

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2536 OF 2019

SUKHDEV SINGH

... APPELLANT

VERSUS

SUKHBIR KAUR

... RESPONDENT

WITH

CIVIL APPEAL NO. 5726 OF 2019

O R D E R

CIVIL APPEAL NOS. 2536 AND 5726 OF 2019:

1. We have heard learned counsel for the parties.
2. The present appeals have been filed by the appellant-husband challenging the grant of maintenance pendente-lite and litigation expenses and also grant of permanent alimony by the High Court of Punjab and Haryana whereby interim maintenance was granted and later the matter was remanded back to the Trial Court for considering the issue of grant of permanent alimony under Section 25 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'Act'). The proceedings arose out of a decree declaring the marriage between the parties as null and void under Section 11 of the Act. Though the respondent gave up her challenge to the said decree during appeal, she had sought for an interim maintenance under Section 24 of Act pending the appeal before the High Court and also applied for

permanent alimony in terms of the Section 25 of the Act.

3. By the impugned order dated 12.02.2018, the High Court had fixed the maintenance pendente-lite at the rate of Rs.8,000/- per month with effect from 2015 and granted litigation expenses at Rs.20,000/-. When the challenge to the same was filed, this Court had stayed the operation of the said order.

4. Subsequently, the main appeal itself was decided in which the High Court passed the order holding that the respondent herein would be entitled to permanent alimony under Section 25 of the Hindu Marriage Act de hors the fact that the decree has been passed under Section 11 of the Act. However, in order to determine as to how much amount has to be received by the wife from the husband, the matter was remanded back to the Trial Court to determine the facts and circumstances of the case which will be evolved after recording of evidence led by both the parties.

5. This Court had admitted both the petitions.

6. Since there was conflicting opinion on the applicability of Sections 24 and 25 of the Hindu Marriage Act in respect of marriages which have been declared null and void, this Court had referred the said issue to a bench of 03 Hon'ble Judges by its order dated 22.08.2024.

7. Two questions which were referred are as below:

"(i) Whether a spouse of a marriage declared as void by a competent Court under Section 11 of the 1955 Act is entitled to claim permanent

alimony and maintenance under Section 25 of the 1955 Act?

(ii) Whether in a petition filed seeking a declaration under Section 11 of the 1955 Act, a spouse is entitled to seek maintenance pendente lite under Section 24 of the 1955 Act?"

8. By a judgment dated 12.02.2025, the larger bench has answered the above questions as below:

"a. A spouse whose marriage has been declared void under Section 11 of the 1955 Act is entitled to seek permanent alimony or maintenance from the other spouse by invoking Section 25 of the 1955 Act. Whether such a relief of permanent alimony can be granted or not always depends on the facts of each case and the conduct of the parties. The grant of relief under Section 25 is always discretionary; and

b. Even if a court comes to a prima facie conclusion that the marriage between the parties is void or voidable, pending the final disposal of the proceeding under the 1955 Act, the court is not precluded from granting maintenance pendente lite provided the conditions mentioned in Section 24 are satisfied. While deciding the prayer for interim relief under Section 24, the Court will always take into consideration the conduct of the party seeking the relief, as the grant of relief under Section 24 is always discretionary."

9. On a perusal of the decision of the larger bench in this matter, it is clear that the relief of permanent alimony can be granted in matters of decrees under Section 11 of the Act as well. However, it depends on the facts of the case and conduct of the applicant. While the court is not

precluded from granting maintenance pendente lite and/or permanent alimony under Sections 24 and 25, the Court will always take into consideration the conduct of the party seeking the relief and the relief is always discretionary.

10. Since the application for interim maintenance under Section 24 and another under Section 25 for permanent alimony were raised by the respondent-wife in the first appeal before the High Court, there was no evidence nor there was any material which was placed before the Court to take the decision as to whether the discretionary relief under Sections 24 and 25 could be granted to the respondent and if yes, what could be the quantum.

11. This Court has also settled the law in respect of grant of maintenance and the basis on which the quantum can be determined in several judgments including *Rajnesh Versus Neha* which is reported in (2021) 2 SCC 324.

12. Considering the aforesaid discussion and analysis, we are of the view that the issue of maintenance has not been considered in the light of the law laid down by this Court. It would be appropriate that the matter be referred back to the Family Court/ Trial Court, Amritsar. The appeals are accordingly allowed. The impugned orders are set aside to the extent they deal with the interim alimony under section 24 and permanent alimony under section 25 of the Act.

13. Accordingly, the matters are remitted back to the Additional District Judge, Amritsar (Trial Court)/Family Court for taking an appropriate decision in respect of the grant of interim alimony under Section 24 and permanent alimony under Section 25 of the Act after affording due opportunity to both the parties for leading evidence on the above issues and after considering the legal principles, the decree under Section 11 of the Act is not being interfered with.

14. Considering the nature of the prayer made by the wife and the time gap from the initial proceedings till date, we direct the Trial Court to consider the applications as expeditiously as possible, and in any event, within a period of 06 months from today.

15. The appeals are disposed of as above.

....., J.
[VIKRAM NATH]

....., J.
[V. MOHANA]

NEW DELHI;

JUNE 04, 2026.