

**105+215 CM-5285-CII-2018 & CM-5286-CII-2018 and
CMM-157-2015 in FAO-M-433-2014**

**NAMRATA
V/S
KONARK SHARMA**

Present: Mr. V.K. Thakur, Advocate, for the appellant.

Mr. Nakul Sharma, Advocate, for the respondent.

CM-5285-CII-2018

The miscellaneous application is allowed.

Documents Annexure R-1 to R-3 are permitted to be taken on record.

CM-5286-CII-2018

The miscellaneous application is allowed.

Amended reply to application under Section 24 of the Hindu Marriage Act is permitted to be taken on record.

CMM-157-2015 in FAO-M-433-2014

This is an application under Section 24 of the Hindu Marriage Act filed by the appellant-wife claiming maintenance pendente lite @ Rs.30,000/- per month besides a sum of Rs.35,000/- as litigation expenses on the ground that she has got no source of income whereas the respondent-husband is doing the business of resoling the tyres and earning a sum of Rs.70,000/- per month.

In the reply filed, the respondent-husband has denied the averments. He has also filed amended reply pleading therein that he is denying that he is doing the business of resoling the tyres besides pleading that the said averment has been made without any documentary proof of his earning of Rs.70,000/- per month. He has failed to specifically deny the said

avermment and come out with specific version regarding actual work done by him. However, in the amended reply, he has pleaded that he is working as Office Attendant in Rashtriya Cargo Company, Jalandhar and there is no salary of Rs.75,000/- per month. Rather he has placed certificate issued by the aforesaid Company on 28.02.2018 certifying whether he is working in the Company as Office Attendant since April, 2017 at a salary of Rs.7500/-. It is not mentioned whether Rs.7500/- is per annum, per month or per day implying falsehood of the certificate. No salary certificate has been placed on record.

When both the parties are not coming forward with specific documents indicating the actual income of a person, a bit of estimation under law is permitted for the purpose of deciding application under Section 24 of the Hindu Marriage Act.

We have gone through the judgment of the lower Court wherein one of the allegations levelled by the appellant-wife, is that the respondent-husband had been demanding money for purchasing a new machine for resoling of the tyres.

Since the averments in the application have not been specifically denied and the respondent-husband has not come out with clear stand regarding his nature of the job and earning, we presume that he is an able bodied person, capable of earning. Even if, he is presumed to be a skilled labourer, he would be earning not less than sum of Rs.20,000/- per month.

The interest of justice would be adequately met, in case the appellant-wife is awarded maintenance pendente @ Rs.7,000/- per month. The amount will be payable with effect from the date of application i.e.

September, 2015. Litigation expenses are assessed as Rs.30,000/-.

Application under Section 24 of the Hindu Marriage Act is allowed in above manner.

For payment of entire arrears of maintenance pendente lite and litigation expenses, adjourned to 20.04.2018.

**(M.M.S. BEDI)
JUDGE**

March 16, 2018.
harsha

**(GURVINDER SINGH GILL)
JUDGE**