

## Awareness Series 3: (Senior citizens)

(A CSR initiative)

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### XV Vital check notes for senior citizens

#### Reference Senior Citizens Act - Important terms:

"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

"children" includes son, daughter, grandson and grand-daughter but does not include a minor

"maintenance" includes provision for food, clothing, residence and medical attendance and treatment

"property" means property of any kind, whether movable or immovable, ancestral or self-acquired, tangible or intangible and includes rights or interests in such property

#### I. Options regarding maintenance

1. **maintenance of parents under Hindu personal law** is laid down in Section 20 of the Hindu Adoption and Maintenance Act, 1956 which imposes an obligation on the children to maintain their parents. the obligation to maintain parents is not confined to sons only; the daughters also have an equal duty towards parents. It is important to note that only those parents who are financially unable to maintain themselves from any source, are entitled to seek maintenance under this Act.
2. **maintenance of parents under the Muslim law** also the children have a duty to maintain their aged parents. A son in stressed circumstances is bound to maintain his mother, if the mother is poor, though she may not

be infirm. A son, although poor, is earning something, is bound to support his father who earns nothing. According to the Muslim law, both sons and daughters have a duty to maintain their parents under the Muslim law. The obligation, however, is dependent on their having the means to do so.

3. **maintenance of parents under Christian and Parsi Law** is not mandated as there are no personal laws providing for maintenance for the parents. Parents who wish to seek maintenance have to apply under provisions of the Criminal Procedure Code
4. A childless Senior Citizen who is sixty years and above, can also claim **maintenance from relatives** who are in possession of or are likely to inherit their property
5. If a senior citizen or a parent is entitled for maintenance under the CrPc Act and also entitled for maintenance under this Act may claim such maintenance under **either of those Acts** but not under both;
6. It is better for a senior citizen or parent to **transfer the property with a condition** that the transferee shall provide the basic amenities and basic physical needs to the transferor as in such case on non-fulfilment of this condition they can revoke the transfer later;
7. Where any senior citizen has a right to receive maintenance out of an estate and such estate or part, thereof is transferred to somebody then the right to receive maintenance may be exercised against the transferee and he can be made liable to pay maintenance if he has notice of the right.

## **II. When can the transfer of property be revoked / cancelled**

1. Where any senior citizen who by way of gift or otherwise transfers his property, subject to the condition as in point no 6 above that the transferee shall provide the basic amenities and basic physical needs to the transferor and later such transferee refuses or fails to provide such amenities and physical needs. Gift Deed Executed by Senior Citizen Can Be Declared Null and Void Only If It Contains Stipulation On Maintenance by Transferee. Such transfer deeds should preferably be vetted by legal advisors representing the senior citizens
2. It can also be revoked when certain contentions exist like:
  - The contention that son has contributed to the construction of some portion of the house so he has the right is denied. (Anil Kumar

Dhiman v. State of Haryana, CRWP 1357 of 2019, decided on 21-9-2021)

- When the son and daughter in law did physical assault and further prevented the well-wishers and other sons of the parents to enter the house. High Court held that the eviction order was absolutely necessary in order to ensure the physical and emotional health and safety of the parents. [Namdeo v. Geeta, 2022 SCC OnLine Bom 914, decided on 4-4-2022]
- 3. When the said transfer of property has been made by fraud or coercion or under undue influence.

### **III. Rights of the senior citizens under the Senior Citizens Act qua rights of daughter in law in a shared household under Domestic Violence Act**

1. Such remedies of maintenance, as envisaged under section 2(b) of the Senior Citizens Act, 2007 that do not result in preventing rival remedies under other special statutes, such as the PWDV Act, 2005 **shall be granted to senior citizens** (Ravi Shankar vs The State Of Bihar on 20 July, 2023)
2. when there is no matrimonial dispute whatsoever between husband and the wife, i.e., son and daughter-in-law. The provisions of the DV Act cannot be used as a ploy by the son, to either claim a **right in his father's property or continue to retain possession of the father's property, on the strength of his wife's right of residence** (Aarti Sharma & Anr. vs Ganga Saran on 24 August, 2021)
3. where the husband and wife are not estranged from each other, Court had upheld the **eviction of the daughter-in-law and husband from parent's house**. (Shuchi Goel vs Shashi Goel And Ors on 13 April, 2023 DHC)
4. Although the Senior Citizens Act itself does not provide for eviction/removal from the property, Indian courts, including the Supreme Court, have permitted **eviction/removal of children or relatives** from the property of senior citizens in case of harassment or non-maintenance.

### **IV. the right to evict the son from the property owned by the father**

1. If you are the owner then you have a right to evict your children from your property. Even if there is no provision in the Act but the eviction order can be passed by the tribunal to ensure the security and safety of the parents and senior citizens
2. Courts have also ordered the removal of children from the parent's home when children have resorted to harassing their parents to transfer the property to them on the ground that they are future legal heirs. No proof of any ill-treatment is necessary and that parents do have a right to evict their children whether its the son or daughter.
3. Sometimes, the children bring this notion before the court that the senior citizen's property is ancestral; hence, they have a vested right and cannot be evicted. then the children may approach the civil court to get their share in the property but **ONLY** after evicting the said property. The children cannot take injunction from the civil court for the said property.
4. Eviction/removal of the child from the property has also been upheld if a child has entered into an agreement for the transfer of property on fraudulent grounds to harass an aged parent.

