



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

A STUDY ON MAINTENANCE FOR WIFE AND CHILDREN UNDER SECTION 125 OF Cr.P.C.

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Abstract: The word 'maintenance' isn't defined in the Code of Criminal Procedure, 1973. Chapter IX of the Code of Criminal Procedure deals with provisions for maintenance of women, children and parents, essential conditions for granting maintenance, Procedure of maintenance, revision of the former order, Enforcement of order of maintenance etc. Section 125 of the law of criminal procedure provides that any person having sufficient means to maintain himself cannot refuse the conservation to the woman, children, and parents if they're unfit to maintain themselves. After a party invoked Section 125 of the Code, the court may order the replier, that's the hubby, to give yearly conservation to his woman who's unfit to support herself. For the purpose of giving conservation to the woman, the hubby has to be sufficient enough to maintain his woman after the separation and at the same time, the woman mustn't be doing infidelity or living independently with her hubby without any sufficient reasons. Indeed, if they live independently with collective concurrence, also the woman won't be entitled to any type of conservation. Whenever a judgment passes in favor of the woman, the court must ensure that the husband has sufficient means to give conservation. The court is also needed to make sure that the woman after the separation doesn't have sufficient plutocrats to support herself. Convenient and simple random method is used to collect the samples. Samples are collected to support the ease of access from Egmore court. The sample size of this paper is 200. Statistics employed in the exploration is SPSS and bar graphs. The information was collected from secondary sources like journals, papers, etc. and first data are age, gender, educational qualifications and occupation.

Keywords: Maintenance, Disassociated woman, Section 125, Separation, Infidelity.

I. INTRODUCTION

In moment's fairly advanced society, every human being has the right to enjoy his or her rights purely on the grounds of being mortal which is handed by the rule of law. Despite the presence of numerous rights and laws to cover them, the reality is far from this verity, there are vittles but to mileage the same bone has to suffer numerous rigors too. Women, children and senior people are the most affected by this. The notion of 'conservation' in India is covered both under Section 125 of the Code of Criminal Procedure, 1973 (Section 125) as well as the particular laws. This idea further gets its roots from Composition 15(3) corroborated by Composition 39 of the Constitution of India, 1950 (the 'Constitution'). In Indian law, the term 'conservation' includes a right to food, apparel and sanctum, being available to the woman, children and parents. It's a part of social justice and the natural duty of a man to maintain his woman, children and parents, when they're unfit to maintain themselves. Child conservation in India is recognised under Section 125 CrPC. It has been said that the child can claim conservation from the father in India. Section 26 of the Hindu Marriage Act also provides for conservation of child under Hindu law. The section of the Act states that a minor child is entitled to get

conservation from the father if during the divorce parenting the guardianship of a child has been awarded to the mama or else also.

Recently, Indian courts have also said that a minor child whether son or daughter, under the family law in India, is also entitled to get conservation from his/ her father if they're dependent on their parents. Dependency on parents means that they aren't in a position to earn themselves moreover because they're studying or due to any disease. Section 125 of Criminal Procedure Code specifies the right to conservation of the parents, children and woman and other vittles regarding the same. The section provides that when any person neglects to maintain his woman, children or parents they can claim conservation by filing the operation to the Magistrate. The Magistrate will bind that person with such a yearly rate as he thinks fit. The miracle of conservation is to help immorality and pauperism and improve the weak profitable condition of women and children. The procedures under these sections aren't chastising in nature. The motive isn't to brush-off an existent for casualness to keep up those whom he'll really keep up still to forestall megrim by upholding obligation by system of synopsis strategy to give an advisable result for the individualities who are in trouble. This is a common arrangement as it doesn't make any isolation between people having a place with colorful persuasions or stations and it has no relationship with individual laws of the gatherings. Since the 1996, particularly the, Responsibility and Work occasion Reconciliation Act (PRWORA), had taken a major motivation to collection of child support is the Welfare law. A custodial parent entering public backing, e.g., via Temporary Assistance for indigent Families (TANF), is needed to assign child support to the Department of Welfare to admit backing. Any payment is diverted to the weal program as partial payment. In Mohd Ahmed Khan V. Shah Bano Begum, the SC held that the vittles of section 125 applies to all. The end of the study is to assay the conservation for woman and children under section 125 of Cr.P.C.

II. OBJECTIVES

- To analyze the wife can ask maintenance before divorce.
- To study, an adult unmarried daughter can claim maintenance.
- To study the second wife's claim of maintenance.
- To study children can claim maintenance from their mother.
- To study no grounds of maintenance for wife.

III. LITERATURE REVIEW

(**Shruti Singh 2019**), the author in her journal, maintenance Under Section 125 Of Cr.P.C Vis A Vis Rights Of Divorced Muslim Women, has analysed, if a woman suffers cruelty and she is not divorced or her divorce is not valid, she cannot claim maintenance. However, section 125 Code of Criminal Procedure acts as the saviour and provides maintenance rights to women in need whether divorced or not.

(**Das 2018**), the author in his book, Maintenance as a Measure of Social Justice, has described, granting of maintenance is a measure of social justice, by itself. In the first category the maintenance can be claimed under the Section 25 of Hindu Marriage Act 1955 and in the second category maintenance to wife, parent and children under Section 125 of CrPC and Hindu Adoption and Maintenance Act, 1956.

(**Hari Shankar 2020**), the author in his article "Relevance of Provisions of Maintenance (for Women) under Cr.P.C." has said, it is provided that for a speedy, effective, and rather inexpensive remedy against persons who neglect or refuse to maintain their dependents i.e. wives, children and parents; the provisions are herein the Cr.P.C.

(**Saema Jamil 2019**), the author in her article, Maintenance to Step-Relations: An Analysis of Step Treatment Meted Out by the Law ,the paper demonstrates that the courts have read the provision with Section 20 of the Hindu Adoptions and Maintenance Act, 1956 and interpreted the word "mother" so as to include a childless stepmother who is a widow or whose husband is incapable of maintaining her.

(**Varun Giri 2019**), the author in his journal, A study of laws related to maintenance in Muslims in India and he has analysed, according to section 3 of Muslim women (protection of rights on divorce) act,1986 where the

children are born before or after the divorce of Muslim women a reasonable maintenance to be paid by her former husband for a period of two years from the dates of birth of such children.

(Jasmine Kaur 2020), the author in her journal, Need for a relook on legal provision regarding Maintenance under Hindu Law. The main objection of section 125 Cr.P.C. is to provide relief to deserted and poor wives, discarded children and disabled parents. For this, compulsion is imposed on certain person to maintain their dependants who are unable to maintain themselves.

(Abhilasha Shrawat 2015), the author in her article , Personal Laws and Maintenance Claims has analyzed the Patriarch were begetting a whirl whirled fantasy wherein women were nothing but weaker subjugating material to quench their solitude and means to dictate their conscience into ardent thinking that they need men to sustain themselves then, therein ipso facto, the concept of Maintenance arises.

(Dr. Seema Yadav 2016), the author in her article, Maintenance of wife under personal laws: An evaluative analysis has analysed, Section 38 of the Indian Divorce Act, 1869 provides that court may direct the payment of alimony to the wife or to her trustee.

(Ekta Gurjar 2010), the author in her journal Laws and Offences Relating to Maintenance of Women, has said , spousal maintenance is an out-dated concept that continues to sustain vestiges of a long dead relationship contrary to the 'clean break' principle and the financial independence of the parties.

(Mr Shiv Shankar Banerjee 2015), the author in her article, Maintenance of Widow under Personal Law in India, has analyzed, law of maintenance widow & women in India. Even just after the independence law was made for widows and females in respect to the law of inheritance and maintenance, the provisions are made thinking about the society well in advance.

(Dr. Vikas Sharma 2019), the author in his journal Maintenance of Muslim women under various laws has said, Section 125 gave the Magistrates the authority to require the husband to furnish maintenance to the women. The clause was expanded to include 'divorced wives' as well. Under Section 125, a divorced Muslim wife who has not remarried can apply to the Magistrate for a maintenance order against her former husband if she is unable to support herself and her former spouse, although having ample resources, neglects or refuses to support her.

(Verma Rajeev 2021), the author in his journal Legal Remedy Of Maintenance To Deserted Wife; Children And Aged Persons has described that it also contains a comprehensive study about the Legislation regarding Hindu Marriage Act, Muslim Women (Protection of Rights on Divorce) Act, 1986, Section 125 of Code of Criminal Procedure etc., about the process of calculation of Maintenance, a legal duty on how a wife is to be maintain and limitation for providing maintenance and the Principles and Judicial Judgement for the maintenance of women.

(Manoranjan Ayilyath 2018), in her journal Role of Indian Judiciary in Upholding Gender Justice in the Matter of Right of Maintenance of Muslim Women, has analysed the role of Indian judiciary in reforming the law relating to the maintenance rights of divorced Muslim women upholding gender justice. The maintenance rights of the divorced Muslim women under traditional Muslim personal law and other legislative enactments in India.

(Mukund Sarda 2012), the author in his journal Functioning of Family Courts: An Evaluation by Apex Court – A study, has said, the Supreme Court had the occasion to observe the functioning of the Family Courts. In this case, the Supreme Court noted that there was a delay of 14 years in the disposal of the application for maintenance filed under Section 125 Cr PC.

