

**IN THE FAMILY DIVISION OF THE HIGH COURT AT SUVA**

**ORIGINAL JURISDICTION**

<b>CASE NUMBER:</b>	19/SUV/0004  <i>(ORIGINAL CASE NUMBER 19/SUV/0077)</i>
<b>BETWEEN:</b>	NIYA
<b>AND:</b>	JANVI
<b>Appearances:</b>	<i>Mr. Waqanivavalagi for the Appellant.</i>  <i>Ravinesh Groundar Lawyers (through written submissions) for the Respondent.</i>
<b>Date/Place of judgment:</b>	<i>Tuesday 12 March 2024 at Suva.</i>
<b>Judgment of:</b>	<i>The Hon. Madam Justice Anjala Wati.</i>
<b>Category:</b>	<i>All identifying information in this judgment have been anonymized or removed and pseudonyms have been used for all persons referred to. Any similarities to any persons is purely coincidental.</i>
<b>Anonymized Case Citation:</b>	NIYA v JANVI – Fiji Family High Court Case number: 19SUV0004

**JUDGMENT**

**Catchwords:**

**FAMILY LAW** – **PARENTAL MAINTENANCE** – **APPEAL** – *Quantum in question- determination of the proper amount to be paid to the mother by one of the daughters.*

### *Cause*

1. The appeal before me arises out of an order of the Family Division of the Magistrates' Court of 18 October 2019. The appellant, who is the daughter of the respondent, was ordered to pay to her mother parental maintenance in the sum of \$70 per week.
2. When the matter was called before me, the parties had consented that partial maintenance be stayed and the appellant be ordered to pay only \$25 per week instead of \$70 per week. I had therefore, on consent of the parties, stayed part of the order. I had, in no uncertain terms, indicated to the parties that if the appeal is unsuccessful to any extent, the arrears of maintenance would accrue and the appellant would be liable to pay the same.

### *Appeal*

3. The appeal concerns the quantum of maintenance rather than liability. The daughter is seeking alternative orders to pay \$25 per week.

### *Analysis*

4. Since the question on appeal concerns the quantum only, I will refer to the evidence of the parties to determine whether the issue of quantum was properly determined.
5. In her application, the mother had indicated that she needed \$85 per week for her maintenance. The amount was made up as follows:

• Food	-	\$20.00
• Telephone	-	\$5.00
• Clothing and shoes	-	\$5.00
• Transportation	-	\$5.00
• Rent	-	<u>\$50.00</u>
<b>Total</b>		<u><b>\$85.00</b></u>

6. There is no issue surrounding the appropriateness of the expenses. None has been raised on appeal. However, the issue is whether almost 80% of the expenses should be catered for by the appellant.

7. The respondent has another daughter. It is also her duty to cater for the mother's expenses. On the evidence before the court, it was clear that the other daughter is also supporting the mother. She provides the mother \$200 per month for the rent and \$100 per month for the groceries. In monetary terms therefore, the other daughter pays \$300 per month to the mother. She also provides the mother with clothes.
8. Having given evidence on the extent to which the other daughter supports her financially, the mother also stated that the other daughter is in New Zealand and not working. However, she did not ever testify that she was not receiving any support from that daughter.
9. The mother also testified that she wanted both the daughters to support her. She testified and agreed that this daughter should pay half of the expenses. Half of the expenses per week would come to \$42.50 per week. If the mother sought from this subject daughter half of the expenses to be paid, then her claim for maintenance was clarified in evidence to be \$42.50 per week.
10. On the evidence therefore, the question that confronted the court was whether this daughter could pay to the mother \$42.50 per week. There was no doubt that she could. Although she has a child to look after, her earnings of over \$2000 per month is sufficient for their expenses. She can use the \$2000 for the child and her expenses and pay about \$30 per week to her mother.
11. I am working on \$30 per week as the mother is now over 65 years and qualifies for over \$100 per month as senior citizens benefit from the state. She will only need assistance from the daughters to the extent of \$240 per month. She is expected to use her \$100 per month that she will be receiving towards her expenses. The remaining expenses ought to be split between the two daughters. I note that the other daughter is already catering for half the expenses.
12. If the sum of \$240 is divided between the two daughters, the amount that this daughter should pay per month is \$120, which if calculated weekly, amounts to \$30 per week.
13. I find that the proper sum that ought to be paid by the appellant is \$30.00 per week with effect from the time when payment was due under the judgment of the Magistrates' Court.

***Final Orders***

14. I allow the appeal and set aside the order for payment of parental maintenance in the sum of \$70 per week and substitute it with an order for payment of \$30 per week to take effect from the time when payment was due under the judgment of the Magistrates' Court. Each party shall bear their own costs of the appeal proceedings.

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***Hon. Madam Justice Anjala Wati***

***12.03.2024***

**To:**

1. *Legal Aid Commission for the Appellant.*
2. *Ravinesh Goundar Lawyers for the Respondent.*
3. *File: Suva Family Court Appeal Case Number: 0004/2019.*