasons presented by the husband is found to be genuine that he has no means to provide maintenance for his estranged wife, it is the discretion of the Court that the maintenance amount may be stopped, suspended or altered as the Court deem fit. However, several Courts have observed that unemployment cannot be an excuse for not maintaining an estranged wife and child.

Is maintenance amount taxable?

Lumpsum receipt in the name of cash, to his estranged wife is not taxable, since this amount is treated as a capital receipt. This doesn't fall under the head of income as per Income Tax Act, 1961.

If the husband pays monthly maintenance, the said amount is taxable as it is treated as income of the wife.

When the husband is financially independent, he cannot escape from providing maintenance to his estranged wife particularly when she is unable to maintain herself after divorce.

What is the difference between dowry and streedhan?

Any movable or immovable property or money demanded by the bridegroom or his family from the bride's family during or after marriage which the bride's family is forced to provide them is called dowry.

Any movable or immovable property or money given voluntarily to a woman at the time of or after her marriage is considered as Streedhan. It includes expensive jewellery or gadgets given by relatives, guests or close friends as a token of affection.

Can women claim Streedhan after divorce?

Yes. Women have inalienable rights over streedhan. Neither her husband nor his family members will have any right over the same. If the husband or any family member is in possession of such streedhan, they should return the same when the woman demands for the same. It is criminal offence to refuse to return the

streedhan property and the husband or his family members in possession of the same are liable to punishment for the offence of criminal breach of trust.

When both are on equal footing

The prerequisites under section 125 of the Criminal Procedure Code (CrPC) suggests that in order to claim maintenance, the wife should be unable to maintain herself or if the husband is earning sufficiently to maintain wife or if he fails in his duty to maintain his wife. When both the husband and the wife are well-educated and the wife is earning sufficiently well, there is no reason for her to claim maintenance. The husband cannot force himself to beg, borrow or steal in order to provide maintenance for his wife while she is earning sufficiently well for herself. However, the Court may pass order, revise, remove or cancel the maintenance, depending on the case.

Alteration in maintenance allowance

After granting maintenance, the magistrate can increase, decrease, or cancel the same pertaining to any change in the living condition of the parties. For example, if the husband is paying maintenance to estranged wife who was once jobless but has now started earning, her maintenance can be removed.