

Thus, to pay the  
maintenance of  
disabled



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BUSTER**

Thus, the father is required to maintain an adult son who has been disabled on account of some disease, or physical or mental infirmity, or is engaged in study. In case the mother and father both are in a position to pay the maintenance of disabled adult children, then Muslim law lays down that both should do so. In such a case the ratio of payment between the father and mother will be 2/3: 1/3.

In *Adam v. Mammad*, the Kerala High Court held that where the girl's father had given his consent although the girl had withheld her consent, no valid marriage takes place. The court said since the essential principle of Muslim law is that as a marriage is a civil contract, consent of the parties is essential for the validity of the marriage. If the adult daughter does not have any independent means of maintenance, then the father should maintain her till she is married. The Muslim law-givers hold the view that the father cannot hire out the female children for work or send them into service with any male person not related within the prohibited degrees. It is submitted that this rule is no longer valid in India. Under Muslim law, a parent has no obligation to maintain a married daughter. When the father is entitled to the custody of the daughter and offers to keep her with him, then the daughter is entitled to maintenance only if she lives with him, unless the circumstances justify her living apart.

In *Mohammed v. Noorjahan*, after divorce the daughter was living with the mother. The father obtained a custody order in his favour from the court, but did not execute it, and the daughter continued to live with the mother.

Under these circumstances, the court held that the daughter was entitled to maintenance from the father even though she was not actually living with him. In *Dinsab v. Md. Hussein*, the father of two daughters, mother being alive, took a second wife, whereupon the former wife together with her two daughters left the husband and started living separate from him. The father offered to keep the daughters with him, but offer was rejected.

The court held that the daughters were not entitled to maintenance.