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# **CONCILIATION IN MAINTENANCE AND ALIMONY**

## **DISPUTES ENSURING ECONOMIC JUSTICE FOR WOMEN**

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### **ABSTRACT**

Though it must be said that conciliation plays a very vital role in the peaceful and fair resolution of maintenance and alimony disputes, which at some stage are meant to provide financial support to a woman after separation or divorce, so that she can live with dignity. Many times, court cases take a long time and they are very costly and very emotionally stressful. Because of that, many times women are found disadvantaged by not only financial difficulty but also delays in justice delivery. Conciliation offers alternatives, which allow both to talk freely with the help of a neutral conciliator or mediator towards a mutually acceptable arrangement.

Conciliation is the best method through which disputes may be settled very quickly without going to the courts for long. It helps to fetch justice to women and also very timely financial help through acceptance of fair financial assistance. It also reduces quarrels along with money savings and creates an ambience of cooperation. The process protects economic rights of women and ensures that they get the financial aid required in standardizing their status.

In India, laws that are profiled in favor of women claiming maintenance include Section 125 of the Code of Criminal Procedure<sup>1</sup>, and the Hindu Marriage Act<sup>2</sup>, as well as the Domestic Violence Act<sup>3</sup>. Conciliation is supportive of these legal rights with practical and just settlement. Further, enhancing the strength of conciliation mechanisms through trained mediators and gender-sensitive procedures can efficiently resolve action dealing with maintenance and alimony. This ensures economic justice for women and entitles them to appreciate equality within society.

**Keywords:** conciliation, alimony, maintenance, economic justice, women's right.

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<sup>1</sup> Section 125, Code of Criminal Procedure, 1973.

<sup>2</sup> Hindu Marriage Act, 1955

<sup>3</sup> Protection of Women from Domestic Violence Act, 2005.

## RESEARCH METHODOLOGY

The doctrinal research methodology has been adopted for this study, which refers to analyzing existing laws, rules, and decisions rendered by the courts. This involves the study of statutory law such as Section 125 of CrPC, the Hindu Marriage Act, and the Domestic Violence Act with respect to important judgments and academic papers. The process aids in finding out how law works, how it is interpreted, and how it is applied in concrete cases like maintenance and alimony disputes. There are no surveys or interviews involved; rather, the work draws primarily from books, articles, reports, and legal texts. This provides a structured and practical approach toward the understanding of legal principles and challenges.

## RESEARCH PROBLEM

Many Indian women face several financial constraints after separation or divorce, primarily due to lengthy legal processes or lack of knowledge on how to use maintenance and alimony stipulations effectively. These standard court procedures are long, costly, and venturesome, eventually placing the lives of women in a virtual state of economic vulnerability. There are, of course, laws such as Section 125 CrPC, the Hindu Marriage Act, and the Domestic Violence Act, but implementation is always challenging in practice. This study intends to look into how conciliation can better address maintenance and alimony disputes in a more effective way, leading to immediate financial relief and the economic empowerment of women, as well as to the challenges identified and suggested improvements to strengthen the process.

## OBJECTIVES

1. To Analyze the role of conciliation in fair, speedy, and peaceful resolution of maintenance and alimony disputes.
2. To Analyze the role of conciliation in granting economic justice and preventing women from losing their financial rights after separation or divorce.

## HYPOTHESIS

The issue whether conciliation in maintenance and alimony disputes serves as an agency ensuring economic justice and timely financial support for women.

## CONCEPT OF MAINTENANCE, ALIMONY, AND ECONOMIC JUSTICE:

Maintenance and alimony are two important legal terms, primarily meant to provide financial assistance to a spouse-determined almost always to be the wife-after separation or divorce. The basic idea of maintenance is to ensure that no woman is left without financial support on the breakdown of a marriage. It is a legal right of a woman to be able to demand for her own food, clothing, shelter, medical care, and all other expenses of her daily life<sup>4</sup>.

