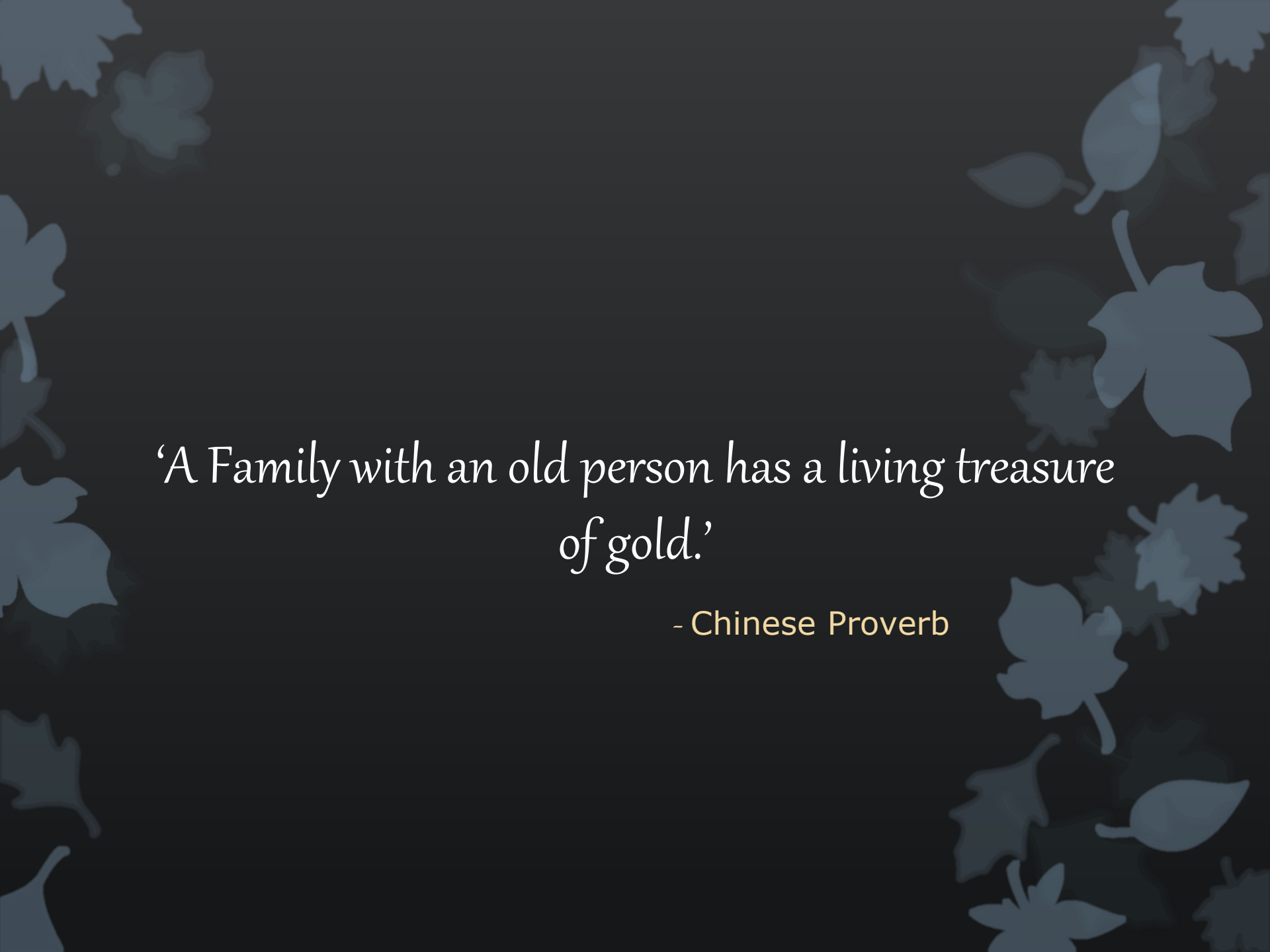


**OVERVIEW OF THE MAINTENANCE AND
WELFARE OF PARENTS AND SENIOR CITIZENS
ACT, 2007
&
THE GOA MAINTENANCE AND WELFARE OF
PARENTS AND SENIOR CITIZENS RULES, 2009**

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*'A Family with an old person has a living treasure
of gold.'*

- Chinese Proverb



The most important thing in this world is to see your parents smiling and knowing that you are the reason behind their smiles.

