



3. Against the aforesaid Judgment and Decree, Respondent No.1 filed Family Appeal No.20 of 2018 which was allowed after modification in the Judgment of learned Trial Court. An excerpt of the same is reproduced as under:-

“The learned Trial Court has partly decreed the suit by awarding past maintenance of the minors @ Rs.3000/- per month for each minor and future maintenance at the rate of Rs.5000/- per month for each minor with 15% increase per annum. The stance of the Respondent that in absence of details of expenditure of the minors awarded maintenance per month is quite an exorbitant amount and enough to fulfill the needs of minors. I am not convinced with such contention as in these days where the price of every commodity has sky-rocketed and the cost of living has gone-up. No doubt detail of expenditure of the minors are not provided, but it is common sense that every child requires food, clothing, educational expenses, entertainment, etc. therefore, no plausible reason is available for reducing this amount. As far as past maintenance of each minor @ Rs.3000/- per month is concerned the same appears to be very meager and unrealistic and therefore, the same is hereby enhanced to Rs.6000/- per month for the same period, as has been awarded by the Trial Court. The rate and duration of future maintenance of minor granted by the learned Trial Court are also enhanced to Rs.12, 000/- per month for each minor with a 20% increase per annum for the same period. However, towards the accumulated amounts of past maintenance of the minors, let equal installments are made to be paid by the Respondent in every alternate month, commencing from the date of this Judgment. The learned Trial Court has erred in arriving at the conclusion and has misread the evidence produced on record. I, therefore, point No.1 is decided as above.”

4. Mr. Masood Rasool Babar, learned counsel for the petitioner, contended that the Petitioner being a father can be held responsible for payment of maintenance to Respondent No.1 according to his financial position; that the Petitioner is denied relief based on technicalities; that even in absence of any evidence, the learned Family Court was obliged to consider all the relevant factors while fixing the quantum of maintenance; that the impugned Judgment and Decree lacks application of judicious mind by learned Family Judge. Learned counsel added that even otherwise the Petitioner has a meagre source of income to satisfy the Appellate Decree, which is harsh and arbitrary. It is contended that Appeal is dismissed by learned Additional District Judge arbitrarily based on extraneous factors; that learned Appellate Court has failed to discuss the age factor of minors as well as the factum that the Respondent No.1 was/is doing the job; that the learned Appellate Court erroneously relied upon the photocopies of documents produced by Respondent No.1 which were never produced in evidence; that the impugned Judgment and Decree of learned Appellate Court is not sustainable under the law; therefore, prayed for setting aside the same. In support of his contentions, he relied upon the statement along with photocopy of school paid Fees Receipts of both minors from December 2019 to date, photocopy of salary certificate and receipts of insurance payment slip of both minors.

5. Conversely, learned Counsel representing the Respondent No.1 has argued that the Petitioner has been dragging Respondent No.1 and her minor children instead of providing maintenance to them; that the Petitioner has filed this Petition with malafide intention; that the Petitioner is bound to maintain his wife and children; that learned Appellate Court has appreciated the factual as well legal aspects of the case; that the Petitioner is earning handsome amount and is liable to pay maintenance according to his financial capacity. He further contended that the father is bound to bear all expenses of the minors i.e. school fees, uniforms, van fees, and all other miscellaneous expenses. Besides, Petitioner (father) is under obligation to provide for other personal needs of each minor; that this Court while exercising constitutional jurisdiction cannot ordinarily reappraise the evidence to substitute findings of facts recorded by lower courts, nor can it give its opinion regarding quality or adequacy of the evidence unless any misreading, non-reading of evidence or illegality is pointed out. In the instant Petition, since the Petitioner has failed to point out any of the above-specified flaws in the impugned judgment and decree passed by lower courts respectively, therefore, this Petition is liable to be dismissed. In support of his contentions, learned counsel relied upon 'Salary Report' annexed with a statement dated 28.09.2020 called by learned Trial Court confirming the income of Petitioner.

6. Prima-facie the issue involved is 'maintenance allowance for Respondent No.1 and minor children by the Petitioner.'

7. 'Maintenance' means and includes food, clothing, and lodging which is the responsibility of the father to pay to his children and wife. In this regard, it is noted that Section 17(A) of the West Pakistan Family Courts Act, 1964 specifically provides in sub-section to fix maintenance. The Honorable Supreme Court of Pakistan has considered the aforesaid issue in the case of Humayun Hassan v. Arslan Humayun and another (PLD 2013 SC 557) and held as under:-

"Again in interpreting the word "maintenance" some reasonable standard must be adopted. Whilst it is not confined merely to food, clothing, and lodging, it cannot, by any stretch of the imagination, be extended to incorporate within its education at higher levels ad infinitum. What is necessary to decide in this connection is to find out as to what amount of education has to be attained by the child concerned, having regard to the status and other circumstances of his family, to enable it to earn a complete livelihood by honest and decent means. Thus it may not be sufficient to say that the child of a tradesman can maintain itself by working as coolly or by thieving. What is required is that the child must be maintained until it is in a position to earn its livelihood, in an honest ad decent manner in keeping with its family status."

8. Learned counsel for the Petitioner has not been able to point out any illegality or infirmity or jurisdictional defect in the impugned judgment and decree passed by learned Appellate Court in Family Appeal No.20 of 2018 (Re. Mst. Sanobar V/s Arsalan Aijaz).

9. In the lights of foregoing, I have formed a view that it is the responsibility of the Petitioner (father) to take care of his minor children as well as his estranged wife. The mere statement of the Petitioner that he is not earning much does not discharge him from the said responsibility.

10. Under the law, the object of determining maintenance is to ensure in all probability that the minor(s) is/are maintained by the father in a dignified manner with reasonable comfort, and the mother is not left to bear the financial burden of the minor(s).

11. From the foregoing legal as well as the factual aspect of the case, I hereby conclude that the decision of the learned Appellate Court enhancing the maintenance allowance is fair, and just hence, the same is maintained.

12. Consequently, this Petition is dismissed with no order as to costs.

JUDGE