Normally maintenance is used against the financial assistance being given during marriage or even after separation but before finalization of divorce. The maintenance can be given monthly to help the dependent spouse maintain a reasonable standard of living.<sup>5</sup> Alimony is generally awarded after divorce is finalised; it may be ordered as a lump sum payment or in instalments. Alimony helps ensure that a woman can live down her head after having lost her husband, especially if she cannot generate any income or has been a home-maker for years.<sup>6</sup>

Economic justice is the philosophy that a person should have equitable access to resources and opportunities for a good life. Economic justice, in marriage and family law, strives to protect women from financial hardship due to separation or divorce. A large number of women face forms of economic dependency owing to unpaid care work, lack of job opportunities, and social barriers<sup>7</sup>.

Thus, balancing maintenance and alimony is a means for the law to balance economic inequalities between spouses. Promoting women's rights is social justice, gender equality, and fairness for the entire society. Thus, maintenance and alimony become more than law obligations, but rather, tools to achieve economic justice in society<sup>8</sup>.

## LEGAL FRAMEWORK ON MAINTENANCE AND ALIMONY IN INDIA:

Women in India have several provisions and laws to safeguard their financial rights in cases of separation or divorce. These laws ensure that women are entitled to receive appropriate financial support and alimony enabling them to lead a life full of dignity and respectable

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<sup>4</sup> providing for maintenance during matrimonial proceedings and post-divorce

<sup>5</sup> allowing spouses to claim monthly maintenance for sustenance

<sup>6</sup> providing monetary relief and maintenance for women.

<sup>7</sup> R. S. Sharma, *Conciliation and Mediation in Family Disputes: A Study of the Indian Scenario*

<sup>8</sup> N. R. Madhava Menon, *Gender Justice and Legal Empowerment in India* (2019).

treatment, without depending on or facing any hardships<sup>9</sup>.

One of the major legal provisions is Section 125 of the Code of Criminal Procedure (CrPC), under which a woman, child, or even parents may claim maintenance when the conditions do not allow for self-maintenance<sup>10</sup>. The provision relates to all religions and communities hence making it a secular law. The primary object of this is to prevent destituteness and to make provisions for quick financial relief.

As per the provisions of the Hindu Marriage Act, 1955, both husband and wife have a right to claim maintenance, but in all probability and most cases, it is for the wife. The Act also empowers a court to award temporary maintenance during the pendency of proceeding and grant perpetual alimony after divorce.<sup>11</sup>

Under the Protection of Women from Domestic Violence Act, 2005, the right to claim maintenance is conferred. Women living in a domestic violent environment can seek assistance in terms of financial, shelter, and protection from the court.

In addition, personal laws like Muslim, Christian, and Parsi laws have their respective provisions regarding maintenance and alimony based on the religious practices. Family courts and other legal forums settle such claims through legal process, combined with other extra-judicial avenues. Together, these laws constitute a robust legal framework supporting a woman financially after separation or divorce. This indeed strives for justice, equality, and protection of women's rights irrespective of their religion or social background.

## **ROLE AND PROCESS OF CONCILIATION IN FAMILY DISPUTES**

Conciliation is very helpful in amicably and cooperatively settling disputes between the parties within the family. Most family disputes, especially standard disputes regarding maintenance, alimony, child custody, or divorce, tend to be emotional and very sensitive<sup>12</sup>. These matters are lengthy, expensive, and stressful for both parties when taken straight to court. Conciliation offers an alternative path of resolution where disputes can be ironed out through discussions

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<sup>9</sup> N. R. Madhava Menon, *Gender Justice and Legal Empowerment in India* (2019)

<sup>10</sup> Code of Criminal Procedure, 1973,

<sup>11</sup> Hindu Marriage Act, 1955

<sup>12</sup> *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24 (India) (recognizing conciliation as an effective method for dispute resolution).

and understanding and not in stringent legal wranglings.