PARENT ABUSE

- An act of a teen/young adult that is intended to cause physical, emotional or financial damage to gain power and control over a parent and/or any behaviour that is deliberately harmful to the parent. The abuse usually begins verbally and emotionally and then may become physical.

PARENT ABUSE

- Parent abuse crosses all social, cultural and economic lines - poor and rich, educated and not.
- Women who are single parents are often the targets of abuse This may be because women continue to be the primary caregivers in most families and often have closer emotional and physical connections to their children.
- Parent abuse can affect single and two parent families equally. It is usually the mother (or the main caregiver) who is most affected but other members of the family suffer too.

TYPES OF ABUSE

- Verbal abuse includes yelling, arguing, challenging, being sarcastic or critical, belittling, laughing in the parent's face, name calling
- Emotional abuse includes playing mind games, threatening to harm the parent,, continuously running away from home, manipulative threats such as suicide (without intent to attempt)

- **Physical abuse** includes throwing things, personal physical attacks such as hitting, punching, slapping, spitting, shoving and pushing.
- **Financial abuse** includes stealing or damaging the home or possessions and acquiring debts that the parent must pay.

Maintenance and Welfare of Parents and Senior Citizens Act, 2007

Objective:

To provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution.

Maintenance and Welfare of Parents and Senior Citizens Act, 2007

Who is entitled to maintenance?

○ Parent:

means father or mother whether biological, adoptive or step father or step mother, whether or not the father or the mother is a senior citizen [Sec. 2(d)]

○ Senior Citizen:”

means any person being a citizen of India, who has attained the age of sixty years or above [Sec 2(h)]

Whose obligation is it to maintain?

- Children including son, daughter, grandson and grand-daughter but does not include a minor; [Sec2(a)]

What is maintenance?

Maintenance” includes provision for food, clothing, residence and medical attendance and treatment [Sec 2(b)]

What is welfare?

Welfare” means provision for food, health care, recreation centers and other amenities necessary for the senior citizens. [Sec 2(k)]

How is an Application for Maintenance made?

- A senior citizen including parents who is unable to maintenance himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5

Who can make application?

- An application for maintenance under section 4, may be made-
 - (a) by a senior citizen or a parent, or
 - (b) if he is incapable, by any other person or organization authorized by him; or
 - (c) the Tribunal may take cognizance suo motu.

Against whom can the application be made?

- The application can be made by
 - i) parents or grand-parent, against one or more of his children not being a minor;
 - ii) a childless senior citizen, against such of his relative referred to in clause (g) of section (2)

relative means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death;

To whom the application is to be made?

- Maintenance Tribunal constituted by State Govt
- shall be presided over by an officer not below the rank of Sub-Divisional Officer of the State. (Sec7)

What is the procedure for maintenance?

- On receipt of an application for maintenance
- notice of the application to the children or relative
- after opportunity of being heard, Tribunal to hold an inquiry for determining the amount of maintenance.

Interim maintenance

- The Tribunal may, order such children or relative to make a monthly allowance for the Interim maintenance of such senior citizen including parent.
- Allowance to be paid from the date of the order, or from the date of the application as per the order of Tribunal

An application to be disposed of:

- within ninety days from the date of the service of notice of the application to such person.
- same period can be extended by the tribunal once for the maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

Failure to comply with the order, the tribunal may:

- issue a warrant for levying the amount due in the manner provided for levying fines
- and for allowance unpaid may sentence to imprisonment for a term which may extend to one month or until payment if sooner made

- The application for levy such amount should be made within period of three months from the date on which it become due.

