

## Delhi High Court

Smt Shikha Badhani vs Shri Hemant Badhani on 10 September, 2025

Author: Navin Chawla

Bench: Navin Chawla

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DELHI AT NEW DELHI

\* IN THE HIGH COURT OF

Reserved on: 18.07.2025

on: 10.09.2025  
CM APPL. 45186/2024  
BADHANI

Sahni, Ms. Jasmine

Ashmine Sahni,

BADHANI

Kumar, Mr.

Mr. Rahul & Mrs.

Ghose, Advs.

+ MAT.APP.(F.C.) 252/2024 &  
SMT SHIKHA  
.....Appellant

Through: Mr. R.S.

Sahni & Ms.

Advs.

Versus

SHRI HEMANT

.....Respondent

Through: Mr. Gaurav

Shrestha,

Sutapa

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNGAR

JUDGMENT

RENU BHATNAGAR, J.

1. This appeal has been filed by the appellant, under Section 19 of the Family Courts Act, 1984, challenging the Order dated 01.03.2024 (hereinafter referred to as the „Impugned Order“) passed by the Learned Judge, Family Court-01, West District, Tis Hazari Courts, Delhi (hereinafter referred to as the „Family Court“), in HMA No. 1074/2020, titled Hemant Badhani v. Shikha Badhani. By the Impugned Order, the learned Family Court partly allowed the application under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as the „HMA“) filed by the appellant-wife, awarding maintenance of Rs. 35,000/- per month along with all school-related expenses for the minor daughter. However, the learned Family Court declined the appellant's claim for her own maintenance. Aggrieved thereby, the appellant-wife has approached this Court seeking modification of the Impugned Order, enhancement of maintenance for the child, and grant of maintenance for herself. BRIEF FACTS

2. To give a brief background of the facts in which the present case arises, the marriage between the parties was solemnized on 22.11.2013, according to the Hindu rites and customs, in Delhi. From this wedlock, a daughter was born on 08.08.2016. It is the admitted position that, due to matrimonial discord, the parties have been living separately since October 2019. Since the date of separation, the custody of the minor child has remained with the appellant.

3. The respondent-husband filed a divorce petition under Section 13(1) (ia) of the HMA on the grounds of cruelty. In response thereto, the appellant-wife filed her written statement, denying the allegations and simultaneously moved an application under Section 24 of the HMA seeking interim maintenance for herself and her daughter.

4. The appellant contended that she was compelled to leave the matrimonial home without any fault of her own, and has since been residing with her

parents. She is employed as an Assistant Professor in a college under the Delhi University and, despite her qualifications, earns a limited income. On the other hand, the respondent is employed as a Senior Computer Scientist with Adobe Systems, USA, and draws a substantial income.

5. The appellant further submitted that the respondent has not made any voluntary contribution towards the maintenance of the minor child or the appellant herself, except for sporadic payments of school fees in late 2020. It was only after the intervention of the Court that the respondent started making regular contributions for the child's expenses.

6. The learned Family Court, after considering the pleadings and financial affidavits of the parties, passed the Impugned Order dated 01.03.2024, directing the respondent to pay Rs. 35,000/- per month as maintenance for the minor daughter in addition to all school-related expenses, but declined to award any maintenance to the appellant.

7. According to the appellant, the learned Family Court failed to appreciate the financial disparity between the parties. While the respondent's annual income exceeds Rs. 1.5 crores (as reflected in his ITRs and supported by bank statements, perks, RSUs, and other employment benefits), her monthly income is approximately Rs. 1,25,000/-. The appellant contended that the quantum of maintenance awarded for the child was insufficient and that she too is entitled to maintenance to sustain the standard of living to which she was accustomed during cohabitation.

8. Aggrieved by the Impugned Order, the appellant has filed the present appeal seeking: (a) modification of the Order dated 01.03.2024; (b) grant of Rs. 3,50,000/- as maintenance for herself; and

(c) enhancement of the child's monthly maintenance from Rs. 35,000/- to Rs. 96,000/-, along with directions for the respondent to clear arrears.

#### SUBMISSION OF THE LEARNED COUNSELS FOR THE PARTIES

9. The learned counsel for the appellant submits that the learned Family Court has erred in rejecting her claim for maintenance despite acknowledging that the respondent's income exceeds Rs. 10 lakhs per month. It is contended that the learned Family Court failed to appreciate that the appellant has been maintaining herself and the child in a modest fashion, whereas the respondent continues to enjoy a luxurious lifestyle abroad.