### Function of Conciliation

The burnt portion of the accident site has to be put together for both parties and then provide them with the opportunity for open discussion and fair resolution under a neutral third person, known as the conciliator<sup>13</sup>. The conciliator does not declare judgment like a court. Instead, the person gives information on how to engage in that discussion while also helping illuminate what can be misinterpreted. The conciliator encourages them to agree about a more practical solution. In family disputes, conciliation works in dismantling the bitterness while maintaining the respect that parties hold for each other, while the most pertinent aspect is when the children are involved. It also guarantees speedy settlement of disputable issues, and it saves time as well as money.

Conciliation offers greater protection for both sides, but especially for women and children against the loss of economic stability and psychological security<sup>14</sup>. The idea is to seek win-win solutions instead of declaring one party winner or loser.

### Nature of Conciliation:

Usually, parties engage to accord with or under court authority to refer the matter to conciliation. There is the appointment of a conciliator mostly by the family court, legal service authority, or mediation center<sup>15</sup>. Both parties are allowed to place their respective views across a safe and respectful environment. The conciliator fixes a framework for discussions, proposes possible solutions, and aids the parties in reaching an agreement.<sup>16</sup>

All such settlements are put in writing by both parties and subsequently made legally enforceable through the court if both parties reach an agreement. Conciliation is voluntary. It is confidential and flexible with respect to other principles rendering it applicable to sensitive family issues. All in all, conciliation positively carved peace among conflicting parties without destroying the relationship between them and producing fair outcomes without unnecessary

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<sup>13</sup> R. S. Sharma, *Conciliation and Mediation in Family Disputes: A Study of the Indian Scenario* (2020).

<sup>14</sup> N. R. Madhava Menon, *Gender Justice and Legal Empowerment in India* (2019).

<sup>15</sup> mandating courts to make efforts for settlement before trial

<sup>16</sup> Arbitration and Conciliation Act, 1996

conflict.

## CONCILIATION IN MAINTENANCE AND ALIMONY CASE: PRACTICAL CASES

Conciliation has proved to be an efficient method of resolving maintenance and alimony matters without the hassles and rancor associated with litigation. For many couples, conciliation is indeed preferable to the long, stressful and costly path of courts because it is quicker, cheaper and more understanding<sup>17</sup>. The emphasis of the particular conflicts is to find a fair financial settlement for which a woman should be provided as well as a way in which both parties can accede to the terms without unnecessary conflict.

### Practical Use in Family Courts through:

In India, the family courts cause encouragement to the parties to take a step of conciliation prior to going for the full course of the legal trial<sup>18</sup>. Many of those courts have special counselors, mediators, or legal service authorities who can assist the parties in establishing clear and cooperative communication that leads to formulation of a settlement. In case the application for maintenance or alimony is made, usually the matter is referred by the judge for a subsequent conciliation to establish mutual agreement between the parties<sup>19</sup>.

### Process in Actual Situation:

During conciliation, both husband and wife are facilitated to attend sessions along with a conciliator. They shall be given opportunities to present and explain to the conciliator their respective financial situation, personal, and need-based issues. The conciliator would listen keenly and suggest fair solutions, such as coming up with a fair monthly maintenance figure<sup>20</sup> or a single-shot settlement amount. Such an agreement is recorded and, if the two sides agree, the document is presented in court for the court to make it a legal agreement.

### Advantages:

The practical advantage of conciliation is that it saves both parties valuable time and ends up costing them less financially. A court case could take even months or years, but by reconciling,

<sup>17</sup> *Savitri Pandey v. Prem Chandra Pandey*, (2002) 2 SCC 73 (India).

<sup>18</sup> Family Courts Act, 1984

<sup>19</sup> *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226 (India).

<sup>20</sup> laying down the framework and procedures for conciliation proceedings.

settlements can often be achieved in just a few sessions. This would, of course, reduce emotional disturbance and help keep out bitter court battles from the public eye affecting dignity.

Conciliation allows agreements that meet the requirements of the parties instead of the strict provisions of a court of judgment. Payments could be agreed into different methods of transfer, time frames, and even property transfers all agreed on by both parties. Overall, conciliation very fairly provides for both a cooperative and practical mechanism for financial justice to women while keeping up the respect of the parties concerned.