(Prasad 2020), the author in his article The Need for Uniform Civil Code , has said ,India is a secular state that means the state does not owe loyalty to any particular religion and has no religion of its own. All religions are governed by their personal laws. According to these laws, the conditions for marriage, divorce, adoption, maintenance, etc., vary from one religion to another, resulting in several problems and matrimonial conflicts.

(Ashok Wadje 2019), the author in his journal , Maintenance Right of Muslim Wife: Perspective, Issues & Need for Reformation has analysed, When a deserted or destitute Muslim (divorced) wife who is unable to get maintenance by virtue of prohibition in Muslim Law, approaches & files application under Section 125 of Cr. P.C., the usual ploy adopted by the husband was to e that he has already divorced his wife and hence he is not labile to pay maintenance

(Mr Shiv shankar Banerjee 2013), the author in his journal , Maintenance of Widow under Personal Law in India, has analysed that even just after the independence law was made for widow and female in respect to law of inheritance and maintainance, the provision are made thinking about the society well in advance .

(Mohammad Tabrej Alam 2019), the author in his article Maintenance of Muslim Women in Comparison to other Personal and Secular laws in India, has said asper the Muslim personal law of India, there are multiple factors in which women can claim maintenance.

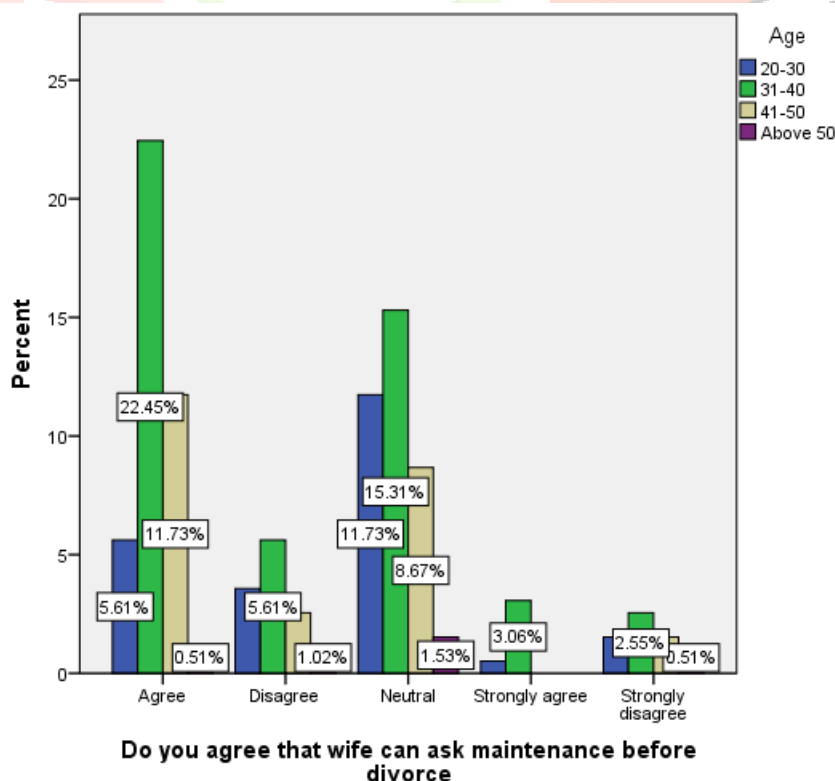
(Heama Latha Nair 2020), the author in his article A review of married women and children (maintenance) Act 1950 has reviewed ,Married Women and Children (Maintenance) Act (MWCMA) 1950 was introduced to provide for situations when a man refuses to pay maintenance, a condition that is worsened when the man is imprisoned.

(R Byali 2021), the author in his article, Law relating to maintenance in India with special reference to Uniform Civil Code has reviewed. According, to the Hindu Adoptions and Maintenance Act of 1956, both sexes are required to support both legitimate and illegitimate children. 4 Only up until the age of majority is there a liability.

IV. ANALYSIS AND INTERPRETATION

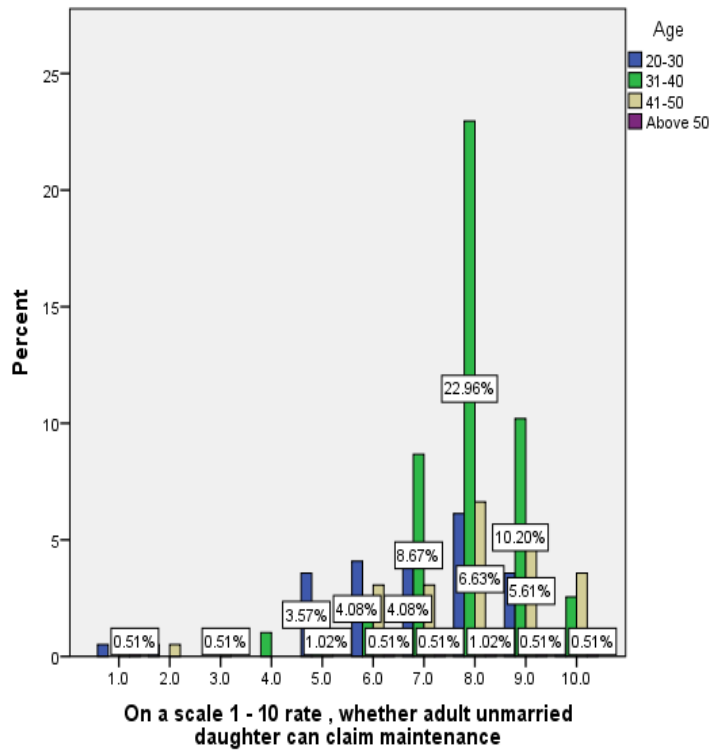
SPSS & Bar Graph:

Figure 1:



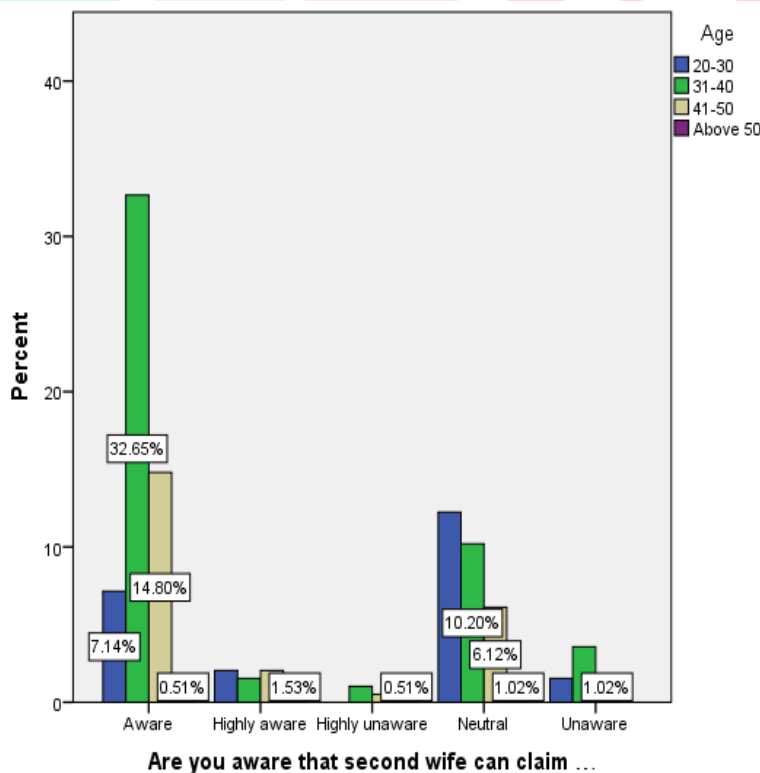
Legend: The above graph is between age and wife can ask maintenance before divorce.

Figure 2:



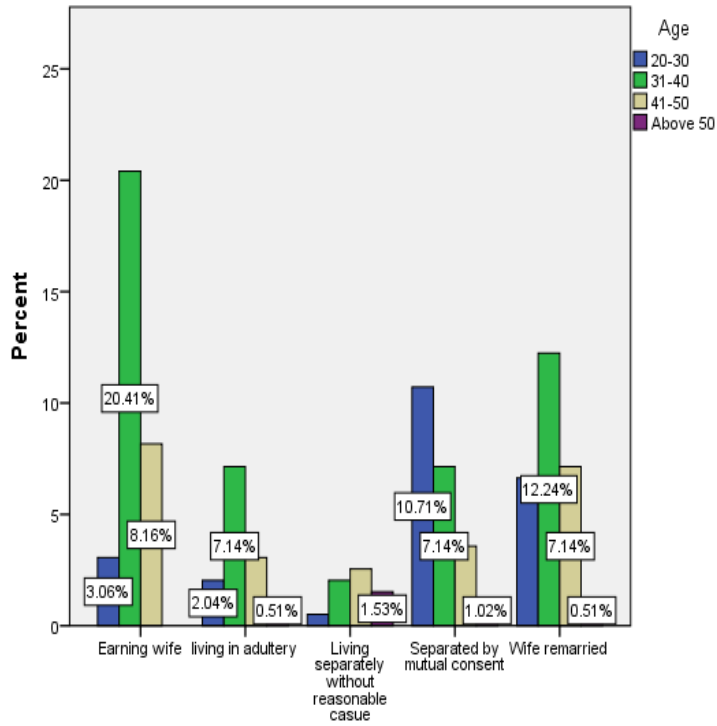
Legend: The above graph is between age and adult unmarried daughter daughter can claim maintenance.

