

# LEGAL RIGHTS OF SENIOR CITIZENS



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# INTRODUCTION

- The parliament has taken a bold step in passing a much needed law to maintain and support senior citizens by passing The Maintenance and Welfare of Parents and Senior Citizens Act, 2007. This Act will apply to father or mother whether biological, adoptive or step father or step mother and even to childless couples. Interestingly, this Act also applies to citizens of India residing outside India.
- The Act casts a responsibility on son, daughter, granddaughter, grandson and a relative of a childless couple who will inherit property after the death of the senior citizen, to look after the welfare activities like food, clothing, residence, recreation, medical attendance and treatment of a person who has attained the age of sixty years or above. (Sec 2)



# MAINTENANCE OF PARENTS AND SENIOR CITIZENS (Sec 4)

- As per this law, any senior citizen including a parent who is not able to maintain himself/ herself from his own earning or out of the property owned by him/her, can claim such amount of maintenance from his/ her children or grandchildren (not a minor).
- Parliament has also made provision for childless senior citizen whereby the senior citizen can claim maintenance from those relatives who are in possession of or will inherit his/ her property after his/ her death.
- Also, if such property is to be inherited by more than relative, all such relatives will be liable to pay the amount in proportion to the property they will inherit.



# APPLICATION FOR MAINTENANCE (SEC. 5)

- An application for maintenance at the Tribunal constituted by the state government may be made:
  - a. by a senior citizen or a parent, as the case may be; or
  - b. if he is incapable, by any other person or organisation authorised by him; or
  - c. the Tribunal may itself take up the matter.
- Such application may be filed at the place where he last resided or where children or relatives reside (Sec 6)



- When such an application is filed, the Tribunal issues notice to the children/ relatives and after hearing their stand, the Tribunal will decide the amount payable from the date of the order or date of the application as per the discretion of the court.
- In case where such an application for monthly maintenance is filed and is pending, the Tribunal has power to direct the children or such relative to pay interim maintenance till the final disposal of the application. In case one of the person dies, the others will still be liable to continue looking after the needs of the senior citizen



- Also, the Tribunal has to decide the same within 90 days of date of service of notice. The said time period may be extended for 30 days only in exceptional circumstances.
- In case the children or relative fail to maintain the senior citizen as per the order, the court may issue warrant and levy fine and may even pass an order of imprisonment which may extend to one month or till the payment is made. But, the senior citizens have to make the application of outstanding amount within 3 months of the date the amount became due.



## ORDER FOR MAINTENANCE (Sec 9)

- If the Tribunal finds that the children or relative are neglecting to maintain the senior citizen, the Tribunal will order such children or relative to make a monthly allowance at month rate as the Tribunal deems fit.

## OPTION REGARDING MAINTENANCE IN CERTAIN CASES (Sec 12)

- The Act clearly provides that the senior citizen or parent is entitled to claim maintenance either under Chapter IX of Crpc i.e. maintenance of wives, children and parents or under his Act but not under both.



## DEPOSIT OF MAINTENANCE AMOUNT (Sec 13)

- The children or relative will have to deposit the entire amount as ordered by the Tribunal within a period of 30 days of the date of the order.

## AWARD OF INTEREST WHERE ANY CLAIM IS ALLOWED (Sec 14)

- Along with maintenance amount, the children or relative will also have to pay simple interest at such rate as is finalized by the Tribunal. This amount shall be between 5-18%.





# APPEALS (Sec 16)

- An appeal can be filed at the appellate Tribunal against the order of the Tribunal within 60 days from the date of the order. But even during this period, the children or relative are duty bound to continue paying the maintenance amount.
- Once an appeal is filed, the appellate Tribunal will look into all the records, hear both the parties and the order of the Appellate Tribunal is final.



# RIGHT TO LEGAL REPRESENTATION (Sec 17)

- Another interesting aspect of this Act is that no legal practitioner can represent the party before the Tribunal or Appellate Tribunal.
- State government is also duty bound to establish old age homes (Sec. 19), provide medical support (Sec 20) and create public awareness of welfare of the senior citizens and parents (sec. 21)



# TRANSFER OF PROPERTY TO BE VOID IN CERTAIN CIRCUMSTANCES (Sec 23)

- It is a possibility that the children or relative may lure the senior citizen to transfer the property in their name in order to look after the senior citizen/ parents and once when the same is done, the children or relative may not look after the basic needs. In such a circumstance, it will be deemed that the transfer was done by fraud or force or under influence. Here, the Tribunal has the power to declare such a transfer as void i.e. as if it never took place from the beginning.
- Also, if the Tribunal has ordered to receive maintenance from an estate and if due to any reason such an estate or part of it is transferred or alienated, the order can be enforced against the transferee only in case he is aware about such transfer



# EXPOSURE AND ABANDONMENT OF SENIOR CITIZEN (Sec 24)

- The law provides a strict rule that if the children or relative leave the senior citizen with an intention to abandon them, they shall be imprisoned for upto 3 months or with fine upto Rs. 5000/- or both.

## Cognizance of offences (Sec 25)

- every offence under this Act shall be cognizable (police has the power to take action without a warrant issued by a magistrate) and bailable.
- Such an offence shall be tried summarily by the magistrate



# CONCLUSION

- The welfare and protection of senior citizens is one of the fundamental duties of any civilized society and State. The misery of the people who have devoted their whole life for the welfare of their children and also contributed immensely for the society, needs to be looked after in their heyday.
- More than often, it is seen that senior citizens get second class treatment at the hands of their own children as well as the State. Senior citizens suffer from ill health and for lack of facilities on account of lack of financial resources as well as neglect from their own.
- This law made by the government takes a bold step to alleviate the senior citizens from their sufferings and lead their life with respect, dignity and without suffering from deprivation.

