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MAINTENANCE UNDER MUSLIM LAW

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ABSTRACT:

According to the family law maintenance mean the amount paid by the husband to the wife if she cannot met with her expenses. Basically maintenance is the thing which is started form the marriage. That the obligation arise for the husband to maintain his wife and his children. He also have the obligation to maintain his parents. He has to maintain his grandparent as like their parent if they are not able to maintain themselves or their children. Maintenance include food, raiment, lodging, cost of education and health. However the question will arise obligation of husband to maintain his family during their marriage life is fine but what will be the obligation of husband to maintain his wife after the dissolution of marriage? Yes Muslim marriage is the contract so the maintenance will continue till the marriage exiting. Muslim law allow the maintenance only during the period of iddat not after that.

Due to the development of the society women is also stared to earn if she earn the portion of maintenance will be determined according to that. It will fixed according to the expenditure of the family. The amount will be paid by considering the position of the parties The maintenance can be entitled to the who are indigent and necessitous person unable to earn livelihood.

But this scenario was changed in the case of *Shah Bano*. Court held that maintenance should be provide even after the iddat period. Even after the enactment of the Muslim women protection of rights on divorce act 1986 court held that husband has obligation to pay maintenance to his wife after iddat till her remarriage and children should be maintained till they attain the age of majority under sec 125 of CrPC.

This paper will deeply discusses about the person who are eligible for the maintenance, when they are not eligible, under which the maintenance can be provide to them, how the maintenance will be calculated and what is the case for the arrears of the maintenance and difference between Shia law and Suni law and Hindu and Muslim law.

KEYWORDS: maintenance under Muslim law, eligible persons, wife, ascendants, decedents, collateral relations, scale , arrears, sec 125 CrPC, act 1986, Muslim personal law.

INTRODUCTION:

The general meaning of maintenance is “keep something in the good condition “so the value spent to keep this in the good condition is the maintenance. But here the term maintenance is for the thing but for the persons who are alive. Here we can say that providing necessary expenses for day to day life. Every Muslim wife have right to get maintenance form her husband but only on the valid marriage. The word of Quran is the original Muslim law which give right to maintenance till the period of iddat (dissolution of marriage) not after that.

Muslim law is different from all the other personal laws. Under Muslim law marriage is a contract so maintenance for wife will exit till the marriage is exists after that there is no relation between the husband and wife. They are stranger to each other. Men is bound to maintain his family like his wife his children and his parents. He also obligated to maintain his poor relative if they cannot maintain themselves. After Shah Bano case many changes were brought into the practice of Muslim that the maintenance only for the period during iddat. Muslim women protection of rights on divorce act was came into existence. After this sec 125 of CrPC was made applicable to the Muslim women also.

MEANING OF MAINTENANCE

The meaning of maintenance is providing the necessary for the life. The Arabic equivalent of maintenance is nafqah which literally means what a person spends over his family. Fatawa- i-alamgiri¹ says maintenance comprehends foods, clothing and lodging though in common parlance it is limited to the first. The term Kharcha-i-pandan is the allowances paid to the wife by the husband. This is the personal allowances and it cannot be transferred even through the secured on immovable property. ²

There is the duty for the husband to maintain his wife and children. The concept of maintenance not arise after the dissolution of marriage but it is arise when the marriage is commenced, husband has to provide maintenance to his wife during his marriage life. According to dissolution of

¹ Aqil Ahmad , mohammedan law, 232, 23rd 2009.

² Altaf Bi v. Brij Narain, (1929) ILR 51 612.

Muslim marriage act failure to provide the maintenance for 2 years is one of the reason for the dissolution of marriage. So the obligation of maintenance arise along with the marriage.

