

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Constitutional Petition No.S-99 of 2026

Petitioner : Amjad Khan s/o Haji Sher Aslam Khan
Through Mir Tarique Khan, Advocate

Respondent : Mst.Mahwish Anwar d/o Anwar Ahmed. Nemo

Date of hearing : **07.04.2026**

Date of decision : **07.04.2026**

ORDER

ARBAB ALI HAKRO, J:- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, calling into question the legality and propriety of the judgment dated 04.3.2026, passed by the learned District Judge, Mirpurkhas in Family Appeal No.02 of 2026, whereby the maintenance earlier fixed by the Family Court in Family Suit No.24 of 2025, was enhanced from Rs.7,000/- to Rs.10,000/- per month for each minor child, with annual increment of 10%.

2. The factual background, as emerging from the record, is that the respondent (plaintiff before the Family Court) instituted Family Suit seeking recovery of maintenance for her four children born from the wedlock with the present petitioner. In the plaint, she asserted that the marriage was solemnised according to Muhammadan Law and from the said wedlock four children were born, namely Kainat (20 years), Talha (16 years), Huzeefa Aymal (15 years) and Hassan (10 years), all of whom were residing with her. She further pleaded that due to persistent maltreatment and strained relations, the petitioner divorced her, after which she shifted to her parental home and has been maintaining the minors without any financial support from the petitioner. She also pleaded that the petitioner had contracted a second marriage and had failed to discharge his legal obligation of maintaining the minors. She claimed that the children were studying in reputable educational institutions and required substantial financial support.

3. Upon service of summons, the petitioner entered an appearance and filed his written statement. He admitted the paternity of the four children but disputed

their ages as mentioned in the plaint. He denied allegations of cruelty and asserted that the respondent had left his house of her own accord. He further denied having divorced the respondent, contending that no proof of divorce had been produced. He also alleged that the suit was filed as a counterblast to a civil suit he had instituted regarding property situated at Attock. He maintained that he had been providing maintenance to the minors and was financially incapable of paying the amount claimed.

4. After failure of pre-trial reconciliation proceedings under Section 10(3) of the Family Courts Act, 1964, the Family Court framed issues relating to entitlement of the minors to maintenance, the quantum thereof, the claim regarding maintenance of Kainat as a medical student, the claim for ration allowance and the relief to which the parties were entitled.

5. In support of her claim, the respondent examined herself at Ex.12 and produced PW-2 Mst. Tasleem Bibi at Ex.13, both of whom reiterated that the petitioner had not paid any maintenance for nearly a decade and that the minors were being supported by the respondent's family. The respondent also stated that the petitioner was financially well-off, owning a transport agency, a weigh station, shops, and property.

6. The petitioner examined himself at Ex.15, wherein he admitted that the minors were studying in private institutions and that he had not produced any documentary proof of having paid maintenance. He further admitted owning a transport agency and a weigh-station business, a plot in Khayaban-e-Yousif and residing in a house valued between Rs.1.5 to 2 crores.

7. Upon appraisal of the evidence, the Family Court decreed the suit vide judgment dated 12.12.2025, holding that all four minors were entitled to maintenance at the rate of **Rs.7,000/- per month each**, with **10% annual increase**, from the date of filing of the suit, i.e., February 2025, till their legal entitlement. The claim regarding the ration allowance was not granted.

8. The respondent (mother) preferred Family Appeal No.02 of 2026, before the learned District Judge, Mirpurkhas, seeking enhancement of maintenance. After hearing both sides and examining the fee vouchers of the eldest daughter,

the appellate Court found that the amount awarded by the trial Court was insufficient in view of the minors' educational status and needs. The appellate Court enhanced the maintenance from **Rs.7,000/- to Rs.10,000/- per month for each minor**, with the same annual increment of 10%, while maintaining the rest of the decree.

9. Aggrieved by the enhancement, the petitioner has filed the present constitutional petition.

10. Learned counsel for the petitioner contended that the impugned judgment of the appellate Court suffers from serious legal infirmities and warrants interference. He submitted that both the trial Court and the appellate Court failed to appreciate the petitioner's actual financial condition and awarded an excessive and unrealistic amount of maintenance without any cogent basis. It is argued that the petitioner is not a man of substantial means; rather, he has a limited income and is burdened with responsibilities arising from his second marriage, including a minor daughter from that wedlock, as well as the obligations of a joint family system. According to counsel, these material circumstances were neither considered nor discussed by the courts below. He further argued that the respondent exaggerated the ages, educational status and financial needs of the minors, particularly in relation to Kainat, who, according to the petitioner, is not a medical student as claimed. It is submitted that the respondent suppressed material facts and approached the Court with unclean hands and that the suit itself was motivated by mala fide considerations arising out of a property dispute pending between the parties at Attock. Learned counsel maintained that the petitioner had been maintaining the minors to the best of his capacity and that the allegation of complete neglect was unfounded. He submitted that the enhancement of maintenance from Rs.7,000/- to Rs.10,000/- per month per child was made mechanically, without proper evaluation of evidence and amounted to misreading and non-reading of the material available on record. He argued that the quantum fixed is wholly disproportionate to the petitioner's earning capacity and imposes an impossible financial burden upon him. On these premises, learned counsel urged that the impugned judgment be

