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Rights and Liabilities of a Hindu Female Legal Discourse

VAIBHAV KARTIKEYA AGRAWAL¹

ABSTRACT

Hindu Law has conferred certain rights to a Hindu woman to enable her facilities for livelihood such as right to claim maintenance, right to adopt a child, absolute right under property possessed, etc. These rights are conferred in accordance with Natural Laws and Hindu rituals, texts, etc. Hindu law also confers liabilities to a woman to maintain her children, her dependants and in certain cases her husband. She has a liability to perform certain rituals like saptapadi. This paper endeavours to make a study of legal framework related to certain rights of a female in Hindu joint family in comparison to the right to life provided in article 21 of the constitution of India and other international covenants like Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1966, International Covenant on Economic Social and Cultural Rights 1966, International Covenant on Elimination of Discrimination against Women 1986, etc. It also states some of the liabilities on a Hindu female that are part and parcel of the existence of the Hindu joint family and provide a glimpse of the tradition-bound Hindu society.

I. INTRODUCTION

A In India women was conferred a supreme status in ancient society. She was concerned with all rights relating to maintenance of children and to the affairs of family. She was the Head of the ancient Hindu family.

Women is considered to be innocent and pious. During the Moghul regime, male was subjected to fight for the country and females being uneducated and superstitious had to live inside the veil. The socio-cultural in-house norms of respect and the responsibility for performance of domestic work also perpetuated torture and discrimination of women in the Indian society.

The British regime was expeditious to empower Indian women. It made the Indians to interact with the cosmic scenario of education which created social change. It conferred equal

¹ Author is an Advocate in India.

opportunities to men and women in all fields particularly in education. The discrimination of women and social evils have yet continued but provisions were made in law not to discriminate on basis of race, gender, place of birth, etc in Article 15 of Constitution of India². This was the initiation of empowerment of women by laws. Women is protected through law in following ways-

Firstly, by provisions of Indian Penal Code and other Central Acts;

Secondly, through special laws enacted for women empowerment like Sati Prevention Act, 1987, Dowry Prohibition Act, 1961, Medical Termination of Pregnancy Act, 1971, Indecent Representation of Women Prohibition Act, 1986, The Protection of Women from Domestic Violence Act 2005, etc.

Hindu Law has conferred certain rights to a Hindu woman to enable her facilities for livelihood such as right to claim maintenance, right to adopt a child, absolute right under property possessed, etc. These rights are conferred in accordance with Natural Laws and Hindu rituals, texts, etc. Hindu law also confers liabilities to a woman to maintain her children, her dependants and in certain cases her husband. She has a liability to perform certain rituals like *saptapadi*. This paper endeavours to make a study of legal framework related to certain rights of a female in Hindu joint family in comparison to the right to life provided in article 21 of the constitution of India and other international covenants like Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1966, International Covenant on Economic Social and Cultural Rights 1966, International Covenant on Elimination of Discrimination against Women 1986, etc. It also states some of the liabilities on a Hindu female that are part and parcel of the existence of the Hindu joint family and provide a glimpse of the tradition-bound Hindu society.

II. WHO IS A HINDU³?

Every person

- (a) who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of Brahmo, Prarthana of Arya Samaj;
- (b) who is a Buddhist, Jaina or Sikh by religion; and
- (c) who is not a Muslim, Christian, Parsi or Jew by religion.

² Article 15 of the Constitution of India states: 'The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.' This regime of exploitation and discrimination has been further sought to be checked by clause (3) of Article 15 of the Constitution of India which states: 'Nothing in this article shall prevent the State from making any special provision for the women and children'.

³ Diwan, Paras; (2012) Allahabad Law Agency.

is considered to be a Hindu and Hindu Law applies to it.

The following persons are Hindus, Buddhists, Jainas or Sikhs by religion:

- any child, legitimate or illegitimate, both of whose parents are Hindus, Buddhists, Jainas or Sikhs by religion;
- any child, legitimate or illegitimate, one of whose parents are Hindus, Buddhists, Jainas or Sikhs by religion and who is brought up as a member of the tribe, community, group or family to which such parents belongs or belonged;
- any person who is a convert or re-convert to the Hindu, Buddhist, Jaina or Sikh religion.