Figure 3:



Legend: The above graph is between age and second wife can claim maintenance.

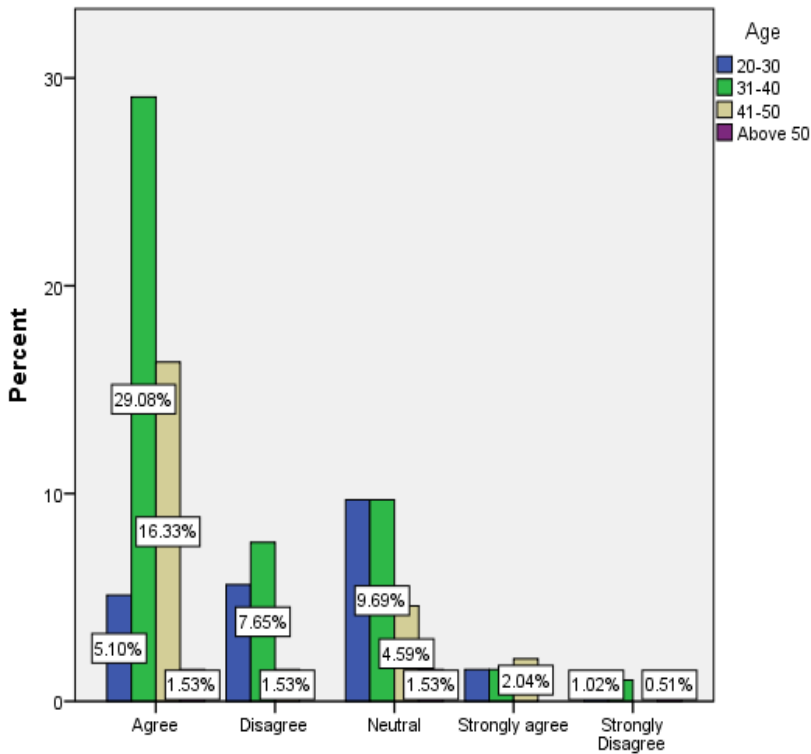
Figure 4:



What are the grounds for no maintenance for wife

Legend: The above graph is between age and grounds for no maintenance for wife.

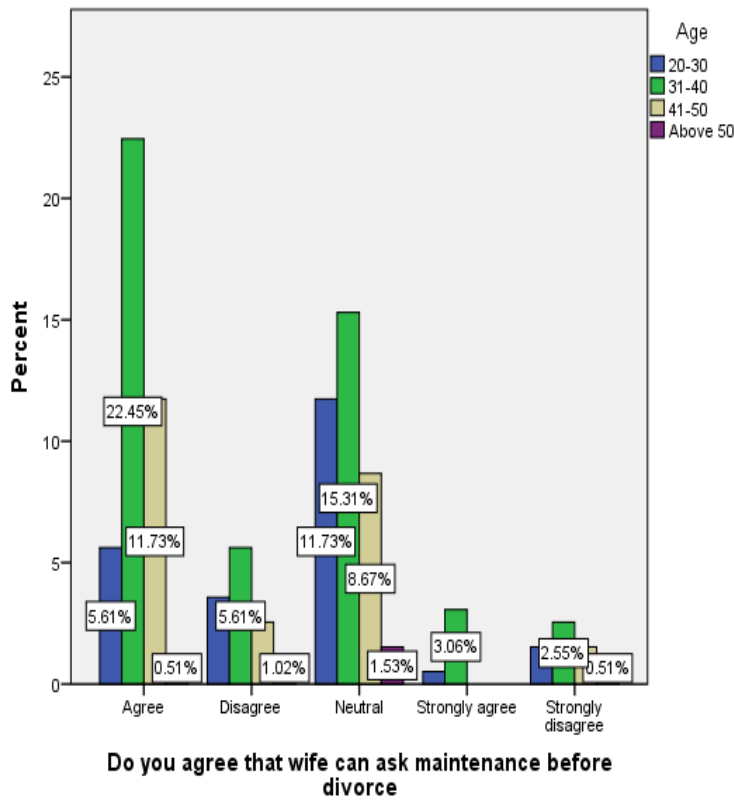
Figure 5:



Do you agree that children can claim maintenance from their mother

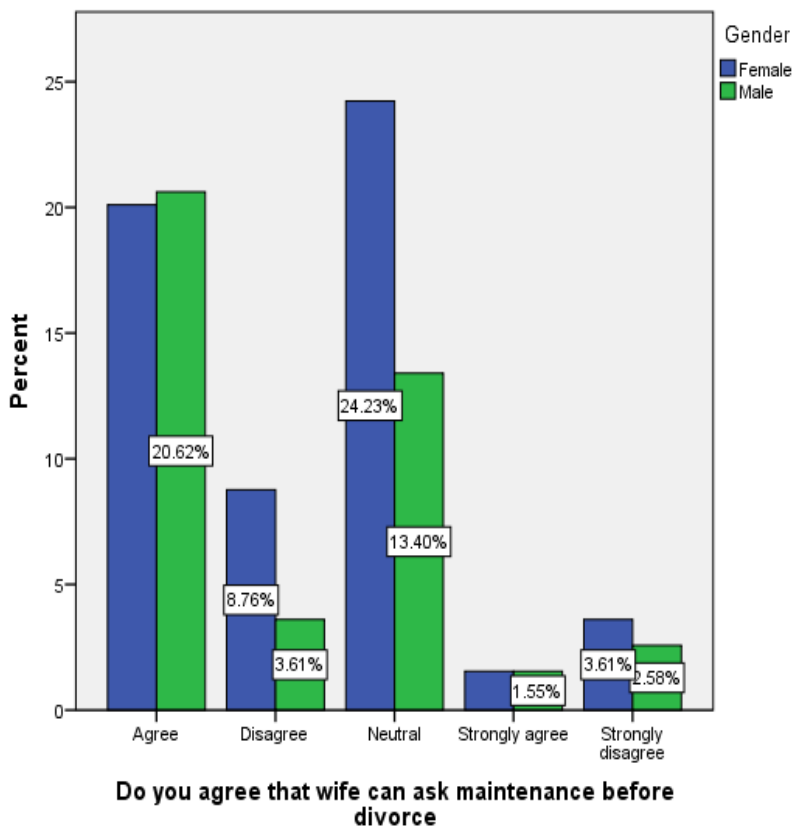
Legend: The above graph is between age and children can claim maintenance from their mother.

Figure 6:



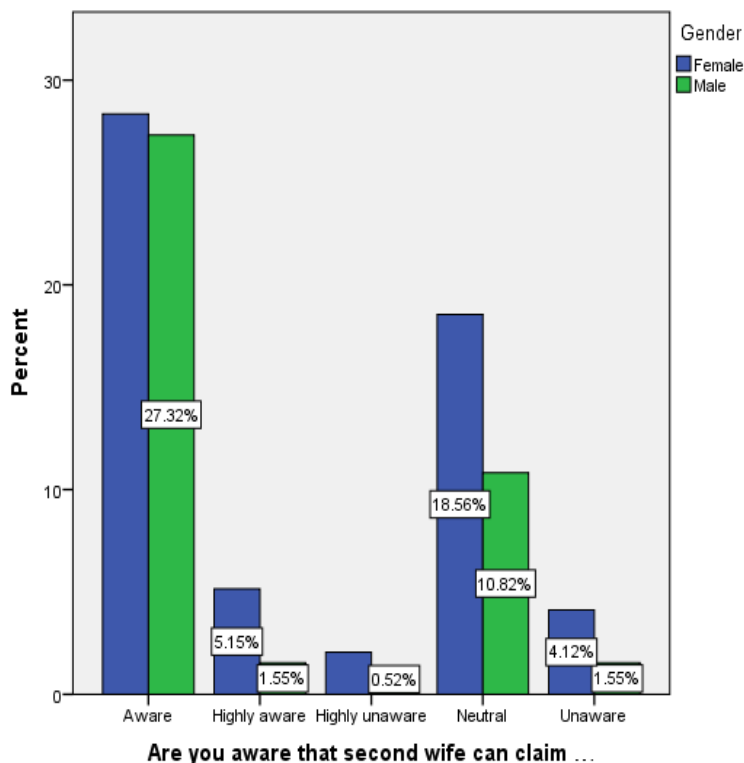
Legend: The above graph is between age and wife can ask maintenance before divorce.