set aside and the maintenance be reasonably reduced to Rs.5,000/- per month per child or to such amount as this Court may deem just and equitable in the circumstances.

11. I have heard learned counsel for the parties and have carefully examined the record.

12. The controversy before this Court is narrow and relates only to the quantum of maintenance as determined by the courts below. The petitioner seeks a reduction of the amount fixed by the learned appellate Court. It is settled law that the constitutional jurisdiction of this Court under Article 199 is supervisory in nature and does not permit re-appraisal of evidence as if sitting in appeal. Interference is warranted only where the impugned order is shown to be perverse, arbitrary, or suffering from a jurisdictional defect or patent illegality.

13. The record reflects that the petitioner admitted paternity of all four minors and further admitted during cross-examination that the children are studying in reputable educational institutions and that the eldest daughter is enrolled in the Virtual University. He also conceded that he had not produced any documentary proof of having paid the decretal maintenance amount, except Rs.100,000/-. The Family Court, upon appreciation of the evidence, fixed maintenance at Rs.7,000/- per month per child, with an annual increment. Upon examining the educational status of the minors and the fee vouchers produced for the eldest daughter, the Appellate Court found the amount insufficient and enhanced it to Rs.10,000/- per month per child. The enhancement was made after assigning reasons and upon consideration of the petitioner's own admissions regarding his business interests, ownership of property, and residence in a house valued at between Rs. 1.5 and 2 crores.

14. The petitioner's principal contention is that he is a man of limited means and that the courts below failed to consider his financial constraints. However, the petitioner's own deposition contradicts this assertion. He admitted operating a transport agency, running a weigh station, owning a plot in Khayaban-e-Yousif, and residing in a valuable residential property. These admissions were rightly taken into account by the appellate Court. The law does not permit a father to

plead poverty while simultaneously acknowledging ownership of substantial assets. The father's obligation to maintain his children is absolute and cannot be avoided on the pretext of financial hardship, particularly where the record indicates that he possesses sufficient means. The Supreme Court in the case of **Humayun Hassan**¹ has laid down the controlling principle that maintenance, though traditionally defined as food, clothing and lodging, must now be interpreted in an extended and contemporary sense, keeping in view the child's social environment, educational requirements, mental and physical development and the overall status of the family. The Supreme Court held that maintenance must be commensurate with the father's means and capacity to pay. In the present case, the petitioner's own admissions demonstrate that he possesses sufficient means, and therefore, the enhancement ordered by the appellate Court is fully aligned with the above principle.

15. The petitioner also argued that the respondent exaggerated the educational needs of the minors, particularly of Kainat. This contention is equally without substance. The appellate Court examined the fee vouchers and found them genuine. The petitioner himself admitted that his daughter is studying at the Virtual University.

16. The argument that the suit was filed as a counterblast to a property dispute is wholly irrelevant to the statutory obligation of the father to maintain his children. The appellate Court rightly disregarded such collateral assertions. The petitioner has also urged that the enhancement was made mechanically. The record, however, shows otherwise. The appellate Court examined the evidence, considered the minors' educational status, evaluated the petitioner's financial capacity, and assigned reasons for enhancement. The enhancement was neither arbitrary nor excessive. The amount of Rs.10,000/- per month per child, in the present economic climate and in view of the petitioner's admitted means, cannot be termed unreasonable.

17. In constitutional jurisdiction, this Court does not substitute its own view for that of the courts below merely because another view is possible. The petitioner

¹ Humayun Hassan v. Arslan Humayun (PLD 2013 SC 557)

has failed to demonstrate any jurisdictional defect, perversity or misreading of evidence in the impugned judgment. The findings of the appellate Court are based on a proper appraisal of evidence and align with the settled principles governing maintenance. No ground is made out for interference under Article 199.

18. For the reasons recorded above, the petition is devoid of merit. The impugned judgment dated 04.3.2026, passed by the appellate Court, does not suffer from any legal infirmity warranting interference in constitutional jurisdiction. The petition is accordingly **dismissed** in *limine*, along with the pending miscellaneous application(s).

JUDGE

"Saleem"