Spousal Maintenance – Divorce Lawyers Explain How Much Is Reasonable

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Divorce lawyers are often asked about rights to spouse maintenance. Spouse maintenance is financial support paid by a party to a marriage or de facto relationship to their former spouse after the relationship has broken down. The Court has the power to make an Oder for one party to pay spousal maintenance in circumstances where:

1. One party is unable to support themselves and has an adequate reason for being unable to do so; and
2. The other party is reasonably able to pay.

A question Divorce lawyers are often faced with, is, how much will I be required to pay?

In the recent case of *Simpkin & Simpkin* [2020], the trial Judge considered an application for spousal maintenance by a Wife who was in receipt of a disability support pension and was unable to work. On the other hand, the Husband was in a managerial position earning an annual salary of $240,000.

When calculating how much the Husband should pay to the Wife, the trial Judge explained that the Husband's expenses will from time to time fluctuate and that the Husband should be left with some form of financial buffer to meet those costs. The Judge also factored in the risk that the Husband may become redundant in the future based on his previous history of redundancy.

The Husband in this case had a significant income which left him with $1,327 per week after all of his reasonable expenses had been paid. Ultimately, the Judge ordered that the Husband pay to the Wife a weekly sum of $750 on an interim basis. The Wife was then left with the option to either forego her reasonable needs or draw on her superannuation to meet her needs.

The Wife's Divorce lawyers successfully challenged the trial Judge's decision in the Appeal Court. Following submission to the Court of Appeal by the wife's Divorce lawyers, the Appeal Court Judge found that the Husband's risk of redundancy could not be taken into account because the Husband could apply for the amount to be varied or discharged if his circumstances changed. The Judge ordered the Husband to pay the Wife $1,327 per week on an interim basis because he was able to do so and because of the Wife's needs, noting that the Husband had significant cash at bank which would be a buffer for the vicissitudes of life.

For advice about how to get a divorce contact us on 1800 300 170 or email us at famlaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.