

Supreme Court Expands Maternity Benefits for Adoptive Mothers

Supreme Court strikes down Section 60(4) of Social Security Code which restricted maternity benefits of adoptive mothers

The provision laid down that adoptive mothers will be eligible for maternity leave only if they adopt children who are less than 3 months old.

Supreme Court, Mother and Child

The Supreme Court on Tuesday struck down Section 60(4) of the Social Security Code, 2020 which laid down that adoptive mothers will be eligible for maternity leave only if they adopt children who are less than 3 months old [Hamsanandini Nanduri Vs Union of India].

A Bench of Justices JB Pardiwala and R Mahadevan held that such a distinction with respect to adoptive mothers who adopt children over 3 months old violates right to equality under Article 14 of the Constitution since their role is similar the role of mothers who adopt children below 3 months.

"The distinction drawn by subsection 4 of section 60 does not have a rational nexus with the object of the 2020 Code. The object of maternity benefit is not associated with the process of childbirth but with the process of motherhood. The purpose of maternity protection does not vary with the manner in which the child is brought into the life of the beneficiary mother. Insofar as the roles, responsibilities, and caregiving obligations are concerned, women who adopt a child aged 3 months or above are similarly situated to women who adopt a child below the age of 3 months," the Court said.

Pertinently, the Court held that the needs of an adoptive child is no different from a child born to the mother.

"Although biology has traditionally been the predominant lens through kinship, adoption is an equally valid pathway. It is not biology that constitutes, it is the shared meaning. Biological factors by themselves do not determine family. Adopted child is not different from natural child," the Court underscored.

The Court also noted that in most cases, a child is adopted only after he/ she is over three months old.

Hence, restricting maternity benefits to children below 3 months will render provision devoid of any practical application, the Court stated.

"With regard to the time required to declare a child legally free for adoption, by the time such declaration is made, the child is unlikely to be of less than 3 months old. Thus, the age limit renders the provision illusory and devoid of practical application," the judgment said.

In light of the above, the Court read down Section 60(4) and held that it should now be read as follows:

"A woman who legally adopts a child or a commissioning mother shall be entitled to maternity benefit for a period of 12 weeks from the date the child is handed over to the adopting mother or the commissioning mother."

Justice JB Pardiwala and Justice R Mahadevan

The judgment was rendered on a public interest litigation petition filed by one Hamsanandini Nanduri challenging the constitutional validity of Section 5(4) of the Maternity Benefit Act, 1961.

The provision, introduced through the 2017 amendment, grants 12 weeks of maternity benefit to adoptive mothers only where the adopted child is below three months of age. The petitioner contended that this age-based restriction is arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution.

The plea argued that the provision creates an artificial classification between adoptive children based solely on age, while also failing to account for the realities of India's adoption framework under the Juvenile Justice Act and Adoption Regulations. It was further contended that the restriction undermines both the rights of adoptive mothers and the welfare and integration needs of adopted children.

The matter was initially reserved for judgment on December 12, 2025.

However, before pronouncement, a significant legislative development intervened. The Court was informed that the Code on Social Security, 2020 had come into force in part through a notification dated November 21, 2025. The Code consolidates social security laws and repeals, among others, the Maternity Benefit Act, 1961.

*The Court noted that Section 60(4) of the 2020 Code is *pari materia* (on the same subject/ issue) to Section 5(4) of the 1961 Act, thereby effectively continuing the same legal position in substance.*

In view of this development, the Court observed that the challenge to the 1961 Act may no longer be sufficient in its existing form. While it initially indicated that the petitioner may withdraw the petition and file a fresh challenge, it ultimately permitted the petitioner to amend the writ petition to also assail the corresponding provision under the 2020 Code.

The Union of India did not object to this course of action.

The Court then indicated that the matter will be listed for pronouncement of judgment once the amended petition is brought on record.

In its judgment today, the Court struck down the provision.

The judgment said that the right of reproductive autonomy is not confined to the biological act of giving birth.

"Adoption is an equal exercise of the right to reproductive and decisional autonomy under Article 21 of the Constitution. In matters affecting a child, paramount consideration must be given to best interests of the child. This consideration does not conclude with the completion of the formalities of adoption or the handing over of the custody. Rather, it continues throughout the period the child remains a child, more

particularly the period during which the child integrates into the adoptive family," the judgment underlined.

The classification of adoptive mothers who adopt children over 3 months, overlooks the significant emotional, psychological, and practical adjustments required of the adoptive parents and the adopted child, more particularly in cases involving children with disabilities or single adoptive mothers, the Court concluded while allowing the petition.

Interestingly, the Court also urged the Central government to enact a law recognising paternity leave.

The petitioner was represented by Advocates Bani Dikshit, Uddhav Kumar, Krishan Kumar, Mukesh Kumar Singh, Narendra Kumar Goyal, Jeetendra Kumar, L Sivaraman, T Geetha, Ganesh Kamath, Rohit Dubey, Kajal Rani, Komal Singh and Kadam Hans.

Central Government was represented by Additional Solicitor General KM Nataraj with Advocates Shailesh Madiyal, Sandeep Kumar Mahapatra, Vatsal Joshi, Praneet Pranav and Amrish Kumar.