III. RIGHTS

1. RIGHT TO ADOPT A CHILD- This right is given under Section 8 of Hindu Adoptions and Maintenance Act, 1956. **Section 8** states Any female Hindu -

(a) who is of sound mind;

(b) who is not a minor; and

(c) who is not married; or

if married- (i) whose marriage has been dissolved; or

(ii) whose husband is dead; or

(iii) whose husband has renounced the World; or

(iv) whose husband has ceased to be a Hindu; or

(v) whose husband has been judicially declared to be of unsound mind.

has a capacity to take a son or daughter in adoption.

Therefore a married woman has no capacity to adopt. She cannot adopt even with the consent of her husband.

If she is living a life of a divorcee, but has not legally divorced she cannot adopt a child even with the consent of her husband. This was held in *Brajendra Singh v. State Of Madhya Pradesh*⁴.

The main purpose of the law of adoption is to provide consolation and relief to a childless person. According to Hindu rituals 'conditions for a valid adoption' are made under Section

⁴ AIR 2008 SC 1056

11 which are as under-

- (i) if the adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son, son's son or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption;

If the son, son's son or son's son's son has ceased to be a Hindu, an adoption of a son will be valid.

- (ii) if the adoption is of a daughter, the adoptive father or mother by whom the adoption is made must not have a Hindu daughter or son's daughter (whether by legitimate blood relationship or by adoption) living at the time of adoption;

If daughter or son's daughter has ceased to be a Hindu, adoption of a daughter can be validly made.

- (iii) if the adoption is by a male, and the person to be adopted is a female, the adoptive father is at least twenty-one years older than the person to be adopted;
- (iv) if the adoption is by a female, and the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted;
- (v) the same child may not be adopted simultaneously by two or more persons;

In *Kasturi v. Ponnammal*⁵, it has been held that 'Two persons do not mean husband and wife, as in such a case, both are adoptive parents of the child.'

- (vi) the child to be adopted must be actually given or taken in adoption;

2. RIGHT TO DISPOSE OF PROPERTY:

Under Hindu Law, an adopted son shall have the same rights, privileges and the same obligations in the adoptive family as that was in his natural family and the ties of natural family is severed and replaced from the date of adoption.

Similarly the adoptive parents have same rights and liabilities towards the adopted child as that of natural parents. "The adoptive father or mother possess power to dispose of his or her property by transfer *inter vivos* or by will." This right is conferred under Section 13 of Hindu Adoptions and Maintenance Act, 1956.

3. RIGHT TO CLAIM MAINTENANCE:

(A) BY WIFE- A Hindu wife can claim maintenance from her husband

- (a) under Section 18 of Hindu Adoptions and Maintenance Act, 1956;

⁵ 1961 SC 1320

(b) under section 25 of Hindu Marriage Act, 1955;

(c) under Section 125 (b) of Code of Criminal Procedure, 1973.

Right to claim maintenance under Section 18 of Hindu Adoptions and Maintenance Act, 1956: Section 18(1) states ‘ A Hindu wife shall be entitled to be maintained by her husband during her lifetime.’ In *Jayanti v. Alamelu*⁶ it was held that, it cannot be a valid ground to refuse maintenance that his financial condition is not good. The obligation of the husband to maintain his wife is a personal obligation.

Section 18(2) states ‘A Hindu wife shall be entitled to live separately from her husband without forfeiting her claim to maintenance-

- (i) If he is guilty of desertion that is to say, of abandoning her without reasonable cause and without her consent or against her wish, or of willfully neglecting her;

Under Hindu Adoptions and Maintenance Act, 1956 desertion may be of any duration not necessarily two years.

- (ii) if he has treated her with such cruelty as to cause a reasonable apprehension in her mind that it will be harmful or injurious to live with her husband;

In *Pamjulu v. Pamjulu* it was held that the burden of proof that husband has treated her with cruelty is on the wife.⁷

- (iii) if he is suffering from a virulent form of leprosy;
- (iv) if he has any other wife living;

Two essential conditions :

- I. other wife must be living at the time when the claim was made;
- II. both marriages of the husband are valid.

It is immaterial that the wife who is claiming had consented to the second marriage of the husband.

- (v) if he keeps a concubine in the same house in which his wife is living or habitually resides with a concubine elsewhere;
- (vi) if he has ceased to be a Hindu by conversion to another religion;
- (vii) if there is any other cause justifying her living separately.