Conciliation Officer

- The Tribunal before hearing an application may, refer the same to a Conciliation Officer and such Conciliation Officer shall submit his findings within one month and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect

Maximum allowance:

- The maximum maintenance allowance which may be ordered by such Tribunal shall be such as may be prescribed by the State Government which shall not exceed ten thousand rupees per month.
- A copy of the order of maintenance shall be given without payment of any fee to the senior citizen or to parent

Deposit of maintenance amount:

the entire amount ordered to be deposited within thirty days of the date of announcing the order by the Tribunal

Award of interest:

- In addition to the amount of maintenance, simple interest not less than five per cent and not more than eighteen per cent may also be ordered to be paid at such rate and from such date not earlier than the date of making the application as may be determined by the Tribunal

Where can an appeal be preferred?

Appellate Tribunal

- To be constituted by the State Government one for each district to hear the appeal against the order of the Tribunal
- shall be presided over by an officer not below the rank of District Magistrate.
- Appeal to be preferred by person aggrieved by an order of a Tribunal may, within sixty days from the date of the order.

- The Appellate Tribunal to pronounce its order in writing within one month of the receipt of an appeal.
- No party to a proceeding before a Tribunal or Appellate shall be represented by a legal practitioner.

Maintenance Officer

- The State Government shall designate the District Social welfare or an officer not below the rank of a District Social welfare Officer
- shall represent a parent if he so desires, during the proceedings of the Tribunal, or the Appellate Tribunal, as the case may be.

Establishment of old age homes

(sec19)

- The State Government may establish and maintain such number of old age homes at accessible places
- at least one in each district to accommodate in such homes a minimum of one hundred fifty senior citizens who are indigent.
- The State Government may, prescribe a scheme for management of old age homes

Provisions for medical care of senior (sec20)

The State Government shall ensure that.-

- (i) The Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible;
- (ii) separate queues be arranged for senior citizens;

- (iii) facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens
- (iv) research activities for chronic elderly diseases and ageing expanded;
- (v) There are earmarked facilities for geriatric patients in every district hospital dully headed by a medical officer with experience in geriatric care.

Protection of life and property of senior citizen (sec21)

The State Government shall, take all measures to ensure -

- (i) wide publicity of Act through public media including the television, radio and the print, at regular intervals
- (ii) periodic sensitization and awareness training on the issues relating to this Act to the Central Government and State Government Officers, including the police officers and the members of the judicial service

- (iii) Effective co-ordination between the service provided by the concerned Ministries or Department dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.

Conditional transfer of property (sec23)

- Where any senior citizen has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under influence and shall at the option of the transferor be declared void by the Tribunal.

Punishment for abandonment of senior citizen (sec24)

- Imprisonment of either description for a term which may extend to three months or fine which may extend to five thousands rupees or with both.

Position in Goa

The Goa Maintenance and welfare of Parents and Senior Citizens Rules, 2009

Provides for establishment of following authorities:

- Maintenance Tribunal
- Conciliation Officer
- Maintenance Officer
- Appellate Tribunal
- State Council of Senior Citizen
- District Committee of Senior Citizen

○ Maintenance Tribunal

The State Govt. provides for constitution of Maintenance Tribunal for each sub-division of Goa which shall be presided over by respective Sub-divisional officer for adjudication and deciding upon order for maintenance

Conciliation Officer

A panel of persons suitable to be Conciliation Officers should be prepared by Tribunal

Maintenance Officer

- Assistant Director Welfare for SC,ST&OBC North Goa
- Assistant Director Welfare for Disabled South Goa
(designated under the rules)

Appellate Tribunal

Constituted for each District and presided over by respective Collector for the purpose of hearing appeals against order of Maintenance tribunal

State Council of Senior Citizen

To be constituted by State Govt. to advise Govt. on effective implementation of provisions of the Act

District Committee of Senior Citizen

To be constituted by State Govt. for each district to advise in effective and co-ordinated implementation of Act at District level.

District Collectors are given wide powers for effective implementation of the Act

Procedure for filing application for maintenance and its registration-rule 4

- An application for maintenance shall be made in Form A mentioned under the rules
- On receipt of application, the presiding officer shall enter its details in a register of maintenance claim cases.
- Its acknowledgment has to be given to the applicant in Form B and it should bear the registration number of the applicant

Preliminary scrutiny of the application - rule 5

- On receipt of an application the Tribunal shall satisfy itself
 - I. that the application is complete
 - II. and the opposite party has prima facie an obligation to maintain applicant
- In case Tribunal finds any lacunae in application it may direct applicant to rectify such lacunae within reasonable time.