10. The learned counsel for the appellant submits that the Impugned Order dated 01.03.2024 passed by the learned Family Court is contrary to the record and facts of the case, inasmuch as it fails to appreciate the true financial status of the respondent/husband. It is submitted that the learned Family Court grossly underestimated the quantum of maintenance by not considering the complete income, perks, and financial assets of the respondent, thereby rendering the order unsustainable and liable to be enhanced.

11. It is further contended that although the learned Family Court took note of the respondent's annual income of over Rs. 1 crore and his payment of income tax to the tune of Rs. 44 lakhs, it nevertheless, without cogent reasoning, declined to award any maintenance to the appellant and restricted the child's maintenance to Rs. 35,000/- per month. It is contended that the sum awarded is ex facie inadequate and disproportionate to the means of the respondent, who is earning in excess of Rs. 10 lakhs per month.

12. The learned counsel for the appellant submits that the learned Family Court failed to consider the recurring and incidental expenses incurred by the

appellant in the upbringing of the minor child, including but not limited to educational support, extracurricular activities, and other lifestyle-related costs. The absence of any direction for reimbursement or lump-sum provision towards such expenses, especially where many of these outflows are not receipted, has caused substantial prejudice to the appellant.

13. The learned counsel for the appellant further submits that the learned Family Court has erred in concluding that the parties are leading a "moderate lifestyle", despite undisputed material on record establishing that the respondent is a highly paid senior executive with substantial monthly income, perks, and assets. It is contended that the lifestyle of the minor child ought to reflect the standard of living of the financially dominant parent, which the learned Family Court failed to uphold.

14. It is lastly submitted that the respondent has intentionally concealed several material financial details, including RSU stocks, foreign assets, income from investments, and perks from employment and that the learned Family Court failed to draw the necessary adverse inference against him. It is urged that such concealment not only constitutes a breach of the legal duty of disclosure but also misled the Court into passing a maintenance order that does not reflect the respondent's actual financial standing.

15. On the other hand, the learned counsel for the respondent submits that the appellant-wife is not entitled to any maintenance under Section 24 of the HMA, as she is a highly qualified individual with the capacity to earn and maintain herself. It is contended that the object of Section 24 is not to create an "army of idle persons" or to allow a spouse to lead a lavish life at the expense of the other. In support of his claim, he places reliance on the Judgment of the High Court of Madhya Pradesh in *Mamta Jaiswal v. Rajesh Jaiswal*, 2000 (3) MPLJ 100.

16. It is further submitted that the appellant has, in fact, been working even during the subsistence of the marriage and thereafter, and has not truthfully disclosed her actual income before the learned Family Court. The learned counsel for the respondent places reliance on the decision of the Delhi High Court in *Rupali Gupta v. Rajat Gupta*, 234 (2016) DLT 693, and *Niharika Ghosh @ Niharika Kundu v. Shankar Ghosh*, 2023 SCC OnLine Del 5624, wherein claim for maintenance was declined on the ground that the wife was qualified, earning, and had concealed her true income before the Court.

17. The learned counsel for the respondent submits that reliance may be placed on the Judgment of the Delhi High Court in *KN v. RG*, 2019 SCC OnLine DEL 7704, wherein the Court, upon considering the totality of circumstances, held that the wife therein was capable of maintaining herself and enjoyed a standard of living sufficient for her needs. Accordingly, her application under Section 24 of the HMA, seeking interim maintenance, was dismissed, and the learned Family Court's decision was affirmed.

18. It is further submitted that in the present case as well, the appellant is leading a more comfortable and luxurious lifestyle post- separation than she did during the subsistence of the marriage, and the present proceedings under Section 24 of the HMA have been instituted with a mala fide intent to harass the respondent and unjustly extract money under the guise of maintenance. It is contended that such conduct amounts to an abuse of the process of law, and that the present appeal is liable to be dismissed with exemplary costs.

19. It is contended that the entire financial burden of the child cannot be unilaterally imposed upon the respondent, especially when the appellant has sufficient income and the issue of child custody is still pending before the learned Family Court under Section 26 of the HMA. It is further submitted that

the respondent has voluntarily and consistently made substantial contributions towards the child's upkeep, amounting to Rs. 19,20,555/- till date, including Rs. 35,000/- per month and the payment of school fees in compliance with the Impugned Order.