⁶(1904) 27 Mad 45

⁷ 1967 A.P. 289

Proviso to right to maintenance under Section 18(1)(2) of Hindu Adoptions and Maintenance Act, 1956 are:

1. Section 18(3) states A Hindu wife shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by conversion to another religion.
2. Section 24 of Hindu Adoptions and Maintenance Act, 1956 states Claimant to maintenance should be a Hindu.

Right to claim maintenance under Section 25 of Hindu Marriage Act, 1955:

Section 25 of the Hindu Marriage Act 1955 states Permanent alimony and maintenance. It states: Any Court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall, pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant the conduct of the parties and other circumstances of the case it may seem to the Court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

Under Section 125 of Code of Criminal Procedure, 1973, a Hindu wife is entitled to be maintained by her husband and can claim if she is incapable to maintain herself. Section 125 of Code of Criminal Procedure, 1973 states that- (1) If any person having sufficient means neglects or refuses to maintain –

- (a) his wife, unable to maintain herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct.

Explanation (b) to Section 125(1) defines “wife”. It states wife includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

- (B) BY UNMARRIED DAUGHTER- Unmarried daughter is entitled to be maintained

- (a) under Section 20(3) of Hindu Adoptions and Maintenance Act, 1956;
- (b) under section 125 (b) of Code of Criminal Procedure, 1973.

Under Section 20(3), legitimate unmarried daughter- It is father's personal obligation to maintain her till solemnization of her marriage. Mother is also liable to maintain her unmarried daughter till her marriage under Section 20(3) of Hindu Adoptions and Maintenance Act, 1956.

Section 125 of Code of Criminal Procedure, 1973 states that- (1) If any person having sufficient means neglects or refuses to maintain -

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain himself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct:

Therefore an unmarried female child can claim maintenance from 'any person' under Section 125 of Code of Criminal Procedure, 1973 if she is unable to maintain herself.

(C) BY MINOR MARRIED DAUGHTER: A minor married female can claim maintenance from her father under section 125 of Code of Criminal Procedure, 1973. Proviso to Section 125(1) of the Code of Criminal Procedure states "The Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means."

Therefore Under Section 125(1)(b) of Code of Criminal Procedure, 1973, daughter can claim maintenance under following two grounds:

- (i) Father or mother may be claimed to confer maintenance until she attains majority;
- (ii) Father or mother may be claimed to confer maintenance if the husband of a minor married female child is not possessed of sufficient means.

(D) BY WIDOWED DAUGHTER-IN-LAW- Widowed-daughter-in-law can claim maintenance from her father-in-law under Section 19 of Hindu Adoptions and Maintenance Act, 1956.

Section 19 of Hindu Adoptions and Maintenance Act, 1956 states – A Hindu wife whether married before or after the commencement of this Act, shall be entitled to be maintained after the death of her husband by her father-in-law:

Provided and to the extent that she is unable to maintain herself out of her own

earnings or other property or, where she has no property of her own, is unable to obtain maintenance-

- (a) from the estate of her husband or her father or mother; or
- (b) from her son or daughter, if any, or his or her estate.

A widowed daughter-in-law can claim for maintenance from her son or daughter under Section 20(3) of Hindu Adoptions and Maintenance Act, 1956 as an aged or infirm parent.

Section 20(1) of Hindu Adoptions and Maintenance Act, 1956 states that 'A Hindu is bound, during his or her lifetime, to maintain his or her legitimate or illegitimate children and his or her aged or infirm parents'.

Section 20(3) of Hindu Adoptions and Maintenance Act, 1956 states that '**The obligation of a person to maintain his or her aged or infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or other property**'.

Explanation- In this section "parent" includes a childless step-mother.

- (E) BY AGED OR INFIRM PARENTS- Aged or infirm parents can claim maintenance from a Hindu (son or daughter)
 - (a) under Section 20(3) of Hindu Adoptions and Maintenance Act, 1956;
 - (b) under Section 125(4) of the Code of Criminal Procedure, 1973.

Under Section 20 of Hindu Adoptions and Maintenance Act, 1956, A Hindu is bound, during his or her lifetime, to maintain his or her legitimate or illegitimate children and his or her aged or infirm parent if they are unable to maintain himself or herself out of his or her own earnings or other property.

Under Section 125(4) of the Code of Criminal Procedure, 1973, father or mother, if incapable can claim maintenance from their son or daughter. Section 125 of the Code of Criminal Procedure, 1973 states that 'If any person having sufficient means neglects or refuses to maintain – his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct.