The Quran, sacred book of Muslims impose the obligation on the Muslim to provide maintenance ‘...men are protectors, and maintainers of women’ (*Quran: Sura 4 ; Aayat 34*)

....” He (husband) shall bear the cost of their (family) food clothing on equitable terms “(*Quran : sura 2; Aayat 233*)

.....” For divorced women maintenance would be provided on a reasonable scale (during iddat)” (*Quran : Sura 2; Aayat 241*)

From this we can say that The Quran which have been communicated by prophet Mohammed as a final expression of God’s will express about the obligation raised for men during marriage and he have to maintain her.

PERSONS ENTITLED FOR THE MAINTENANCE:

- 1. HIS WIFE**
- 2. HIS ASCENDANT**
- 3. HIS DESCENDANT**
- 4. HIS COLLATERALS**

1. HIS WIFE

According to the Muslim law, the right of maintenance of wife come first. Wife’s maintenance is the obligation to the husband that raise in the marriage. Therefore, whether the wife is Muslim or a kitabiyah, healthy or sick, affluent or indigent, her maintenance is obligatory for the husband. Maintenance becomes obligatory on the valid marriage. Therefore in case of an irregular marriage no maintenance will be obligatory. A women during iddat she is entitle to maintenance, after iddat she is stranger to him. And no maintenance for her. Her right to maintenance is absolute, even if she has property, income of her own and the husband is poor.

The husband is bound to maintain if she fulfil the followings:

- i) She has attained puberty
- ii) She is faithful to him and obey all his lawful commands

Under the dissolution of Muslim marriage act, 1939, sec 2 (ii) – a wife is entitle for the dissolution of marriage if her husband refuse to maintain her for 2 years.

*Khatijan vs. Abdulla*³

Husband is bound to give maintenance if she is faithful and obedient to the husband. If incase wife was living separately with her mother and not willing to perform any marital duties. This petition was dismissed.

*Raza khan vs. muntaza khatoon*⁴

It has been observed that even if the Muslim law entitle the divorced wife to maintenance only till the end of period of iddat. Sec 125 of CrPC entitle her to maintenance so long as she does not marry again.

In certain cases wife is not entitle to maintenance:

1. If a wife leaves husband's house without his permission or otherwise is disobedient unless this disobedient is justified. She loses her right of maintenance. i.e. conjugal domicile without any valid reasons
2. When she had married by an illegal contract or by an irregular marriage. unless the irregular is on bases of absence of witness
3. When she becomes a widow
4. If she has been separated for her own fraud
5. If she had been imprisoned for any offences
6. If she refuse to access to her husband without any valid cause.
7. If she deserted her husband voluntarily.
8. If there is any agreement in between the wife and husband

According to sec. 125(3) of CrPC

If she voluntarily surrendered her rights to maintenance after her divorce

Sec 125(4) of CrPC

- i) If wife live in adultery

*Alavi vs. Safia*⁵

The term wife under sec 125(4) CrPC of is only for the marriage relationship existence not after the divorce.

- ii) If she refuse to live with her husband without any sufficient reason

*Amir Mohd vs. Mt. Boshra*⁶

³ Khatijian v. Abdulla, AIR 1927 nagpur 139.

⁴ K. Raza Khan v. Muntaza Khatoon (1976) 1 An W.R. 1

⁵ Alavi vs Safia II (1992) DMC 311

⁶ Amir Mohd vs Mt. Boshra AIR 1956 Rgi 103.

It has been clearly held that a wife has right to live separately from her husband due to ill-treatment.

iii) If they live separately by mutual consent

So, Wife has right to maintenance commences on marriage and ceases on the death of her husband.

2. HIS ASCENDENT

As parents and grandparent are under obligation to maintain their children, their children also obligated to provide maintenance to their parents and grandparents.

*Kasim vs Saidq*⁷

A child, male or female who has sufficient property is responsible to maintain their parents and grandparents.

Under Sunni law whether the parents are capable of earing or not make no difference in the maintenance. But in Shia law children are relieved of their duty if the parents are capable of earing.