Figure 7:



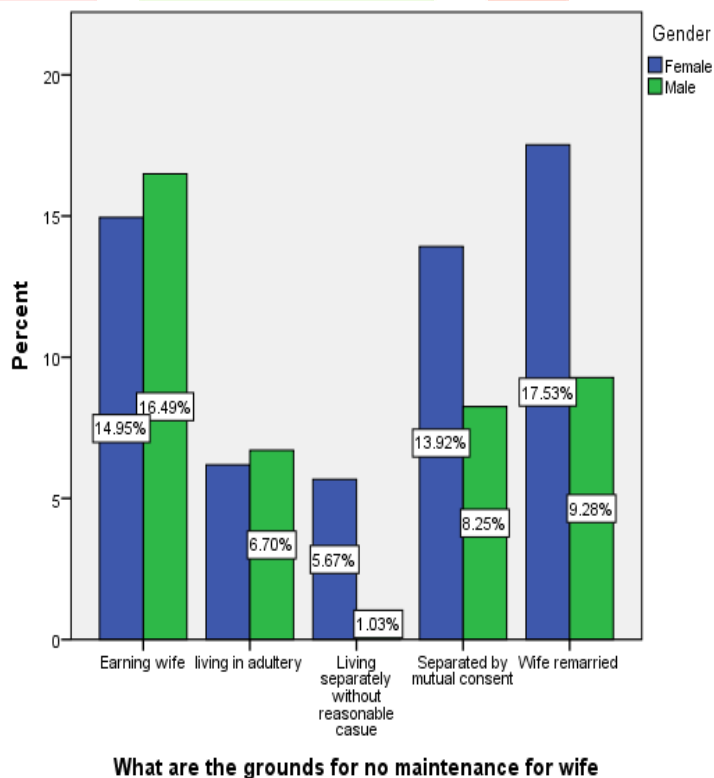
Legend: The above graph is between gender and wife can ask maintenance before divorce.

Figure 8:



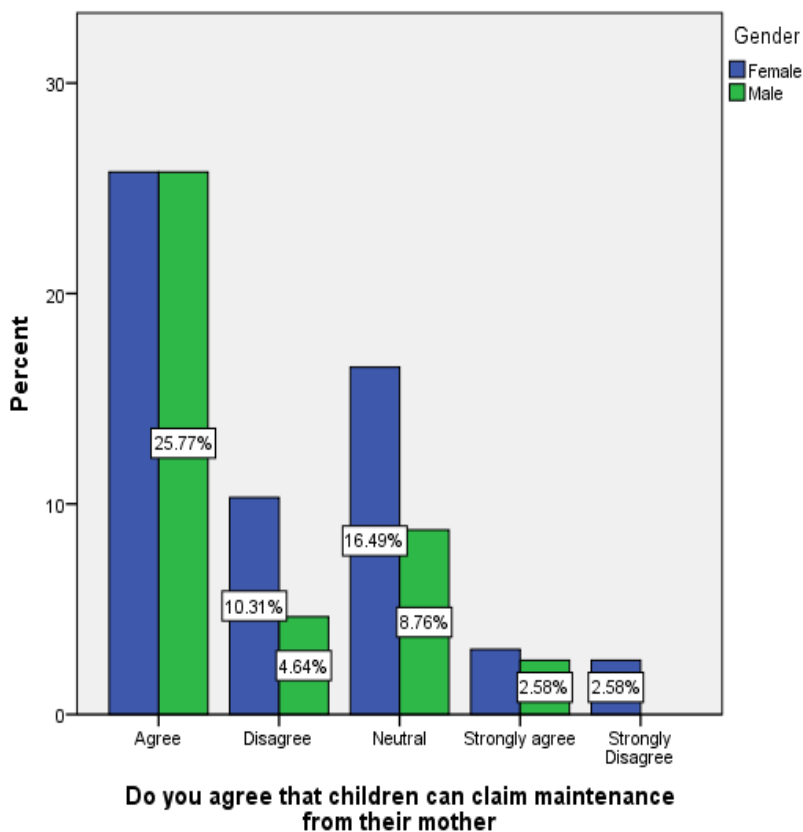
Legend: The above graph is between gender and second wife can claim maintenance.

Figure 9:



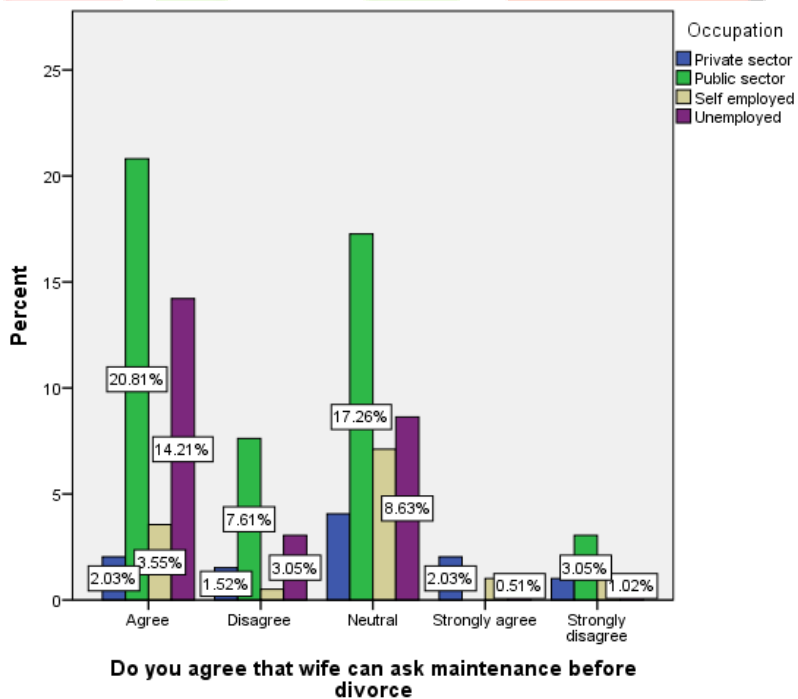
Legend: The above graph is between gender and grounds for no maintenance for wife.

Figure 10:



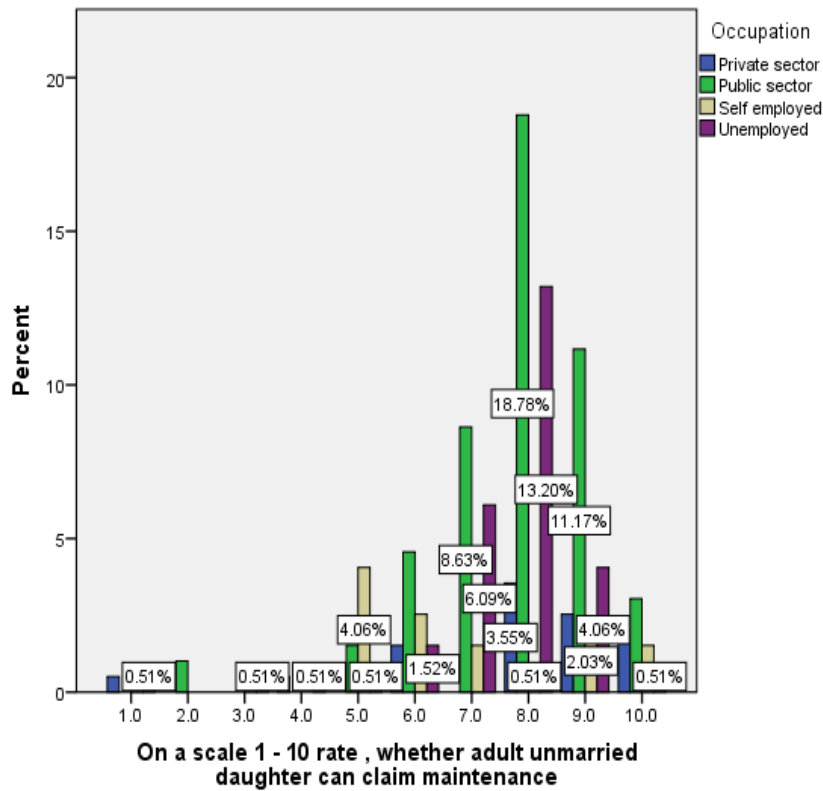
Legend: The above graph is between gender and children can claim maintenance from their mother.

Figure 11:



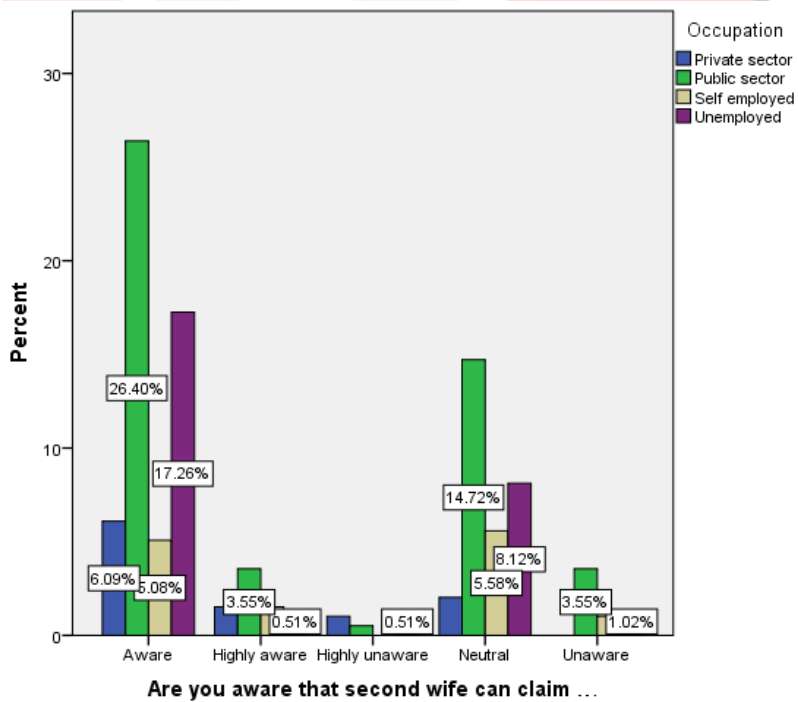
Legend: The above graph is between occupation and wife can ask maintenance before divorce.

