

## **MAINTENANCE**

Right of maintenance or alimony: It means that the things against which, husband is liable to provide to his family, in result of labour, provision of subsistence is called maintenance.

Following things come under maintenance:

1. Food, which is cooked (baked).
2. Separate house or separate passage for incoming and outgoing.
3. Clothes which are stitched. If there is contract that no maintenance shall be payable or to be provided, presumption shall go in favor of wife and it shall remain payable.

**When it becomes payable (due):** It becomes due on following reasons:

1. In the presence of valid contract of marriage.
2. Wife is able for intercourse, i.e., she has attained age of puberty and not suffering from any dread disease.
3. She must be in control of husband and live with him.
4. If she goes to her parents and neither husband invites her nor she refuses to come, shall establishes the claim of maintenance.
5. If wife refuses to come to husband's house and her refusal is justifiable, makes claim due.
6. If husband enters into 2nd contract of marriage and former wife resides with her parents; she shall have right to claim maintenance.

**When it is not payable:** There are certain reasons in which maintenance is not payable, such as:

1. When husband becomes person of unsound mind
2. When she goes for pilgrimage without permission of her husband. If the pilgrimage is obligatory then under Shia law it shall remain due while it shall eradicate of her right in Sunni law. In majority view, if she is working lady and proceeds to pilgrimage without permission, it shall lapse her right.
3. When she becomes prisoner.
4. When she becomes disobedient.
5. When husband is transferred from one place to another and she refuses to live with him discharges his liability.
6. When she enters in apostasy.

7. When husband dies and she remains in iddet.

**Amount of maintenance:**

This is an amount for which a husband is liable to provide to his wife during the course of valid marriage. This amount varies in different schools such as:

**Hanfi:** Social status of both husband and wife is taken into consideration while deciding the matter.

**Shafi:** Economic conditions of only husband are important and status of wife is no more important.

**Shia:** Status or economic conditions are not important but the necessities of wife such as food, clothes, and accommodation are determinant factors in settlement of the amount of maintenance.

**Quran has guided us on this topic.**

One of verse of Quran says, "Maintenance is decided as per capacity of rich and poor". In another verse it is stated "let them live in their homes." Ultimately it is upto Court whatever she decides.

**Remedies available to wife in case husband defaults in payment of maintenance:** Following remedies are available to wife where husband defaults in payment of due maintenance:

1. Wife may bring lawsuit in Court and claim maintenance.
2. She can claim divorce in Court. Failure in payment is sufficient ground in this respect.
3. Court may punish husband upon non-compliance of his obligations toward the payment of maintenance.

**Period of claim or limitation of claim:** Following is period of claim under different sects:

**Shafi, Malki, and Hanbli** are agreed that wife can claim the maintenance for the past period. Hanfi school debars wife for the claim of maintenance of the period gone. During the course of imprisonment of wife debars her in claim of maintenance while imprisonment of husband does not affect (defeat) the claim of wife.