Muslim law lays down the following conditions for the maintenance of parents and grandparents

- i) Maintainer should be in easy circumstances (a person who has sufficient means to be prevented from accepting alms is considered to be a person in easy circumstances)
- ii) The claimant should be poor

A son is though poor, but earing something is bound to support his poor father who ears nothing. Maintenance for step mother is when father is weak and infirm and has no means to maintain her. It is also obligated to maintain his poor grandparents both maternal and paternal. This obligation is same as for parents. However this obligation will arise when grant parents have no children or their children are not able to maintain them i.e. if father and mother alive there is no obligation for the grand children to maintain them unless their children are indigent.

3. HIS DESCENDANT

Here the husband has to maintain his children. It becomes father's liability which is absolute and it is not depend on the capacity of his earing. Even though the children were in the custody of his wife. His obligation will not lessen in such circumstances.

⁷ Kasim vs. Sadiq 1938 Pc 169.

If the father is poor the liability raise for the mother to maintain her children but she is entitled to recover the expenses from the father when circumstance permits. If both mother and father were poor and unable to maintain their children, the liability raise to their grandparent (maternal, paternal) to provide for the maintenance of the children.

Children have their independent right of maintenance under Muslim law and sec. 125 of CrPC. The independent right of child cannot be squeezed. And the application for maintenance by the children is not barred and will not be affected by sec 3(1) (b) of 1986 act⁸. Where, if they are maintained by divorced mother, she would be entitled to receive additional amount.

Daughter:

Husband is bound to maintain the unmarried daughter. He has to maintain her till her marriage. Even he has to maintain her daughter after her marriage if she is poor⁹. He has to maintain his divorced daughter. He cannot hire them for the work or he cannot send them into service under any circumstances.

Son:

Husband is bound to maintain his son until they attain puberty. He should maintain his sons if they have no sufficient property of their own and unable to maintain themselves by their own labor or to fulfil his necessity. He is bound to maintain his son disabled by infirmity or diseases in his adult age. He is not bound to give separate maintenance for his son if they refused to live with him without reasonable

Illegitimate child:

In Muslim law father is not bound to maintain his illegitimate child, but mother is bound to support her son or daughter. Under 125 of CRPC provides that the putative father of an illegitimate child can be ordered to make a monthly allowance as such court thinks fit.

4. HIS COLLATERAL RELATIVES:

The meaning of collateral is a poverty. Under Hanafi law persons who are not themselves poor are bound to maintain their poor relations within the prohibited relation degrees in proportion to the share which they would inherit from them on their death. This is one of the main differences

⁸ Mahboob Khan Faizulla Khan vs. Praveen Banu

⁹ Dr. SR Myneni, Muslim Law and other personal law(Family law 2),227 1 Ed, 2009.

comparing to other maintenance, because they are not obligated to maintain their collateral relations.

Maintenance of his collateral relatives within the prohibited degree only in the following cases;

- i) When he himself is in easy circumstances
- ii) The relative claiming to be maintained has no other means of maintenance.

The liability of a person to maintain these relatives is in proportion to his share in their inheritance, not his actual shares, for no one can have any shares in the inheritance of another till after his death, but his capacity to inherit.

*Mohomed Abdul vs. Khairunnisa*¹⁰

Father is not liable to maintain his widowed daughter in law.

CLAIMING MAINTENANCE UNDER:

- 1. MUSLIM PERSONAL LAW**
- 2. MUSLIM WOMEN PROTECTION OF RIGHTS ON DIVORCE ACT, 1986**
- 3. UNDER SEC. 125 OF CRPC**

1. MUSLIM PERSONAL LAW

Wife is entitled for the maintenance after the divorce only during the period of iddat. After that she is not entitled for the maintenance. If the iddat is not communicated to her, she is entitled to maintenance until she is informed of the divorce. The Holy Quran is the personal law for Muslims. They will follow the words in the Quran. Some examples for divorce are

“let the women leave in iddat in the same still as you leave according to your means (husband) and why they do not restrict them and if he carry life there (she is pregnant) then spent your substance or then deliver the burden (until the birth of child) and for divorce women let there be fair provision. This obligation on those who are manful of god “

– *ayat 1, sura II of Holy Quran*

Muslim law does not recognize any obligation on the part of husband to maintain his wife after divorce.