Figure 12:



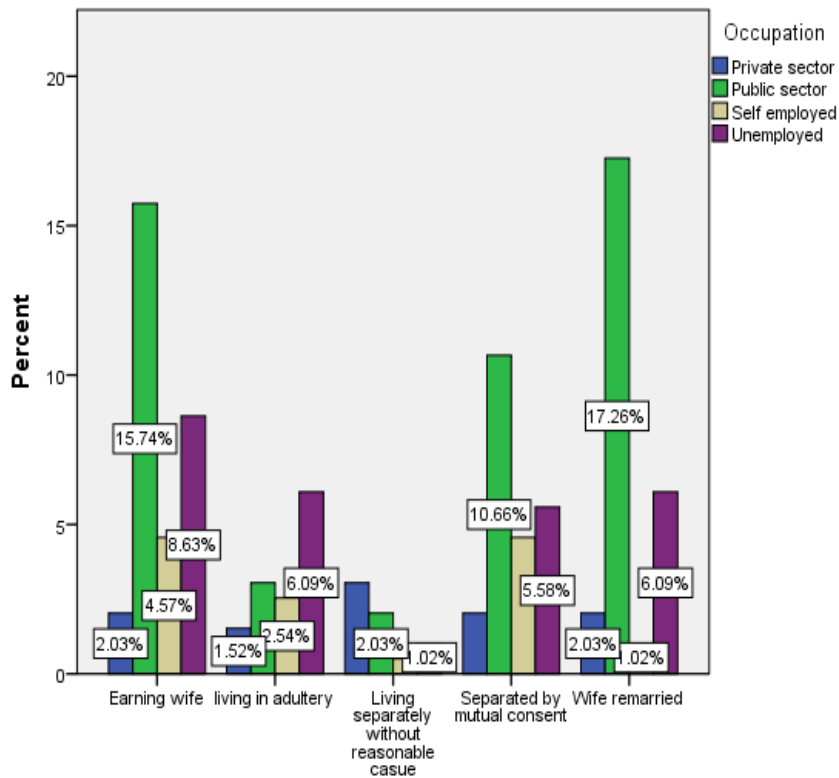
Legend: The above graph is between occupation and adult unmarried daughter can claim maintenance.

Figure 13:



Legend: The above graph is between occupation and second wife can claim maintenance.

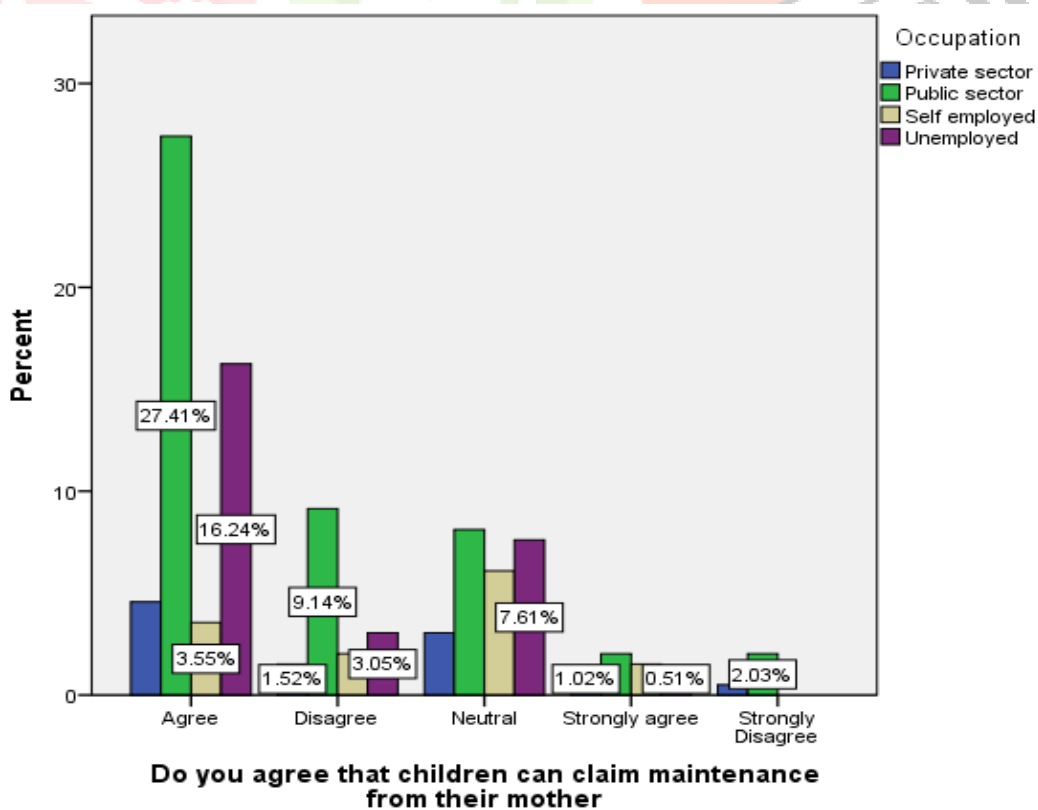
Figure 14:



What are the grounds for no maintenance for wife

Legend: The above graph is between occupation and grounds for no maintenance for wife .

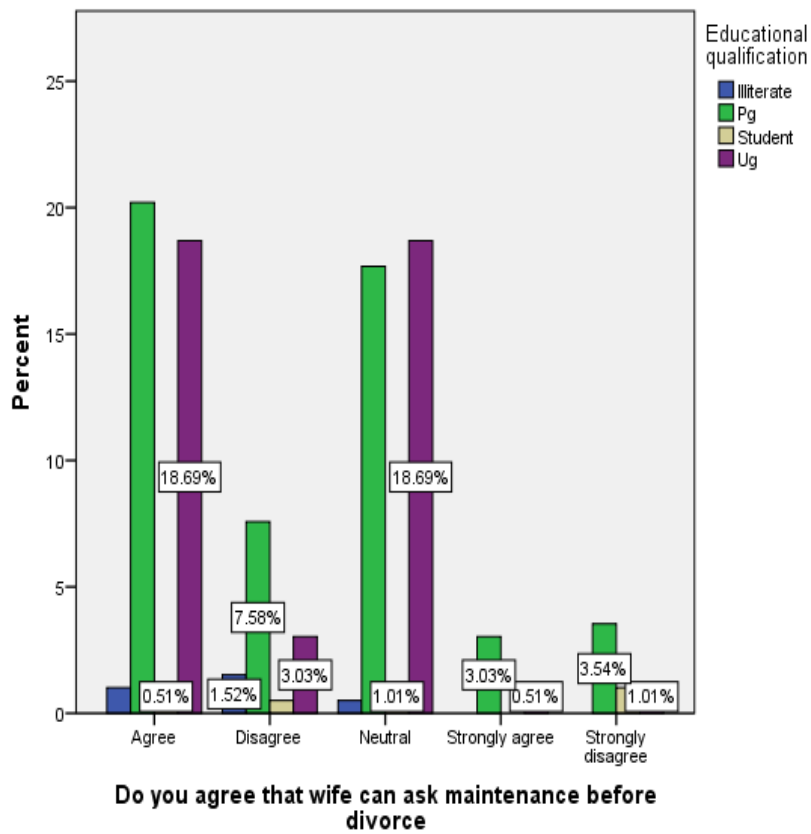
Figure 15:



Do you agree that children can claim maintenance from their mother

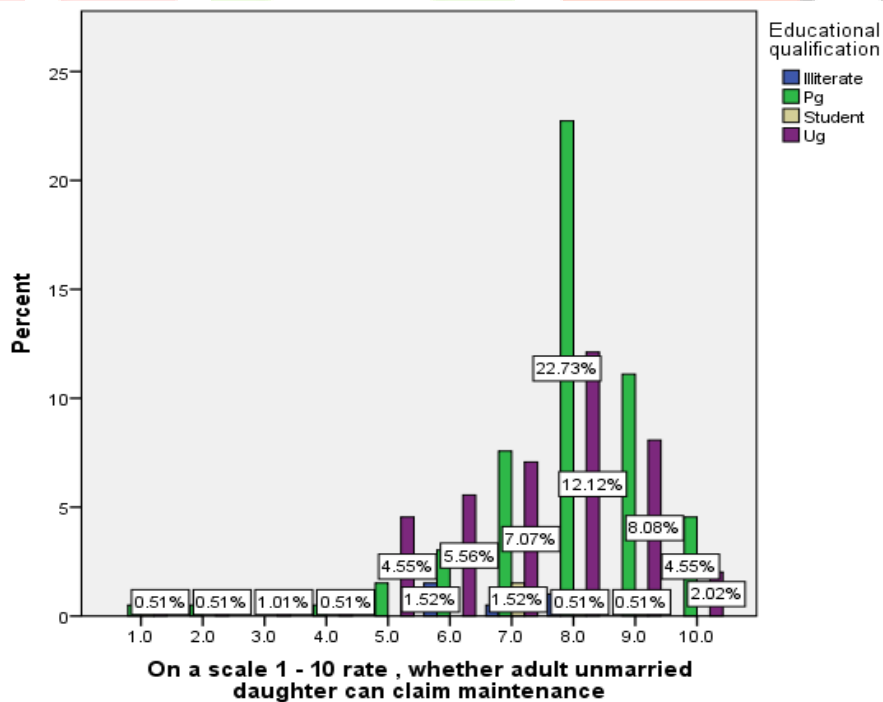
Legend: The above graph is between occupation and children can claim maintenance from their mother.