**Namdeo Bangde vs the State of Maharashtra**

5. Other example- Bombay HC Orders Siblings to Be Evicted from Dead Father's Property for Mistreating Stepmother
6. Though a woman has a right to reside in houses of mother and MIL but does not have a carte blanche right in matrimonial house

**V. Whom to approach to exercise your legal right**

Approach a Maintenance Tribunal established under the Senior Citizens Act through:

1. The Maintenance Officer to represent senior citizen during the proceedings of the Tribunal, or the Appellate Tribunal, as the case may be
2. legal practitioner to represent senior citizen during the proceedings of the Tribunal, or the Appellate Tribunal, as the case may be.

**VI. Some financial reliefs by Finance Ministry:**

1. Section 194P of the Income Tax Act, 1961 provides conditions for exempting Senior Citizens from filing income tax returns aged 75 years and above subject to some exceptions
2. a resident senior citizen (i.e., an individual of the age of 60 years or above during the relevant financial year) not having any income from business or profession, is not liable to pay advance tax
3. Section 80TTB of the Income Tax law gives provisions relating to tax benefits available on account of interest income from deposits with banks or post office or co-operative banks of an amount up to Rs 50,000 earned by the senior citizen (i.e., an individual of the age of 60 years or above). Interest earned on saving deposits and fixed deposit, both shall be eligible for deduction under this provision.
4. Section 194A of the Income Tax law gives corresponding provisions that no tax shall be deducted at source from payment of interest to a senior citizen up to Rs 50,000.
5. Income tax rebates for Medical Treatment for Specified Diseases for Senior Citizens (U/S 80 DDB) and also rebate for Medical Insurance Premium for Senior Citizens. (U/S 80 D)

## **VII. Some reliefs by Railway ministry**

1. Separate ticket counters for senior citizens aged 60 years and above
2. Provision of lower birth to male passengers for 60 years and above and female passengers of 45 years and above.(Claim it)
3. Fare concession in all mail / express including Rajdhani / Shatabadi / Jan Shatabadi trains for senior citizens aged female - 58 years and male 60 years and above. The element of concession is 40 % for male and 50 % for female.(claim it)

## **VIII. Some Reliefs by Ministry of Consumer Affairs, Food and Public Distribution**

1. Under the Antyodaya Scheme, the below poverty line (BPL) families which also include older persons are provided food grains at the rate of 35 kgs per family per month. The food grains are issued @ Rs 3 per kg for rice

and Rs 2 per kg. for wheat. The persons aged 60 years above from the BPL category were given priority for identification.

2. Under the Annapoorna Scheme being implemented by the States/UT administration, 10 kgs of food grains per beneficiary per month are provided free of cost to those senior citizens who remain uncovered under the old age pension scheme. (Several states are opting back to the Old Pension Scheme. States like Rajasthan, Chhattisgarh, Jharkhand, Punjab and Himachal Pradesh have already rolled out the Old Pension Scheme and discontinued the National Pension System (NPS). It was discontinued as it only provided benefit to govt employees, with NPS even private employees can take benefit)

#### **IX. Some Reliefs by department of Telecommunications**

1. Faults/complaints of senior citizens are given priority by registering them under senior citizens category with VIP flag, which is a priority category.
2. Senior citizens are allowed to register telephone connection under N-OYT Special Category, which is a priority category

**X.** A senior citizen card is issued to people aged 60 and older. The card makes it easy to enrol in government welfare schemes. The card replaces the need to show Aadhaar or other-government-issued cards to avail of the benefits. One can apply for the card on the state government websites or at the state “sewa kendras” by paying Rs 10 for the application form and submitting proof of identity, residence, and age. Punjab offers the card for free on turning 60.

#### **XI. Know your Health Insurer-**

1. You can be allowed entry into health insurance scheme till 65 years of age,
2. There has to be transparency in the premium charged
3. Reasons have to be recorded for denial of any proposals etc. on all health insurance products catering to the needs of senior citizens. Likewise the insurance companies cannot deny renewability without specific reasons.

#### **XII. Precautions Dossier**

1. Senior Citizens are advised to display the telephone numbers of relatives, friends and Senior Citizens Helpline No. 1291 (Delhi) / 14567 (toll free national) at some conspicuous place, preferably near telephone console such that they could be contacted in case of emergency.
2. Prioritising physical health -Exercise regularly.
3. Try to avoid long naps (over 30 minutes) late in the day.
4. Stop smoking.
5. Ask for help if you feel swamped.
6. Participate in activities you enjoy.
7. Eat well and avoid alcohol.
8. Keep a fatigue diary.
9. Cultivating social connections- Be Social- meet neighbours, go to nearby parks, make a routine
10. creating clear PoAs, seeking legal advice for important decisions, maintaining meticulous records and promoting open communication within the family

### **XIII. Register Yourself:**

Every police station has a nodal officer and is supposed to register all senior citizens of its jurisdiction to ensure their care and protection

### **XIV. Make a WILL**

Make a separate will for self and spouse listing all assets with clear terms that after your death everything will be transferred to your spouse.

For example: If your house property is in the joint name then each of you have 50% share in that property. After the death of one partner, share of dead partner legally goes to all the legal heirs in equal proportions but if you bequeath it your spouse then no legal heir can claim any share from the surviving spouse. Take legal help, if needed

## XV. Memorise the following

1. The Senior Citizen Helpline Number in Delhi is **1291**.

2. Call Toll-Free - **14567**

Ministry of Social Justice and Empowerment (MoSJE), Govt of India has set up the National Helpline for Senior Citizens (NHSC).

3. Ministry of Social Justice and Empowerment

Plot No. G-2, Sector-10, Dwarka, New Delhi-110075  
011-20893999, 011- 20893995

[elderline-india\[at\]gov.in](mailto:elderline-india[at]gov.in)

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