*Tusliman Bibi vs. Abdul Latif*¹¹

The obligation of husband for the maintenance of his wife will cease on the completion of iddat.

¹⁰ Mohmed Abdul vs. Khairunnisa (1948) 52 BLR 133.

¹¹ Tusliman Bibi v. Abdul Latif, (1936) 63 Cal 726.

A divorced wife is entitled to sue in the place where she normally resides for her dower, maintenance or return of her jewels and cloths.

*Mohd Ahmed Khan vs. Shah Bano Begum*¹²

Wife seek maintenance form her husband under sec 125 of crpc. Court also allowed, but this bring conflict among the community, so the ACT the Muslim women protection of right on divorce act, 1986 was enacted.

2. MUSLIM WOMEN PROTECTION OF RIGHTS ON DIVORCE ACT, 1986

This act was passed by the parliament to protect the rights of the Muslim women who has been divorced form their husband and to protect the matters connected to it.

This act was enacted to overrule the judgment of Supreme Court in the case *Mohd Ahmed Khan vs. Shah Bano Begum*¹³ which allowed the Muslim women to claim maintenance under sec 125 of CrPC even after the iddat period. Before the enactment of the act the status of Muslim women were entitled to get maintenance till the iddat period not beyond that. Decision in the *Shah Bano case* led to some controversy as to the obligation of the Muslim husband to pay maintenance to the divorced wife. Mohammedan woman welcomed the decision. However Muslim men and orthodox Muslim opposed the judgment. They argued that the decision in *Shah Bano case* was override the Muslim personal law. To satisfy Muslim central government enacted the Act 1986 Muslim women protection of rights on divorced act.

OBJECTIVE OF THE ACT

1. Sec 3: Muslim women shall be entitled to fair and reasonable provision of maintenance within the period of iddat. Child born before or after the iddat have rights to get maintenance for 2 years form the date of birth of the child.

*Syed Iqbal Hussain vs. Syed Nasamunnia Begum*¹⁴

It has been held that a divorced Muslim wife cannot claim maintenance under sec 125 of CrPC after passing the act. The liability of the husband is limited for during the period of iddat.

¹² Mohd Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945.

¹³ Mohd Ahmed Khan vs. Shah Bano Begum AIR 1985 SC 945.

¹⁴ Syed Fazal v. Union of India, AIR 1993 Ker 308.

*Rizwana Regum vs Matiullah*¹⁵

It was held that sec. 125 of CrPC will have no application to the case of a divorced Muslim women who is governed by the provisions of the Act of 1986

2. Muslim divorced women entitled to mahr or dower and all the properties given by her relatives
3. Sec 4 (1); If Muslim divorced women is unable to maintain herself after the period of iddat the magistrate is empowered to make an order for the payment of maintenance by her relatives. If they can't state Wakf board to pay maintenance to pay her.

*Hazi Farzand Ali vs. Mst. Noorjahan*¹⁶

It has been held that if the divorced women has no relative or such relative not enough means to pay her maintenance, in such situation a direction can be made to the state Wakf board for payment of maintenance.

*Secretary, Tamil Nadu Wakf board vs. Syed Fatima Nachi*¹⁷

Is the Muslim women is entitled to plead and prove such relevant fact in one proceeding as to the inability of her relations to maintain her and can't directing her claim against the state wakf board in the first instance.

*Syed Fazal vs Union of India*¹⁸

When the wakf board pay the maintenance from the wakf property for the divorced Muslim women because division of their funds for sacrilegious purpose are not violate of art 26 of the constitution.

The Preamble of the act states that it is an ACT "to protect the rights of Muslim women who have been divorced by or have obtained divorced form their husbands and to provide for matters connected therewith or incidental there to "

CRITICISM

1. This act take away the right of divorced women to maintain form the purview of the sec 125 of CrPC. Which is against the art of 44 which empathies the uniform civil code throughout the territory of India.