Figure 16:



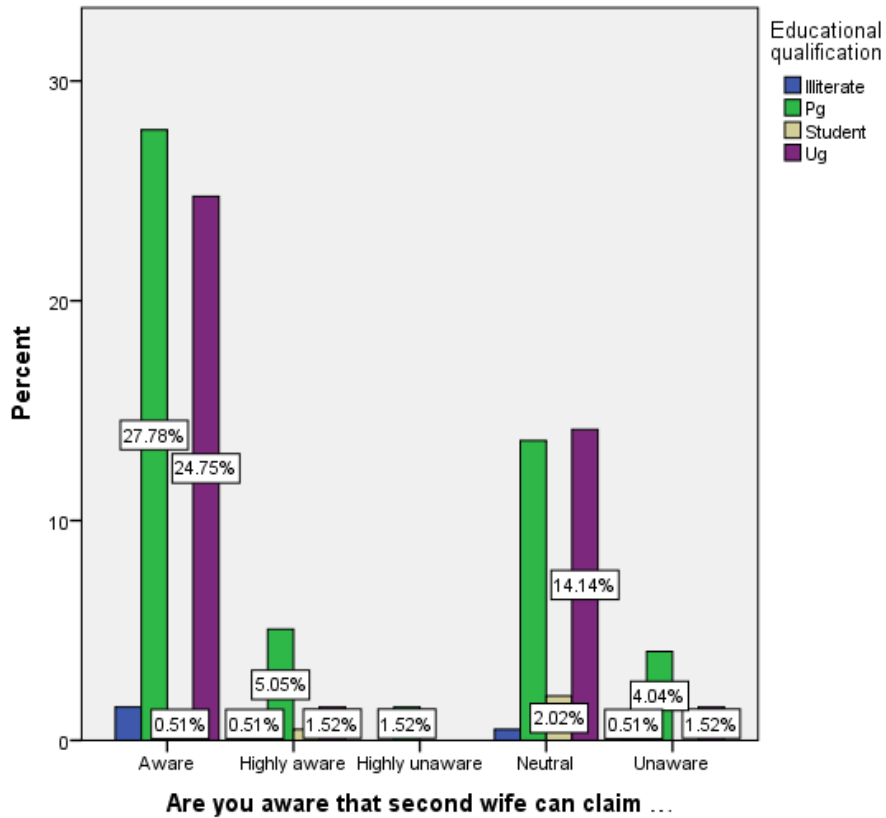
Legend: The above graph is between educational qualification and wife can ask divorce before maintenance.

Figure 17:



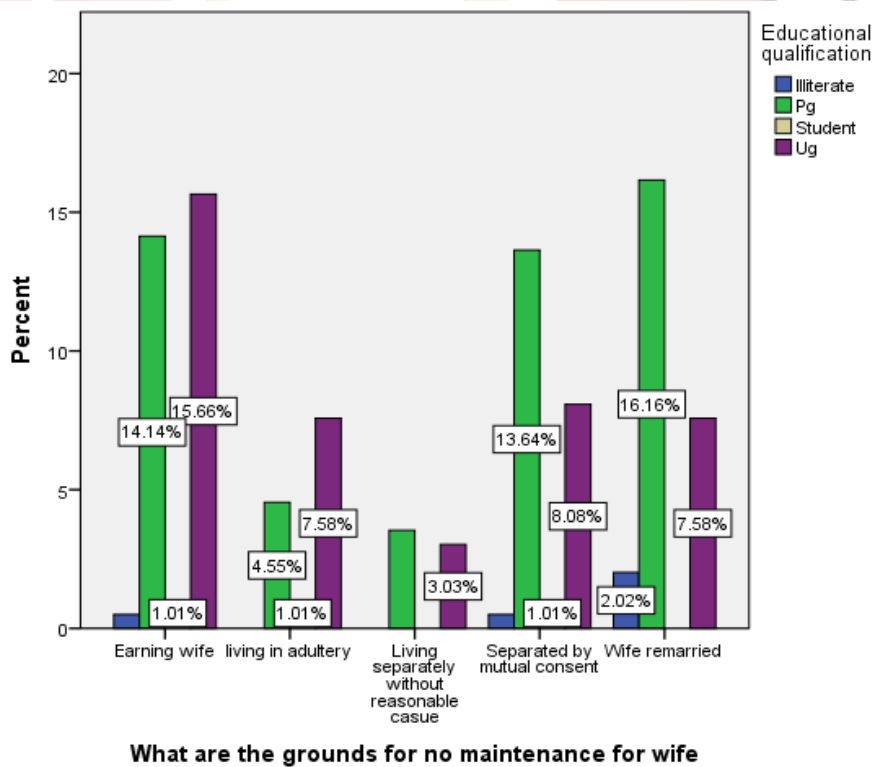
Legend: The above graph is between educational qualification and adult unmarried daughter can claim maintenance.

Figure 18:



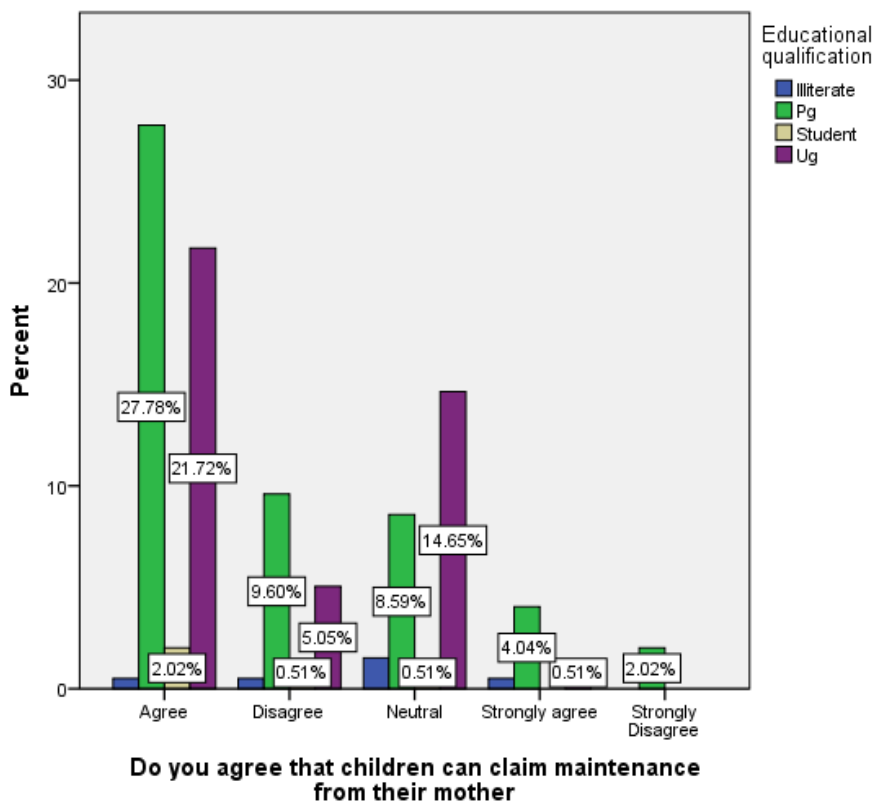
Legend: The above graph is between educational qualification and second wife can claim maintenance.

Figure 19:



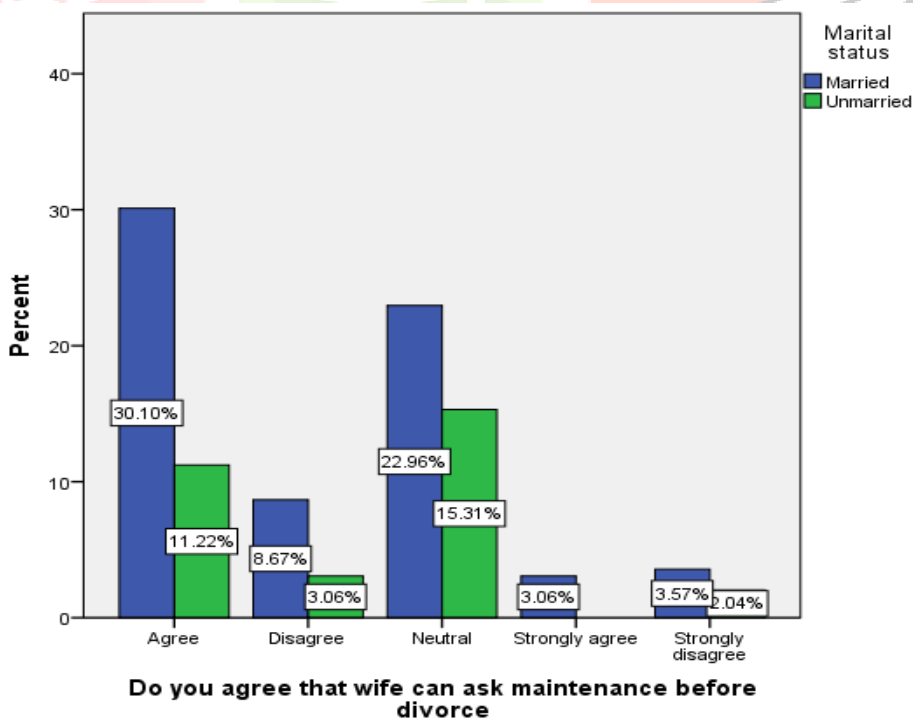
Legend: The above graph is between educational qualification and grounds for no maintenance for wife.