- (F) BY DEPENDANTS- IN CAPACITY OF

(a) **Mother of the deceased.** The mother of the deceased is entitled to a share from the property of the deceased being his dependant.

(b) **Widow of the deceased.** The widow of the deceased male Hindu (her husband) is entitled to a share from the estate of her husband or to a maintenance so long as she does not re-marry.

(c) **Unmarried daughter.** An unmarried daughter is entitled to a share from the estate of the deceased father or mother under Section 21(v) of Hindu Adoptions and Maintenance Act, 1956 so long as she remains unmarried.

(d) **Unmarried daughter of pre-deceased son of the deceased.** An unmarried daughter of pre-deceased son of the deceased is entitled to a share from the estate of the deceased grand father or grand mother under Section 21(v) of Hindu Adoptions and Maintenance Act, 1956 so long as she remains unmarried provided and to the extent that she is unable to obtain maintenance from the estate of her father's or mother's estate.

(e) **Unmarried daughter of a pre-deceased son of his pre-deceased son of the deceased.** An unmarried daughter of a pre-deceased son of his pre-deceased of the deceased is entitled to a share from the estate of the deceased great grand father or great grand mother under Section 21(v) of Hindu Adoptions and Maintenance Act, 1956 so long as she remains unmarried provided and to the extent that she is unable to obtain maintenance from the estate of her father or mother or father's father or father's mother.

(f) **Widowed daughter of the deceased.** The widowed daughter is entitled to a share from the estate of her 'deceased father' under Section 21(vi) of Hindu Adoptions and Maintenance Act, 1956 if she is unable to obtain maintenance-

- from the estate of her husband; or
- from her son or daughter, if any, or from their estate; or
- from her father-in-law (husband's father) or his father (father of the deceased male) or from the estate of either of them;

(g) **Widow of son of the deceased.** The widow of son of the deceased male or female Hindu is entitled to a share from the estate of the deceased under Section 21(vii) of Hindu Adoptions and Maintenance Act, 1956 so long as she does not re-marry: provided and to the extent that she is unable to obtain maintenance from

- her husband's estate; or

- from son or daughter, if any, or his or her estate.

(h) **Widow of a son of his pre-deceased son of the deceased.** The widow of son of his pre-deceased son of the deceased male or female Hindu is entitled to a share from the estate of the deceased under Section 21(vii) of Hindu Adoptions and Maintenance Act, 1956 so long as she does not re-marry: provided and to the extent that she is unable to obtain maintenance from

- her husband's estate; or
- from son or daughter, if any, or his or her estate; or
- also from her father-in-law's estate.

(i) **Illegitimate unmarried daughter.** An illegitimate unmarried daughter is entitled to a share from the estate of the deceased father or mother under Section 21(ix) of Hindu Adoptions and Maintenance Act, 1956 so long as she remains unmarried.

(G)BY ANY SPOUSE UNDER SECTION 24 OF HINDU MARRIAGE ACT, 1955. Under Section 24 of Hindu Marriage Act, 1955, either wife or husband can claim for expenses of the proceeding and monthly sum during the proceeding for maintenance of own. This maintenance is called interim maintenance since it is given *pendent lite* (during litigation).

Section 24 states that “Where in any proceeding under this Act it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding and monthly during the proceeding, such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the Court to be reasonable:

Provided that the application forth payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be”.

4. RIGHT TO CHALLENGE GUARDIANSHIP: Section 6 of Hindu Minority and Guardianship Act, 1956 states the persons that are natural guardians of a Hindu minor. Proviso to section 6 states “no person shall be entitled to act as the natural guardian of a minor under the provisions of this section-

- (a) if he has ceased to be a Hindu, or

(b) if he has completely and finally renounced the world by becoming a hermit (*vanaprastha*) or an ascetic (*yati or sanyasi*).

5. RIGHT TO APPOINT TESTAMENTARY GUARDIAN: The guardian appointed by will by the natural guardian is called as testamentary guardian. The age of majority for the child who is under guardianship of testamentary guardian is 21 years.

Section 9 of Hindu Minority and Guardianship Act, 1956 confers power on both parents to appoint a testamentary guardian. Natural Guardians of the child can appoint testamentary guardian.

According to Section 9 of Hindu Minority and Guardianship Act, 1956, a Hindu father can appoint a testamentary guardian for his minor legitimate children. But if father pre-deceases the mother, the mother will be the natural guardian of that child and father's appointment will be ineffective. If mother appoints a testamentary guardian, her appointee will become the testamentary guardian and father's appointee will continue to be ineffective. If mother does not appoint, father's appointee will become the guardian.

