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Court Clarifies on Child Maintenance Amounts

- Maintenance orders must be based on evidence of parents' income and wealth
- Loan agreements alone insufficient to prove matrimonial liabilities
- Spousal consent and proof of joint benefit remain key
- Courts encouraged to consider social welfare inquiry reports before fixing maintenance

Background

Recently, the Court of Appeal of Tanzania (the Court) delivered its judgment in Civil Appeal No. 1072 of 2025 arising from a matrimonial dispute involving dissolution of marriage, division of matrimonial assets, custody and maintenance of children.

The husband, who was the Appellant, challenged, among other things, the lower Courts' decisions regarding the exclusion of certain alleged matrimonial debts from distribution and the order requiring him to pay monthly child maintenance. The dispute arose following the breakdown of marriage between the parties, who had jointly acquired matrimonial assets during the subsistence of their marriage. The Appellant contended that he had contracted several loans for the joint benefit of the family, including domestic expenses and improvement of his wife's (Respondent), business, and that such liabilities ought to have been considered during distribution of matrimonial assets. He further challenged the maintenance order on the basis that the amount awarded was not supported by proper inquiry into the parties' financial capacities.

The Court's Decision

On the issue of matrimonial debts, the Court reaffirmed that under section 114(2)(c) of the Law of Marriage Act, Courts must consider debts contracted by either spouse for their joint benefit. However, the Court emphasized that mere production of a loan agreement is insufficient to establish matrimonial liability. The Court held that a party alleging existence of matrimonial debt must prove not only that the loan agreement exists, but also that the funds were actually disbursed; the money was used for the joint benefit of the spouses or family welfare; and where relevant, the other spouse had knowledge of or consented to the debt.

The Court observed that the Appellant failed to produce supporting evidence such as bank statements, withdrawal slips, transfer records or evidence linking the alleged loans to family expenses or improvement of matrimonial assets. In the absence of such evidence, the Court declined to treat the alleged liabilities as matrimonial debts capable of being shared between the parties.

On child maintenance, the Court criticized both lower Courts for fixing maintenance amounts without proper assessment of the parents' financial positions. While the High Court had reduced the maintenance amount from TZS 500,000 to TZS 300,000 per month, the Court found that the figure was still not supported by evidence regarding the income and wealth of the parties as required under sections 44 and 45 of the Law of the Child Act. The Court emphasized that maintenance orders should not be based on speculation or subjective assessment, but rather on proper inquiry into the financial ability of both parents. The Court further observed that social welfare inquiry reports play an important role in assisting courts to determine appropriate maintenance orders.

This decision serves as an important reminder that parties seeking recognition of matrimonial liabilities must maintain proper documentary evidence linking the debts to family welfare or jointly acquired assets. The decision also reinforces the need for evidence-based assessment of child maintenance orders consistent with the requirements of the Law of the Child Act.

To read the judgment [click here](#)

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