Figure 20:



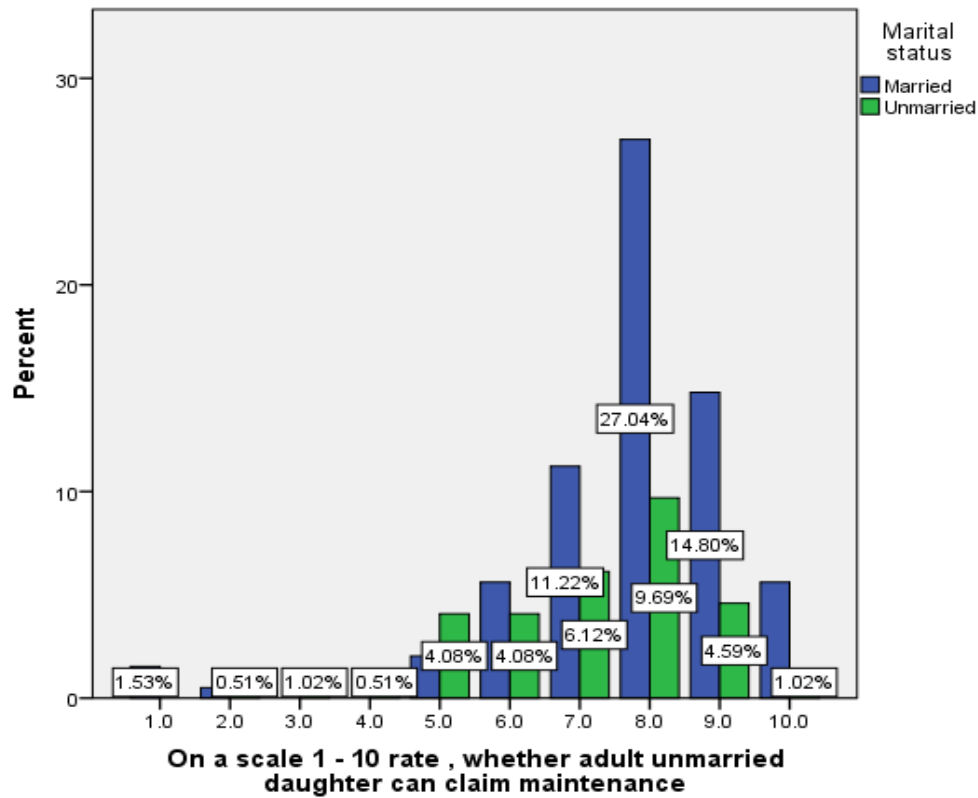
Legend: The above graph is between educational qualification and children can claim maintenance from their mother .

Figure 21:



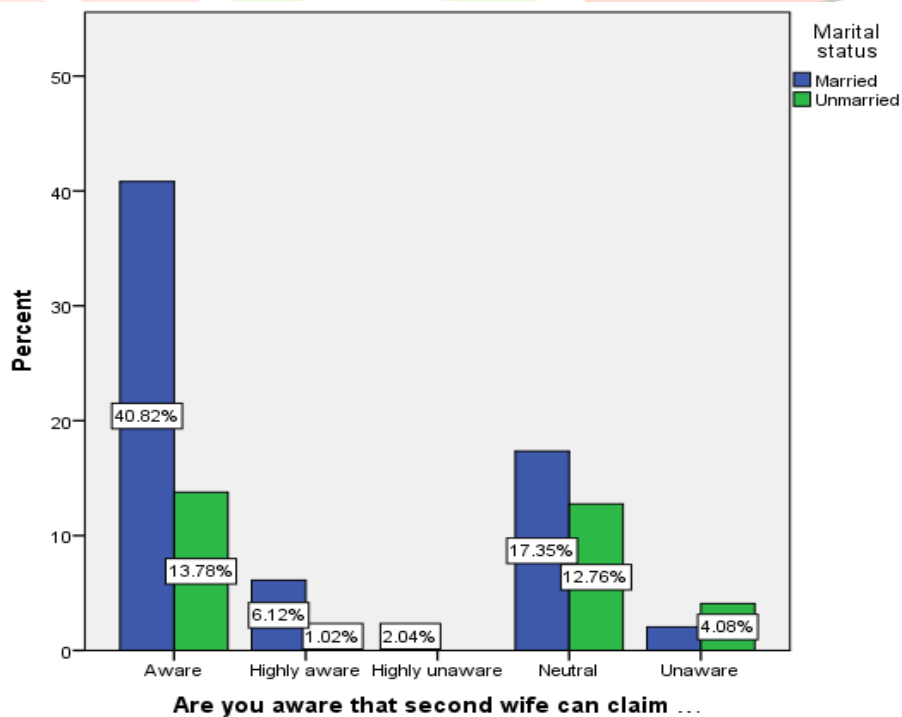
Legend: The above graph is between marital status and wife can ask maintenance before divorce.

Figure 22:



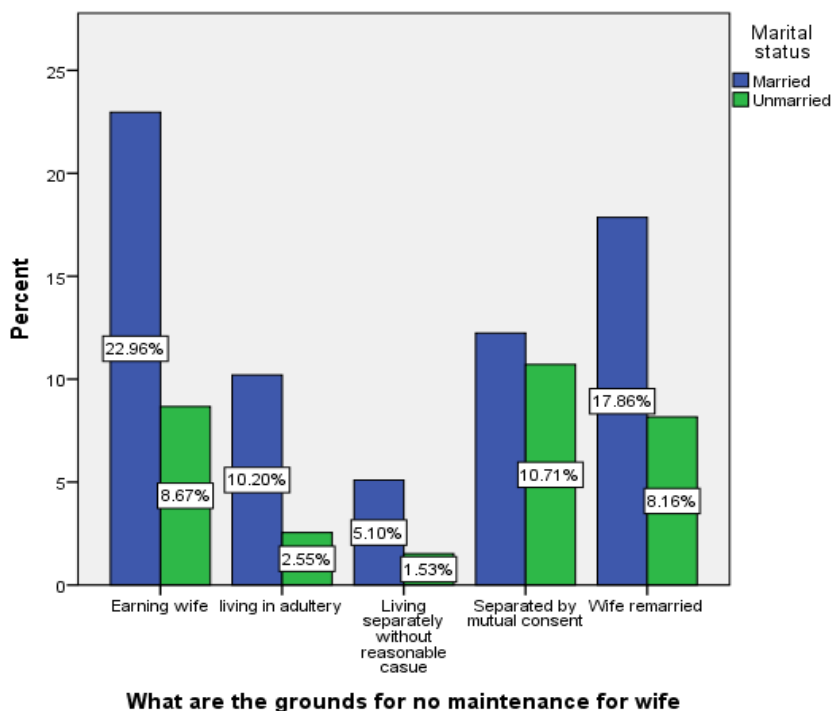
Legend: The above graph is between marital status and adult unmarried daughter can claim maintenance

Figure 23:



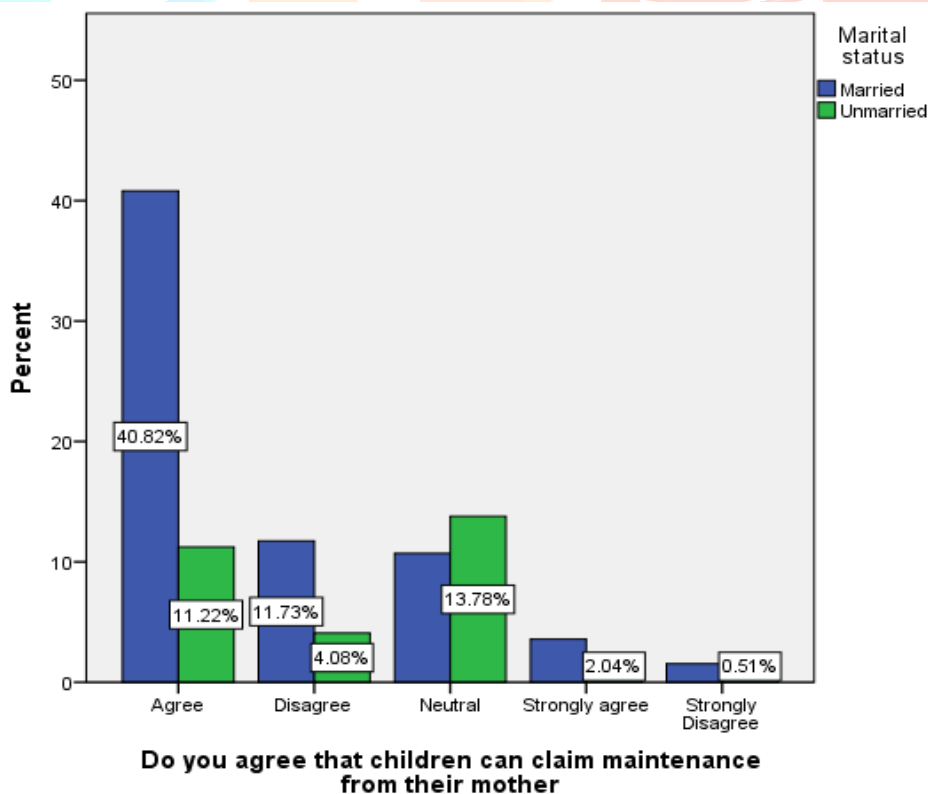
Legend: The above graph is between marital status and second wife can claim maintenance.