Under section 9(1) of Hindu Minority and Guardianship Act, 1956, father can appoint a testamentary guardian only for his minor legitimate children. Section 9(4) of this Act states that 'A Hindu mother entitled to act as the natural guardian of her minor illegitimate children may, by will, appoint a guardian for any of them in respect of the minor's person or in respect of the minor's property or in respect of both.'

Section 9(6) states 'The right of the guardian so appointed by will shall, where the minor is a girl, cease on her marriage.'

6. RIGHT TO CLAIM RESTITUTION OF CONJUGAL RIGHTS: Restitution of Conjugal rights is defined in Section 9 of Hindu Marriage Act, 1955 which states " When either the husband or the wife has, without any reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district Court , for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

Explanation- Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.

7. RIGHT TO CLAIM JUDICIAL SEPARATION AND DIVORCE: Section 10 of Hindu Marriage Act, 1955 states that ‘Either party to a marriage, whether solemnized before or after the commencement of this Act, can claim for judicial separation under Section 13(1). In case of a wife a petition may be presented also on any of the grounds specified in sub-section 2 of Section 13.

Under Section 13(1), a petition for divorce may be presented by either party on the ground that the other party-

- (i) has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or
- (i-a) has, after the solemnization of the marriage, treated the petitioner with cruelty; or
- (i-b) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or
- (ii) has ceased to be a Hindu;
- (iii) has been incurably of unsound mind or has been suffering from mental disorder of such a kind or to such an extent that the petitioner cannot reasonably be expected to live with the respondent.
- (iv) has been suffering from a virulent and incurable form of leprosy; or
- (v) has been suffering from a venerable disease in a communicable form; or has renounced the world by entering any religious order; or
- (vi) has been not heard of as being alive for a period of seven years or more.

Either party to a marriage, may present a petition for the dissolution of marriage by a decree of divorce on the ground-

- (i) that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties; or
- (ii) that there has been no restitution of conjugal rights between the parties to the marriage for a period of one year or upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties; or

A wife may also present a petition for divorce on the ground-

- (i) that the husband is guilty of bigamy under Section 13(2)(i) of Hindu Marriage Act, 1955; or

- (ii) that the husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality; or
- (iii) that in a suit under Section 18 of Hindu Adoptions and Maintenance Act, 1956 or under Section 125 of Code of Criminal Procedure, 1973, for maintenance to wife, cohabitation between the parties has not been resumed for one year or upwards; or
- (iv) that her marriage was solemnized before she attained the age of fifteen years and she has repudiated the marriage after attaining that age, but before attaining the age of eighteen years.

(8) RIGHT TO BE A COPARCENER AND A KARTA: There is a Karta in every joint family who is the manager of the family. His position is *sui generis* (of its own kind). He possesses limited powers but supreme powers than the other coparceners. The relationship between Karta and other members of Joint Hindu family is not that of agent or principal or partners. Karta is the Head of the Joint family.

He is accountable to none for his positive failures like failure to invest, to prepare accounts, etc. He may be partial in dealing with other members and may discriminate them. Karta of Joint Hindu family is responsible to maintain all family members and coparceners and he can be sued if he fails to do so.

After the coming into force of amendment Act of 2005, a woman is also a coparcener and therefore she can be a Karta. Being a Karta of the family, a female has following rights-

- Right to income
- Right to representation
- Right to refer a dispute to arbitration
- Right to take loan on promissory note
- Right to enter into contracts which are in welfare of the family and such contracts will be binding on the family provide the contract must not be unreasonable or against public policy.

A Karta has also certain liabilities. A Karta has also certain liabilities. Liabilities of a Karta are-

- to pay taxes
- to maintain every coparcener

- to maintain affection and natural concern that he has for the members of the family and that the family members repose on him.
- daughter's marriage.

(9) **ABSOLUTE RIGHT UNDER PROPERTY POSSESSED:** Section 14 of Hindu Succession Act, 1956 states Property of a female a Hindu to be her absolute property. It states that 'Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.'

Explanation to Section 14 states that in this sub-section property includes both movable and immovable property acquired by a female Hindu by –

- inheritance, or
- devise, or
- at a partition, or
- in lieu of maintenance; or
- arrears of maintenance, or
- by her own skill or exertion, or
- by purchase or by prescription, or
- in any other manner whatsoever, and also any such property held by her as *stridhana* immediately before the commencement of this Act.