¹⁵ Rizwana Regum vs. Matiullah 1989 CrLJ(Noc) 155(Ori).

¹⁶ Hazi Farzand vs. Mst. Noorjahan

¹⁷ Secretary, Tamil Nadu Wakf board v. Syed Fatima Nachi, AIR 1996 SC 2423

¹⁸ Syed Fazal vs. Union of India AIR 1993 Ker 308.

2. The burden of maintenance lays to her father, bother, or sister in 1st instance in the failure of them wakf bord will.
3. It nullifies the Supreme Court judgment in the shah bano case.
4. Instead of the power confer to the husband, the power should be given to the wife then only it is called as Muslim women protection of right on divorce act.

Constitutional validity of the Act:

*Danial Latifi vs. Union of India*¹⁹

Though the Muslim women's act 1986 had been tested by different high court from every angle but Supreme Court has finally confirmed the constitutional validity of the act.

Challenged that Muslim women (protection of Rights on divorce) Act, 1986 under which s. 125 of CrPC was made inapplicable to divorced Muslim women. The Act is unislamic and also has the potential to suffocate Muslim women and to under the basic secular character of the constitution. It violate Article 14, 15 and 21 of the constitution.

Supreme Court held the validity:

1. Husband is liable to make fair and reasonable maintenance beyond iddat period
2. Act not offend art 14, 15 and 21
3. If divorced wife unable to maintain by her ex-husband, relative has to if they can't, they may approach the state wakf board established under the act to pay such maintenance.

After enacting act the right of maintenance extended beyond the period of iddat.

*A.A.Abdulla vs. A.B. Mohmuna Saiyad Bhai*²⁰

It was held that a divorced Muslim women is entitled to maintenance is not limited only for the period if iddat period. The phrase used in sec 3 (1) (a) of 1986 act is "reasonable and fair provision and maintenance to be made and paid to her" indicates the parliament intention to see that the divorced woman gets sufficient means of livelihood after the divorce and she does not become destitute or is not thrown on the street without the roof over her head and without any means of sustaining herself and her children. The word "within" under sec 3 (1) (a) cannot be read as "for" or "during". Therefore, the husband as held to be liable for making reasonable and fair maintenance even after the period of iddat.

¹⁹ Danial Latifi v. Union of India AIR 2001 SC 3958.

²⁰ A.A.Abdulla vs. A.B Mohmuna Saiyad Bhai AIR 1988 Guj 159.

*V. Bapputty Muhammed vs. Shahida*²¹

Sec. 3 (1) (a) the formal husband must be held to be sufficient provision for her till remarriage only not till her end of her life.

Iqbal Bano vs. State of UP

The court held that the act applies to divorced Muslim women and the view that no Muslim women can maintain a petition under sec 125 of CrPC is not tenable.

*Ahamad vs. Arab Bail Mohamuna*²²

The fair and reasonable maintenance mentioned in clause (a) of subsection 1 of section 3 is not limited only for the iddat period.

*Kunhammed Haji UK Amina*²³

It has been observed that a divorced Muslim woman is entitled to get a fair and reasonable provision made for her live hood after the period of iddat apart from her right to get maintenance during the period of iddat.

3. SEC. 125 OF CRPC:

Sec 125 of CrPC gives effect to the fundamental and natural duty to the husband to maintain his wife, children and parents when there are unable to maintain themselves the right to be maintained conferred by the section is a statutory right. It is not opposed to the spirit of Mohammedan law. It is quite clear from Sura 24 of Holy Quran “for a divorced women maintenance (should be reasonable)”. This is a duty on the righteous.

Shah Bano case was the 1st case which change that sec 125 of crpc applicable to the divorced Muslim women. In this case *shah bano* approach the court under sec 125 of crpc to claim maintenance for her and her children her husband conducted that they were divorced Muslim used to not give maintenance after the period of iddat but court allowed the maintenance for her by her formal husband.