Notice to the opposite party-rule 6

- Once the Tribunal is satisfied on the above points it shall send show cause notice in form “C” to each person against whom an application for maintenance has been filed along with copy of application and its enclosures
- either by hand delivery through applicant if he desires or through server or by registered post

- Notice shall require opposite party to appear in person on the specified date and to show cause in writing as to why application should not be granted
- Notice shall also mention that in case he fails to respond the tribunal shall proceed ex parte.
- Simultaneously notice will be used to applicant in Form “D” informing him date of proceedings.

In case of non-appearance by the opposite party-rule 7

- Tribunal shall proceed ex parte and shall pass an order disposing of the application.

In case of admission of claim-rule 8

- If on date of hearing opposite party accepts his liability to maintain the applicant and two parties arrive at a mutually agreed settlement the Tribunal shall pass orders accordingly.

Reference to Conciliation Officer -rule 10

- If on the date fixed by Tribunal the opposite party appears and shows cause against maintenance , the Tribunal shall ask both parties as to whether they would like matter to be referred to a Conciliation Officer.
- if parties express willingness Tribunal shall refer matter to Conciliation Officer through a letter in Form “E” accompanied with copies of application and replies of opposite party.

Proceeding by Conciliation Officer-rule

11

- Upon receipt of reference the Conciliation Officer shall hold meetings with the two parties and shall try to work out a settlement acceptable to both parties within one month from date of receipt of reference.

- If Conciliation Officer succeeds in working out a settlement acceptable to both the parties, he shall draw a memorandum of settlement in Form “F”
- He shall get it signed by the parties and forward it along with report in Form “G” and all records back to Tribunal within one month of reference.
- If he is unable to arrive at settlement within one month he shall return the papers to Tribunal along with a report in Form “H” showing efforts made to bring about settlement and points of difference between two Parties which could not be reconciled.

- In case of settlement by Conciliation Officer the Tribunal shall give notice to both parties and confirm settlement
- In case there is no settlement by Conciliation Officer or report by Conciliation Officer is not received within one month or settlement is not confirmed by one of the parties, the Tribunal shall pass necessary orders.