## ANALYSIS AND FINDINGS

20. We have considered the submissions of the learned counsels for the parties and examined the material placed on record.

21. The limited issue arising for consideration in the present appeal is whether the appellant was rightly denied maintenance under Section 24 of the HMA by the learned Family Court, and whether the quantum of maintenance awarded to the minor child requires enhancement.

22. At the outset, it is not in dispute that the parties were married on 22.11.2013 and have been residing separately since October 2019. The custody of the minor daughter remains with the appellant. It is also not in dispute that the appellant is employed as an Assistant Professor in a Delhi University college, drawing a net salary of approximately Rs. 1,25,000/- per month, whereas the respondent is working as a Senior Computer Scientist with Adobe Systems and, as per the admitted income tax returns, has an annual income of over Rs. 1 crore.

23. The learned Family Court, while denying maintenance to the appellant, , reasoned that she is sufficiently qualified and employed, capable of sustaining herself independently, and that the purpose of maintenance under Section 24 of the HMA is to prevent destitution and not to equalize incomes. The learned Family Court has further observed that both parties maintained a moderate

lifestyle and that the wife did not require financial assistance to maintain the standard of living she enjoyed during the marriage.

24. We are, however, unable to concur with the conclusions drawn by the learned Family Court. In assessing a claim under Section 24 of the HMA, the determinative test is not merely whether the wife is employed or capable of earning, but whether her income is sufficient to enable her to maintain the same standard of living as she was accustomed to during cohabitation. The financial disparity between the parties is stark, the respondent earns nearly ten times the income of the appellant. The very purpose of interim maintenance is to strike a fair balance and ensure parity in lifestyle, so that the financially weaker spouse and the child are not prejudiced by the economic advantage of the other.

25. The law is equally well settled that a claim for maintenance under Section 24 of the HMA is not defeated merely because the applicant is educated, theoretically capable of earning, or even in fact earning. In *Nidhi Sudan v. Manish Kumar Khanna*, 2023 SCC OnLine Del 7652, a coordinate bench of this court observed that a wife's earning does not automatically disqualify her from maintenance. The relevant inquiry is whether her income is sufficient to enable her to maintain the same standard of living, and not just merely whether it ensures subsistence. The court observed as follows :

*"15. We are of the considered opinion that merely because the wife is earning, it does not automatically operate as an absolute bar for awarding the maintenance. The parameter remains whether her source of income is sufficient to enable her to maintain herself along with minor child. The maintenance has to be realistic, avoiding either of two extremes i.e. neither oppressive or extravagant, nor meagre to drive the applicant wife to penury or mere support. The duration of the marriage as well as the conduct of the parties, which is apparent on the face of record also needs to be kept in perspective."*

26. In *Chaturbhuj v. Sita Bai*, (2008) 2 SCC 316, the Supreme Court held that maintenance cannot be denied merely because the wife is earning; it must also be shown that her income is sufficient for her sustenance. The Court emphasized that even if the wife has some earnings, she may still be entitled to maintenance. The Court observed as follows :

*7. Under the law the burden is placed in the first place upon the wife to show that the means of her husband are sufficient. In the instant case there is no dispute that the appellant has the requisite means. But there is an inseparable condition which has also to be satisfied that the wife was unable to maintain herself. These two conditions are in addition to the requirement that the husband must have neglected or refused to maintain his wife. It has to be established that the wife was unable to maintain herself. The appellant has placed material to show that the respondent wife was earning some income. That is not sufficient to rule out application of Section 125 CrPC. It has to be established that with the amount she earned the respondent wife was able to maintain herself.*

27. The Supreme Court in *Rajnish v. Neha*, (2021) 2 SCC 324, held that an earning wife is not barred from claiming maintenance, as the court must assess whether her income is sufficient to maintain herself in accordance with the standard of living in the matrimonial home. The Court observed as follows :

*"90. The courts have held that if the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband. The courts have provided guidance on this issue in the following judgments:*

*90.1. In Shailja v. Khobbanna , this Court held that merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court. The court has to determine whether the income of the wife is sufficient to enable her to maintain herself, in accordance with the lifestyle of her husband in the matrimonial home.*