Figure 24:



Legend: The above graph is between marital status and grounds for no maintenance for the wife.

Figure 25:



Legend: The above graph is between marital status and children can claim maintenance from their mother.

V. RESEARCH METHODOLOGY

The methodology section outlines the plan and method that how the study is conducted. This includes Universe of the study, sample of the study, Data and Sources of Data, study's variables and analytical framework. The details are as follows;

5.1 Population and Sample

The primary information for the research is collected through surveys from 200 randomly selected respondents which included the general public (Egmore court) of different age groups ranging from 20 years to above 50 age group to with a well framed and structured survey questionnaire.

5.2 Data and Sources of Data

Convenient and simple random method is used to collect the samples. Samples are collected to support the ease of access from Egmore court. The sample size of this paper is 200. Statistics employed in the exploration is SPSS and bar graphs. The information was collected from secondary sources like journals, papers, etc. and first data are age, gender, educational qualifications and occupation.

5.3 Theoretical framework

The research done on an empirical study on the topic "A study on maintenance for wife and children under section 125 Cr.P.C". The dependent variables are- Do you agree that the wife can ask maintenance before divorce, On a scale 1 - 10 rate, whether an adult unmarried daughter can claim maintenance, Are you aware that second wife can claim maintenance, What are the grounds for no maintenance for wife, Do you agree that children can claim maintenance from their mother. Independent variables are age, gender, educational qualification, marital status and occupation.

5.4 Statistical tools

The research is done with a random and convenient sampling method and the results given through SPSS, simple bar graph and clustered bar graph.

VI. RESULT AND DISCUSSION

6.1 Result:

Figure 1 reports that the age group 31 to 40 have highly agreed that a wife can ask maintenance before divorce. **Figure 2** reports that age groups 31 to 40 have highly rated eight for adult unmarried daughters who can claim maintenance. **Figure 3** reports that the age of 31 to 40 has given High percentage of opinions to aware for second wife can claim maintenance. **Figure 4** reports that the age group 31 to 40 have opted earning wife as a major grounds for no maintenance for the wife . **Figure 5** reports that age group 41 to 50 have opted agree for children can claim maintenance from their mother. **Figure 6** reports that the age group 31 to 40 have highly agreed that a wife can ask maintenance before divorce. **Figure 7** reports that both the gender Mutually agree for a wife can ask maintenance before divorce. **Figure 8** reports that female highly or aware about second wife can claim maintenance. **Figure 9** reports that females have highly opted wife remarried as a major ground for no maintenance for wife. **Figure 10** reports that both genders have given the highest responses to agree for children can claim maintenance from their mother. **Figure 11** reports that the public sector highly agrees that wife can ask maintenance before divorce. **Figure 12** reports that public sector have given the highest a rate of eight for adult unmarried daughters who can claim maintenance. **Figure 13** reports that public-sector have given the highest opinions for aware for second wife can claim maintenance. **Figure 14** reports that public sector has opted for remarried the highest for grounds for no maintenance for wife. **Figure 15** reports that the public sector highly agree for children can claim maintenance from their mother. **Figure 16** reports that PG graduates and UG graduates mutually agree that wife can ask maintenance before divorce. **Figure 17** reports that PG and UG sector have rated 8 for adult unmarried daughter can claim maintenance. **Figure 18** reports that the PG sector is highly aware that the second wife can claim maintenance. **Figure 19** reports that UG graduates have opted on invite as a major ground for no maintenance for wife. **Figure 20** reports that PG

graduates agree that children can claim maintenance from their mother. **Figure 21** reports that married people have highly agreed that wife can ask maintenance before divorce. **Figure 22** reports that married people have highly rated eight and agreed that an adult unmarried daughter can claim maintenance. **Figure 23** reports that married people are highly aware that a second wife can claim maintenance. **Figure 24** reports that married people have highly opted earning wife as a major ground for no maintenance for wife. **Figure 25** reports that married people have highly opted for children can claim maintenance from their mother.

6.2 Discussion:

Figure 1 shows that the respondents of 20 to 30 age group aren't much agreeing for whether wife can ask maintenance before divorce. **Figure 2** shows that the respondents from all age groups by rating eight the maximum have shown their awareness and I agree ability for adult unmarried daughters can claim maintenance. **Figure 3** shows that age of 31 to 50 respondents aren't much aware about second wife can claim maintenance. **Figure 4** shows that Respondents from above 41 to 50 age group aren't much aware that there are few grounds available for the wife to get no maintenance. **Figure 5** reports that age group 41 to 50 do not strongly agree for children can claim maintenance from their mother. **Figure 6** reports that age group 31-50 strongly agree that wife can ask maintenance before divorce. **Figure 7** reports that the respondent support gender neutral and strongly agree that wife can ask maintenance before divorce. **Figure 8** reports that both gender or highly aware of second wife maintenance claim ability. **Figure 9** reports that both genders are very much aware about earning wife and remarried wife are the major grounds for which wife aren't entitled for maintenance. **Figure 10** reports that both the gender highly agree that children can claim maintenance from their mother. **Figure 11** reports that Public sector employees highly agree that wife can ask maintenance before divorce. **Figure 12** reports that all the occupational sector have majorly rated eight for adult unmarried daughters can claim maintenance from their parents. **Figure 13** reports that all the occupational sectors are just majorly aware about the second wife's maintenance. **Figure 14** reports that people from all the occupational sector agree that earning wife cannot be entitled for maintenance. **Figure 15** reports that all the occupational sector scatteredly agree that the children can claim maintenance from their mother. **Figure 16** reports that illiterates and students aren't much agreeing for a wife can ask maintenance before divorce. **Figure 17** reports that all the educational qualification groups have rated eight for adult and mother daughter can claim maintenance. **Figure 18** reports that the respondents from PG, UG and illiterates are highly aware that second wife can claim maintenance. **Figure 19** reports that UG graduates and PG graduates respondents are very clear that earning wife and remarried wife are two other major grounds in India where wife is not entitled for maintenance. **Figure 20** reports that the respondents from PG scholars is the highest and the other educational qualification respondents also agreed that children can claim maintenance from their mother. **Figure 21** reports that married people have highly agreed that a wife can ask maintenance before divorce. **Figure 22** reports that the respondents from both marital status have highly rated eight as they know that adult unmarried daughters can claim maintenance from their parents. **Figure 23** reports that both the genders aren't very highly aware of the availability of second wife's maintenance. **Figure 24** reports that both the marital status don't much agree that a wife living separately without reasonable cause is also not entitled for maintenance. **Figure 25** reports that both the marital status highly agree that the children can claim maintenance from their mother.

VII. SUGGESTION

Indeed, a child who has attained maturity can claim conservation if he's unfit to maintain himself or herself due to internal or physical abnormalities or injury. But if maternity isn't established, the child isn't entitled to maintenance. In American Kumar Paul Vs Maya Paul the court held that operation for conservation of children is justifiable till the children hadn't attained maturity. Once the children attained maturity, provision of section 125(3) would cease to apply. It's stated that any person having sufficient means has the duty of maintaining his children. Then any person includes a manly as well as a woman. Indeed, if the child is living with her mama who refuses to live with her hubby under decree for reparation of marital rights. The father has the duty to maintain that child. However, also the yearly allowance for conservation or interim conservation and charges of the proceeding shall be outstanding from the date of the order, if no date is mentioned in the order for conservation or interim conservation & charges of the proceedings. Subsections of Section 125 of CrPC, 1973 easily provides that the yearly allowances for the maintenance or interim maintenance outstanding and charges of the proceedings shall be outstanding from the date of order, or if so ordered from the date of the operation for conservation or interim conservation & charges of the proceedings as the case perhaps.

VIII. LIMITATION

The power under Section 127 of CRPC flows from Section 125 IPC itself, any person who receives, a yearly allowance under section 125 of IPC for the maintenance or interim maintenance, similar as woman, child, father or mama, the Magistrate can make similar revision in yearly allowance depends on evidence of a change in the circumstances of the applicable case. revision in allowance and Enforcement of order of maintenance are defined under Section 127 of Cr.P.C 1973. Husband can reduce maintenance of woman on colorful ways in case of woman left the hubby on her own, produce substantiation that woman is well of earning, hubby needs to show his arrears, concession and agreement. Grounds on NO maintenance to woman are woman Living independently without sufficient cause, professionally good woman -Able of earning, separated by collective concurrence, earning woman.

IX. CONCLUSION

It's apparent from the ongoing Judicial opinions that the Indian courts have been stoutly liberal in choosing cases relating to support. The bone of conflict any- way is whether a doxy can get good for get over-keep just from the factum of living with a wedded man, combined with the contest concerning whether the bigamy is lawfully allowable. It can be concluded that the need for protection for the rights of women and children and senior people must suffer a revolutionary transition if we ask to live in a safe and secure world and seeking it should come one of our principal hobbies. Chapter 9 of the Code of Criminal Procedure is essential for the protection of the rights of the separated woman and children and aged parents. It's made to cover them from unusual livelihoods. Maintenance is the duty of everyone who has sufficient means for the same, and our statues, as well as procedural laws, provides enough and clear cut measures that could be decided by the displeased to get maintenance.

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