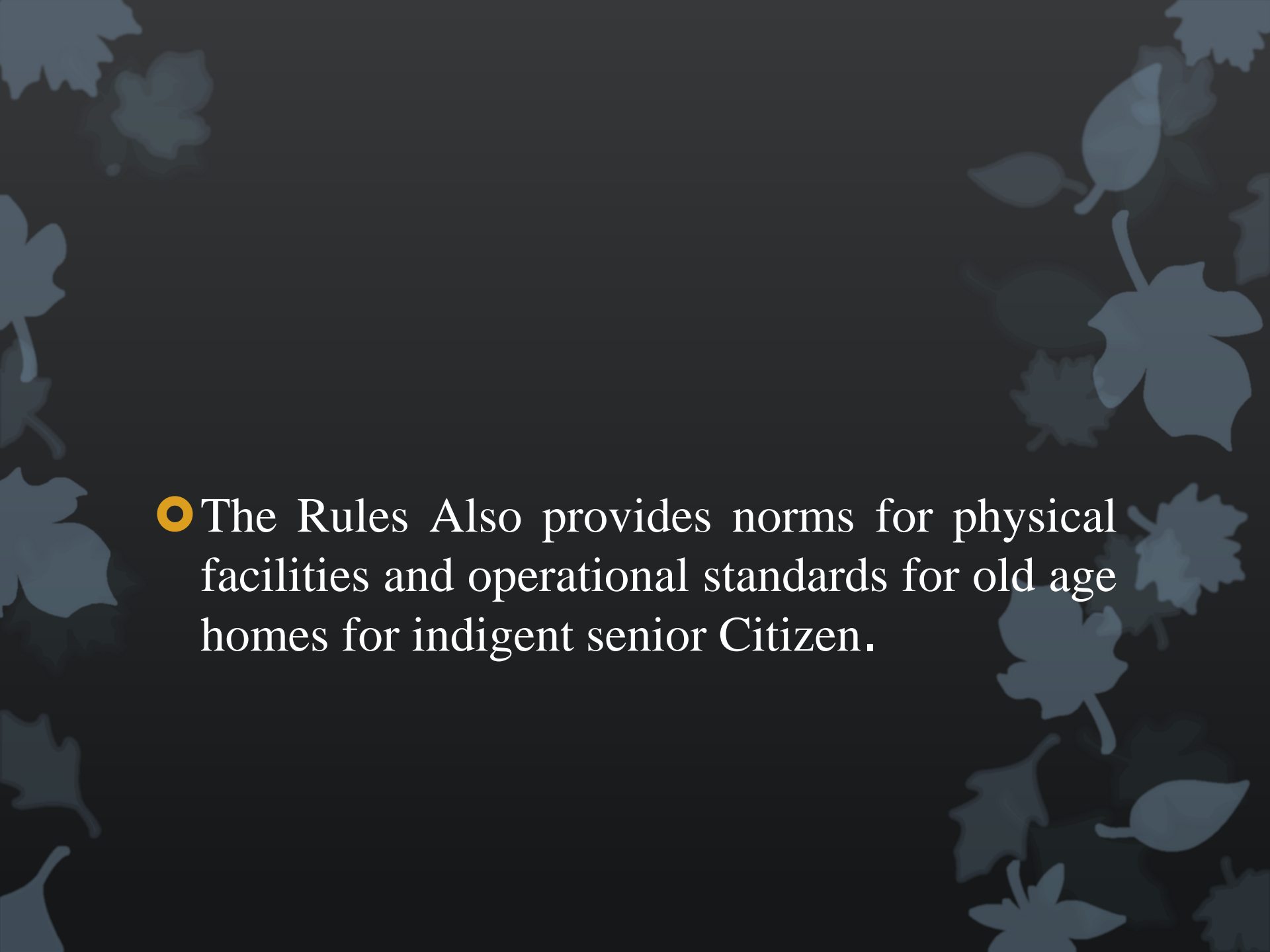
○ Order of maintenance will depend on :

- i. Amount needed by applicant to meet his basic needs especially food, clothing, accommodation and healthcare
 - ii. Income of the opposite party and
 - iii. Value and actual and potential income from property if any of the applicant which opposite party would inherit or are in possession
- Copy of all these orders are given to applicant

- Maximum maintenance allowance which may be ordered by the tribunal shall be Rs.10,000 per month
- It should be fixed in such manner that it does not exceed monthly income from all sources of opposite party divided by the no. of persons in his family counting applicant also among the opposite party's family

○ Procedure of Appellate Tribunal –rule 15

- Appeal shall be filed before Appellate Tribunal in form “I”.
- On receipt of appeal Appellate Tribunal shall register it in a register and give acknowledgement to appellant specifying appeal no. and next date of hearing in form “J”
- Appellate Tribunal should also give notice to the respondent in form “K”

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- The Rules Also provides norms for physical facilities and operational standards for old age homes for indigent senior Citizen.

Cases of abuse & maintenance

○ Harish Relan vs Kaushal Kumari Relan & Ors
(3 August, 2015)

○ H.S.Subramanya v/s H.S.Lakshmi
(8 september 2014)

○ Justice Shanti Sarup Dewan vs Union
Territory (26 September, 2013)

- Seventy-five-year-old Kusum Lata was abandoned by her son at a fruit vendor
- A month later, representatives of the charity tracked down Amit to ask him to take his mother home, but he refused, saying he was disowning her as she was a burden to care for.

- Kamla, in her mid 70s, had built the house with her own money and, since she was a widow, had allowed her son and daughter-in-law to live with her out of love for them. However, they started harassing her and asking her for her property.
- Upset, she went to court and the court ordered the couple to vacate the house within a month. It also asked them to pay Rs3,000 per month as damages to Kamla from the time she filed the petition.