## CHALLENGES AND SUGGESTIONS FOR EFFECTIVE CONCILIATION

Conciliation, the most beneficial mechanism for the settlement of disputes between family members, i.e., maintenance, and alimony cases, brings its own challenges that give rise to adverse performance in practice<sup>21</sup>. These challenges are such that one needs to understand them wholly, and steps should be taken to enhance this system.

### CHALLENGES

- **Unawareness** – Most women and families are unaware of conciliation as an option, rather, they directly approach the courts<sup>22</sup>.
- **Unavailability of Trained Conciliators** – Not all conciliators have either adequate legal knowledge, skill, or gender sensitivity.
- **Emotional and Socially Coerced**- A woman may have felt socially obliged or coerced not to express her needs openly.
- **Dominated by One Party** – Unconscious process in which stronger parties may exert their influence in order to enforce unfair settlements.
- **Delay in Judicial System** – Court referrals and slow procedure reduce the potential effectiveness of conciliation.

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<sup>21</sup> Analyzing practical challenges in implementation of conciliation mechanisms

<sup>22</sup> Mandating efforts for settlement before trial

- **Inadequate Infrastructure** – No safe private spaces for discussion in family courts.
- **Cultural Trust Barriers**- social norms or distrust between parties may discourage the disclosure of the truth.

## SUGGESTIONS

- **Raise Awareness** – Organizing legal aid programs and campaigns for the awareness of women on conciliation.
- **Train Conciliators** – Impart training on gender and law to mediators for promoting equal treatment in cases.<sup>23</sup>
- **Support women during process**– Continue to assist women with legal aid, counselling, and safe housing, to help them feel at ease.
- **Improving Infrastructure** – Equip family courts and mediation centers with private rooms and other supportive facilities.
- **Time-bound Procedures** – A fix time frame should be established at every stage to avoid delay in the process.
- **Regular Monitoring** – Conciliation outcomes ought to be reviewed and constructive feedback taken to improve the process.
- **Encouragement of Voluntary Settlement** – Cooperative dialogue should be encouraged rather than adversarial proceedings<sup>24</sup>.

## CONCLUSION

In today's legal landscape, conciliation holds significant value, particularly in resolving disagreements over spousal and child support. It provides an alternative to the traditional courtroom process, which can be lengthy, expensive, and emotionally taxing for all parties involved. Conciliation allows individuals to engage in open dialogue and collaboratively

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<sup>23</sup> R. S. Sharma, *Conciliation and Mediation in Family Disputes: A Study of the Indian Scenario* (2020).

<sup>24</sup> N. R. Madhava Menon, *Gender Justice and Legal Empowerment in India* (2019).

develop equitable solutions, avoiding prolonged conflict and delays.

Specifically in matters of support, conciliation ensures that women receive the necessary financial assistance to maintain a dignified standard of living following separation or divorce. It transcends mere monetary considerations, serving to safeguard women's rights and promote respectful interactions during the dissolution of relationships. Unlike adversarial court proceedings that can escalate tensions, conciliation offers a more efficient and cost-effective path toward resolution, facilitating a smoother transition for families.

Beyond simply resolving disputes, conciliation plays a vital role in promoting economic fairness. Women are entitled to equal financial security and prospects. By incorporating relevant legislation such as Section 125 of the Code of Criminal Procedure, the Hindu Marriage Act, and the Domestic Violence Act into the conciliation process, the legal system endeavors to translate the concept of justice into tangible outcomes.

However, the effectiveness of conciliation hinges on more than just legal frameworks. It requires skilled conciliators, a perspective that acknowledges gender dynamics, and widespread awareness of its availability. Family courts and legal aid organizations should prioritize the development of conciliation centers and encourage meaningful discussions that go beyond procedural formalities.

Ultimately, conciliation represents a move toward fairness, genuine equality, and the empowerment of women navigating difficult transitions. When society prioritizes conciliation in support cases, everyone benefits: the justice system, interpersonal relationships, and most importantly, the dignity of women.

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