So 125 of CrPC is the uniform right avail to all irrespective of their religion, anyone can claim

²¹ Bapputty Muhammed vs. Shahida LNIND 2007 Ker 55.

²² Ahamad vs. Arab Bail Mohamuna AIR 1988 Guj 288.

²³ Kunhammed Haji UK Amina 1995 Cri.LJ 3371 (Ker) DB.

maintenance under this section.

*shabana Bano vs. Imran Khan*²⁴

By pronouncing triple talaq husband had divorced his wife. Wife had filed the petition to claim maintenance under sec 125 of CrPC. Husband argued that he is not liable for the payment of maintenance because after iddat he has no obligation to pay for it. But court held that he has to pay maintenance.

*Fuzail Ahmad Ayyubi vs Union of India*²⁵

The same thing was held in the case as of Ishabana Bano case in addition to that Muslim personal law recognize the concept of mehr which is payable to the wife at the time of marriage that should be considered while allowing the maintenance.

*Noor Saba Khatoon vs. Md. Quasim*²⁶

The supreme court held that the male children of Muslim parents are entitled to maintain under section 125 of CrPC till they attain the age of majority or able to maintain themselves whichever earlier and in the case of female children till the age of marriage and this is not restricted under Muslim women protection of rights on divorces act, 1986

SCALE OF MAINTENANCE

The amount of maintenance are not accurately determined. The maintenance should be paid reasonable. In Hanafi law the position of husband and wife's position were considered. In shafi law only the position of husband is considered and in Shia law wife's requirement is considered. According to sec 3(3) of Muslim woman (protection of rights on divorce) act ,1986 the court have power for fixing the quantum of maintenance to divorced Muslim women directing her former husband to pay such reasonable and fair provision. And there is no such limit for fixing the maximum limits under sec 125 crpc.

*Abdul Haq vs. Yasmin Talat*²⁷

Maintenance should be grant as separate amount by the way of fair and reasonable provision. Over and above the amount of maintenance was not permissible.

²⁴ shabana Bano vs. Imran Khan AIR 2010 SC 305

²⁵ Fuzail Ahmad Ayyubi vs Union of India

²⁶ Noor Saba Khatoon v. Md. Quasim, AIR 1997 SC 3280

²⁷ Abdul Haq v. Yasmin Talat, 1998 CrLJ 3433 (MP).

*Gulsher Ali vs. Mumtaz Fatma*²⁸

The husband took the plea of his wife's employment in proceedings for recovery of a maintenance allowances. The court held that he could not be so at this stage since the allowances has already become due to the wife under the decree. It could be raised for seeking modification or for cancellation of the maintenance order.

A husband who wishes to contest his wife's claim for maintenance on the ground that she herself is working, has to take this plea before a maintenance order is passed. Once such an order is passed the husband is bound by it unless he has modified it or cancelled it under sec 127 of CrPC

ARREARS OF MAINTENANCE

Scale of maintenance should be reasonable and fair one. There was no accuracy for it. Then what for the arrear of maintenance.

Under the Hanafi law the wife is not entitle for the maintenance against the husband in the absence of a specific agreement or degree. Under shafi law past maintenance may be claimed without any distinct agreement.

*EV.Kunhimariam vs. Ooramveetil Mammu*²⁹ -As a general and inflexible rule the court cannot be justified in fixing a lower rate in relation to past maintenance.

A divorced Muslim wife belonging to shafii entitled to the past maintenance. Reducing the rate of maintenance payable to the helpless woman is not justifiable. If the maintenance claimed is a legal right and if the claim is within the limited period, ordinarily party who default the payment should pay the full measure to the party who claim that.

But it may be lead to hardship when sudden claim for the large amount.

*Kaka vs. Hussan Bano*³⁰ - the petitioner husband is directed to pay the arrears of maintenance in four equal monthly instalments.