*90.2. In Sunita Kachwaha v. Anil Kachwaha the wife had a postgraduate degree, and was employed as a teacher in Jabalpur. The husband raised a contention that since the wife had sufficient income, she would not require financial assistance from the husband. The Supreme Court repelled this contention, and held that merely because*

*the wife was earning some income, it could not be a ground to reject her claim for maintenance.*

*90.3. The Bombay High Court in Sanjay Damodar Kale v. Kalyani Sanjay Kale , held that neither the mere potential to earn, nor the actual earning of the wife, howsoever meagre, is sufficient to deny the claim of maintenance."*

28. The Supreme Court in Rajnesh (Supra), laid down a comprehensive list of factors to be looked into before awarding a sum of maintenance. In matrimonial cases pertaining to maintenance, the Court shall, inter alia, take into account the following variables:

*i. Status of the parties, both social and financial. ii. Reasonable needs of the wife and the dependent children.*

*iii. Educational qualifications and employment status of the parties.*

*iv. Independent income or assets owned by the applicant.*

v. Standard of living enjoyed by the wife in the matrimonial home.

vi. Any employment sacrifices made by the wife for family responsibilities.

vii. Reasonable litigation costs of a non-working wife.

*viii. Financial capacity of the husband, including his income, maintenance obligations, and liabilities.*

29. In the present case, there exists a stark disparity between the financial capacities of the parties. The appellant, though employed as an Assistant Professor in a college affiliated with Delhi University and earning approximately Rs. 1,25,000/- per month, cannot be equated with the respondent, who is employed as a Senior Computer Scientist with Adobe Systems and draws an annual income exceeding Rs. 1 crore (Rs. 1,12,65,603/- for the year 2019-20 and Rs. 1,35,11,540/- for the year 2020-21), apart from enjoying additional

employment benefits such as RSUs, stock options, international travel allowances, and investments. Even after deduction of income tax, there remains a vast difference between their incomes. The purpose of Section 24 of the HMA is not to equalise the incomes of the parties but to ensure that both maintain the same standard of living.

30. The appellant, who has the sole responsibility for the child's daily care and education, has placed on record her monthly expenditure, which the respondent has not specifically rebutted. Despite her employment, her income does not sufficiently meet the demands of sustaining the standard of living that both she and the minor child were accustomed to prior to the separation. It is therefore evident that while the appellant earns an income, it is not comparable to the scale and diversity of the respondent's earnings.

31. The learned Family Court erred in treating the wife's income as sufficient without factoring in the qualitative difference between the economic statuses of the two parties. As settled by law, the financial self-sufficiency of the wife must be assessed not in absolute terms but relative to the standard of living maintained during the marriage. The objective of Section 24 of the HMA is to ensure that neither spouse suffers economic hardship or social disadvantage due to the breakdown of the marital relationship. Consequently, to ensure parity and fairness, the maintenance must be calibrated in a manner that allows both parties, especially the financially weaker spouse, to live with dignity and maintain a comparable lifestyle, particularly when the respondent's income is almost tenfold that of the appellant.

32. In the present case, though the appellant is earning, her income is insufficient to support her own needs and those of the minor child. She is currently residing with her parents, which cannot continue indefinitely, and her

limited earnings compel her to remain dependent on them, causing inconvenience and hardship to the family. With such resources, she is unable to maintain a reasonable standard of living. In contrast, the respondent's substantially higher income makes him financially capable of providing adequate maintenance. The mere fact that the appellant is earning does not disentitle her to claim maintenance, as she is entitled to the same standard of living that she enjoyed during her matrimonial life.

33. Accordingly, considering the material on record, the totality of circumstances, the social status of the parties, their lifestyle, financial status, the liabilities, the needs of the minor child and the wife, the increasing price index of necessities, and the responsibility of the wife to maintain the child, we enhance the maintenance amount from Rs. 35,000/-, as granted by the learned Family Court, to Rs. 1,50,000/- per month, cumulatively for both, the appellant and the child. Save and except for the above modification with regard to the quantum of maintenance, all other directions contained in the Impugned Order of the Family Court shall remain unaltered and binding on the parties.

34. The appeal is, accordingly, disposed of in the aforesaid terms.

The pending application(s), if any, stands disposed of.

35. There shall be no order as to costs.

RENU BHATNAGAR, J NAVIN CHAWLA, J SEPTEMBER 10, 2025 pr/my/DG

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