Goan instances

- A maintenance tribunal directed to pay Rs. 2000 per month for maintenance of the parents.
- Maintenance application was filed by parents who were not maintained by 3 children, tribunal directed payment of Rs. 8000 per month to be paid equally by all children.

- Applicant was working privately and not getting any pension benefit. His wife was getting some amount from social welfare department but was not enough for sustenance. The son who was staying with them had shifted.
- Tribunal directed to issue Rs. 1000 per month to the applicant.

- Police arrested 38years old resident of Ponda
- The father of the accused, 75, a had lodged a complaint with them on September 1, 2013, that the accused with the abettors had wrongfully restrained him in his residence and took away cash of Rs. 53,000, mobile phone etc., allegedly misappropriated the property documents, assaulted him and threatened with dire consequences. The accused had also sent the complainant to old age home

- Police arrested Ribandar resident, for harassing his mother by abusing, assaulting and threatening her with dire consequences. The accused would not even allow his mother to eat her food in peace and to live safely in her own house

**Love your Parents 'n Treat them
with Loving Care For
You will only Know their value
when You see
their Empty Chair !!**



Help Age India survey

- In 2015, Help Age conducted an extensive 10 city survey among young working adults in the age bracket of 25 to 45 years, living with at least 1 elderly parent.
- **Cities surveyed:** *Delhi, Kolkata, Mumbai, Bengaluru, Chennai, Hyderabad, Ahmedabad, Nagpur, Kanpur, Madurai.* A sample size of 200 households were selected from 20 middle and upper middle localities in each city.

Survey results

- Nationally, 73% of the youth admit that Elder Abuse exists.
- 42% feel that it is a problem of all developing societies, including India.
- 83% perceive that identifying Elder Abuse in the neighborhood is not difficult.

who is the abuser?

- While 24% of the Youth perceive the Son as an abuser, the Elderly blames the son in 59% of cases.
- The daughter-in-law remains the primary abuser be it Youth Perception or Elder Reality.

What is the common form of abuse?

- 72.4% of the youth feel that the topmost form of abuse is 'Using Abusive Language and talking rudely to an elder'
- 43.1%, who feel it is giving the elder 'the silent treatment, isolation and emotional abuse.'

What are the reasons for abuse?

- Nationally, 'Property and inheritance disputes' emerges as the main reason for abuse at 53.2%. But 35.7% feel that 'Attitudinal and relationship issues' is also an important reason.
- 86.9% Youth advocate living in large joint families as a measure to prevent Elder Abuse

Position in Goa

- A survey conducted by Help Age India in 2012 showed that In Goa, 13 per cent of elders reported abuse.
- Of this, 27 per cent faced physical abuse.
- Verbal abuse was the main form of abuse followed by disrespect and neglect.
- A shocking 74 per cent did not report being abused, primarily because they wanted to keep family matters confidential.

- Regarding awareness about redressal mechanisms:
- most elders (68 per cent) knew the police helpline,
- while one-fourth were aware of the Helpage India helpline.
- Only 9 per cent were aware of the Senior Citizens Act.

Suggestions

1. Awareness of the Act
2. Awareness of various schemes of State Govt. for the elderly and Helpline
3. stricter implementation of the Act
4. Speedy disposal of maintenance applications
5. Responsibility of the children

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why you are and who you are

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जनता के अधिकार
सुख के अन्तर्गत
होगा ही के अन्तर्गत
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Live your life
and forget you
had.



Senior Citizen Awareness & Aid



Nobody can wait for little children
what grandfather do
grandfather available should
be the love of little children

SENIOR CITIZEN AWARENESS & AID



SHIRODA LEGAL AID CELL



After some early session
I was feeling good
when all things got
clear.

"Senior Citizens
are
more independent
than they are not."

• Higher rates of interest
in housing schemes
• Income tax rebate
• Right to know of all their
• Information of their assets
without any of the forms
of the state and transport
• Indian railways also
have facility of Senior
Citizens for booking



- 1. To provide financial advice and
information on how to invest
2. To provide information on
3. To provide information on
4. To provide information on
5. To provide information on



• Right to stand with
dignity
• Right for medical
facilities
• Right to live
independently
• Right to receive