No other relations are not entitle for the arrear of maintenance

²⁸ Gulsher Ali vs. Mumtaz Fatma (1984) cri LJ (NOC) 97 All 34.

²⁹ EV.Kunhimariam v. Ooramveetil mammu 1985 Ker 239.

³⁰ Kaka v. Hussan Bano 1(1991) DMC 182 (P&H).

EFFECT OF CONVERSION ON MAINTENANCE:

Any person professes the Mohammedan religion which acknowledge that there is one God and Mahomet is his prophet, is a Mohammedan. Such person may Mohammedan by birth or by conversions. A person born a Mohammed an remains until he renounces the religion. A person belonging to other religion is also considered to be a Muslim when he converted to Muslim.

Mohammedan law applies not only to who Muslims by birth but also by conversion because conversion will not only change the religion but also his personal law unless they consciously adopt another. The pure Muslim law disallowed maintenance where there was the difference in religion.

The Freedom of Religion Act, 1850 enacted law or usage as inflicted on any person forfeiture of rights or property by reason of renouncing, from the communion of any religion shall cease to be enforced as law. The result is that the pure rule of Mohammedan law in respect of maintenance stands abrogated.

DIFFERENCE BETWEEN MUSLIM LAW AND HINDU LAW

1. in Muslim law there is no obligation to maintain widowed daughter-in-law but in Hindu law father is obligated to maintain widowed daughter in law
2. Muslim law has an obligation to maintain their grandparents but in Hindu law that is moral obligation not mandatory
3. poor relatives are to be legally maintained but in Hindu law it is not obligated

DIFFERENCE BETWEEN SHIA LAW AND SUNNI LAW ³¹

1. In Shia law it is not obligatory to maintain the father if he is able to earn but in Sunni law even if the father can able to earn it is obligatory to give maintenance
2. If there are more persons than one who are liable to maintain the burden is shared according their means and ability for Shia law but in Sunni law it is equally shared between them
3. In Shia law when the father is poor man the mother rich the liability to maintain the infant child rests on the grandfather if he has means but in Sunni law the maintenance of the child lays on the mother if she is rich even though the paternal grandfather is rich
4. In Shia law wife is entitle for the past maintenance even if there is the absence of

³¹ Dr. S.R Myneni , Muslim Law and other personal Law(Family Law II) 253 1Ed 2009..

agreement but in Sunni law wife is not entitled for the past maintenance if there is absence of agreement

5. The collaterals are not liable for the maintenance. There is obligation only to maintain descendants and ascendants namely sister, brother, uncle or aunt, whether maternal or paternal in Shia law but in Sunni law if Muslims have means are bound to maintain their poor relatives within the prohibited degrees in the same proportions in which they would inherit from such collaterals.
6. Shia law considers the entitlement of pregnant divorced wife maintenance till the delivery if it takes beyond the expiry of period of iddat. In Sunni law divorced wife is entitled to maintenance for the period of iddat not after that even she is pregnant.
7. In Shia law the amount of maintenance of wife according to wife's requirements in respect of conditions, clothes, food, residence, and as also the custom of her equal among her own people in the same city but in Sunni law husband and wife will fix the amount of maintenance payable by the husband to the wife.

CONCLUSION:

The whole concept of maintenance is to protect the women's (wife) rights and dignified life even after the divorce. It protects not only the wife but also the minor children who are basically considered as the weaker sections who are to be protected. Husband's obligation extends to his parents and grandparents if they have no means for their maintenance. In Muslim law there is the obligation to provide maintenance for the poor relatives if they don't have any means.

The amount of maintenance differs from one family to another family based on their financial stability, expenses of the family, capacity of the income and based on their own law i.e. his law etc. these maintenance are paid according to their expenditure and this is the financial support to the family by the husband should be paid. After enacting the Muslim Women Protection of Rights on Divorce Act, the rights of the women were improved by getting maintenance after the divorce or the period of iddat.

However the customs and the practice of Muslims make their maintenance different from other religions

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