Section 14(2) states nothing in sub-section 1 shall apply to any property where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property.

What constitutes *stridhan*? Following properties are referred to as *stridhan*:

1. Gift from parents and relatives.
2. Property given by gift *inter vivos* or by will from strangers to a woman, during maidenhood or widowhood constitutes her *stridhan*.
3. Property acquired by self-exertion and mechanical arts.
4. Property purchased with *stridhan*.
5. Property obtained in lieu of maintenance.

IV. LIABILITIES

1. **LIABILITY OF ADOPTED CHILD TO MAINTAIN RELATIVES.**

Section 12 of Hindu Adoptions and Maintenance Act, 1956 states 'Effect of Adoption'. Section 12(b) states that any property vested in the adopted child before the adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in the family of his or her birth.

Therefore it is the liability on the adopted child to maintain the relatives of his or her birth from the property vested in such child.

2. **LIABILITY OF HEIRS TO MAINTAIN DEPENDANTS:**

Section 22 of Hindu Adoptions and Maintenance Act, 1956 confers liability on the persons (heirs) who have inherited the property of the deceased to maintain their dependants. Section 22 states 'the heirs of a deceased Hindu are bound to maintain the dependants of the deceased out of the estate inherited by them from the deceased.'

The liability of each of the persons who takes the estate shall be in proportion to the value of the share or part of the estate taken by him or her.

If dependants are unable to obtain maintenance from property of either deceased male or female or both, they have right to claim maintenance from persons who have inherited the property of the deceased (heirs) under section 22 of Hindu Adoptions and Maintenance Act, 1956.

3. **LIABILITY TO PAY LITIGATION EXPENSES:** Under Section 24 of Hindu Marriage Act, 1955, either wife or husband can claim for expenses of the proceeding and monthly sum during the proceeding for maintenance of own. This maintenance is called interim maintenance since it is given *pendent lite* (during litigation).

4. **LIABILITY TO PERFORM SAPTAPADI:**

Section 7(1) of Hindu Marriage Act, 1955 states that A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto.

Section 7(2) states Where such rites and ceremonies include the *saptapadi* (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding only when the seventh step is taken.

Therefore *saptapadi* is a question of validity of Hindu marriage and it is the liability of every Hindu to perform *saptapadi* in his or her marriage.

V. CONCLUSION

The provisions related to rights and liabilities of a Hindu female forms the core for constitution and sustenance of Hindu Joint family. Hindu joint family is an institution which aims to ensure united co-existence of generations of members of family and is a unique conundrum of responsibility, education, prosperity and respect for tradition and culture.

The provisions of Hindu Marriage Act provide minimum age⁸ of both the parties to a marital relationship and also mandate the same by imposition of penal liability for breach of it. But since Hindu Law considers women to be innocent and pious, it confers right to claim marriage expenses to a minor married daughter under Section 125 of Code of Criminal Procedure, 1973.

Hindu Law protects women from discrimination regarding litigation expenses, divorce petition or maintenance and thus it confers all rights to confirm gender equality in family and prevent domestic violence. These rights are conferred under Article 15 and Article 21 of the Constitution of India. Article 15 states 'No discrimination on basis of race, gender, religion, caste or place of birth. Article 21 confers Right to life and personal liberty to the citizens.

These rights are aimed at decreasing gender discrimination in society, domestic violence and to confer **equal status**. Therefore as it confers right to be a Karta of the family, it also confers liability to maintain dependants on the heirs, who inherit the property of the deceased. Therefore, the provisions of Hindu Marriage Act 1955, Hindu Minority and Guardianship Act 1956, Hindu Adoptions and Maintenance Act 1956 and the Hindu Succession Act 1956 provide rights and liabilities to a Hindu female in consonance with the spirit of Preamble and provisions of the constitution of India.

⁸ Section 5(3) of Hindu Marriage Act, 1955 states that 'A marriage may be solemnized between any two Hindus if the bridegroom has completed the age of twenty-one years and the bride the age of eighteen years at the time of the marriage.' Section 18(a) of Hindu Marriage Act, 1955 states that in case of contravention of the condition specified in clause (iii) of Section 5, with rigorous imprisonment which may extend to two years, or with fine which may extent to one lakh rupees, or with both.