

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST  
REPUBLIC OF SRI LANKA**

In the matter of an Appeal under Section  
755 of the Civil Procedure Code.

**C.A. No. 832/99 (F)**

Niranjala Prasangi Weerasinghe,

**D.C. kalutara No.3411/D**

Pelapitiyagoda, Thebuwana.

**Plaintiff**

Vs.

1. N.Sujeewa Jagath Kumara,  
283, In front of Salgasmawatha,  
Warakagoda, Neboda.

**Defendant**

2. N. M. Thanuja Thushari  
Bandaranayake, 283,  
In front of Salgasmawatha,  
Warakagoda, Neboda.

**Co- Defendant**

**And Between**

N.Sujeewa Jagath Kumara,

283, In front of Salgasmawatha,

Warakagoda, Neboda.

**1<sup>st</sup> Defendant – Appellant**

**Vs.**

Niranjala Prasangi Weerasinghe,

Pelapitiyagoda, Thebuwana.

**Plaintiff – Respondent**

N. M. Thanuja Thushari Bandaranayake,

283, In front of Salgasmawatha,

Warakagoda, Neboda.

**Co- Defendant – Respondent**

**BEFORE**

**: P.W.D.C. JAYATHILAKE, J**

**COUNSEL** : Daya Guruge for the Defendant  
Appellant.  
Plaintiff Respondent absent and  
Unrepresented.

**ARGUED ON** : 10.06.2015

**DECIDED ON** : 06.07.2015

**P.W.D.C. Jayathilake, J**

The Plaintiff Respondent and the Defendant Appellant had been friends since their school days. Their marriage had been registered on 11.11.1977. This marriage had taken place as a result of their friendship according to the Plaintiff. But the Defendant alleged that it was done forcibly with the intervention of family members of the plaintiff. However, this marriage had

been confined only to the registration. A few days after the marriage the Defendant had got married for the second time.

It was an admitted fact that the defendant has been convicted and sentenced for the offence of bigamy. It appears that the only question for the trial judge to be decided was about the amount of permanent alimony and/or the compensation. The Plaintiff has admitted that the marriage was not consummated. The learned trial judge has considered the facts that there had been a love affair between the plaintiff and the defendant. The friends and the relatives of the plaintiff were aware of the breakdown of their marriage and the destruction of her future prospects as a result of the defendant's behavior. When deciding on a substantial amount to be paid by the defendant, the only criterion available to the learned trial judge was the fact that he is a graduate. Accordingly, the learned trial judge had decided the sum of Rupees four hundred thousand as permanent alimony to be paid by the appellant.

This judgment has been delivered nearly fifteen years ago namely on 03.09.1999. The Plaintiff Respondent was unrepresented and absent from this appeal proceedings. The counsel for the appellant submitted that the only reason to submit this appeal was the incapability of the appellant to pay the amount ordered as permanent alimony. He further submits if this court considers a reduction of this amount to an affordable sum, the appellant as

well as the Respondent could be benefitted as both the parties will be free of unnecessary encumbrance of existing marriage. However, this court is of on the view that the learned District Judge would have taken the fact into consideration that the Defendant was unemployed as a result of the loss of his job due to the problems he faced subsequent to the marriage in question. Therefore this court decides to amend the amount ordered as permanent alimony and to reduce it to Rs. one hundred and fifty thousand (150000/=).

The learned District Judge of Kalutara is directed to inter Decree NISI accordingly. The appeal is dismissed subject to the above mentioned amendment.

*Appeal dismissed.*

**JUDGE OF THE COURT OF APPEAL**