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THE LEGAL FICTION OF THE HOMEMAKER: RECOGNISING THE ECONOMIC VALUE OF UNPAID DOMESTIC WORK

~ Gargi Kolhe

INTRODUCTION

A homemaker spends hours cooking, cleaning, caring for children and elderly family members and managing the household without receiving a single rupee. But when the contribution is lost due to death or injury, the law tackles a difficult question: what is the worth of the unpaid work?

This describes the "legal fiction of the homemaker": the belief that since domestic labour is unpaid, it lacks economic value. Here the fiction is not that homemakers do not work, but because the work is without wage, its economic value is difficult to perceive. Recent data and the Indian legal system challenge this belief by recognising homemakers as economic contributors. But still recognition does not necessarily mean economic equality.

THE INVISIBLE ECONOMY OF HOMEMAKING

The Time Use Survey 2024 found that 81.5% females participated in unpaid domestic services, compared to 27.1% of males.[1] Female participants spent an average 289 minutes per day for such work while males spent 88 minutes.[2] Women also spent more time on unpaid caregiving.[3]

These numbers show that homemaking is neither incidental nor insignificant. It requires time, effort, planning and responsibility. Homemakers support the household and contribute directly to the welfare of the family. The problem is not that the work lacks value, but it is not reflected

[1] PIB Delhi, *Time Use Survey (TUS) (January - December, 2024)*, Press Information Bureau (Feb. 25. 2025. 4:00 PM), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2106113&reg=48&lang=2.
[2] *Id.*
[3] *Id.*

in conventional economic indicators. The work largely remains invisible as it is performed without any payment or transaction. Unpaid does not mean economically valueless.

FROM NON-EARNING TO ECONOMIC CONTRIBUTION

One of the major components for non-recognition of domestic labour is the absence of salary. Since it does not generate wages, homemakers are classified as non-earners despite performing all essential household work that would otherwise require paid assistance or heavy expenses. Household management produces material consequences for a family.

Indian courts have actively acknowledged this reality. However, such recognition often occurs when courts calculate compensation after injury or death, homemakers become economically visible only after their contribution is lost.[4]

HOW INDIAN COURTS CHANGED THE PICTURE

Recognition of unpaid domestic work in Indian jurisprudence did not evolve in a single transformation but rather gradually. In *Lata Wadhwa v. State of Bihar* (2001)[5], the Supreme Court held that unpaid domestic work has economic value and for compensation purposes cannot be treated as having zero income. It further recognised that a homemaker's household work should be given a reasonable notional income rather than treating it as economically worthless.

The Court expanded this reasoning in *Arun Kumar Agrawal v. National Insurance Co. Ltd.* (2010).[6] It rejected the comparisons between homemakers and domestic servants and emphasized that household management and caregiving are continuous and irreplaceable contributions that cannot be measured by ordinary market wages. The Court also criticized the classification of homemakers as non-workers, affirming that the absence of salary does not nullify the economic value of labour.

The approach was further strengthened in *Kirti v. Oriental Insurance Co. Ltd.* (2021)[7], where the Court recognised the opportunity cost of unpaid domestic work, expanded future prospects

[4] Somosnigdha Pal, *Judicial Recognition and Quantification of Unpaid Domestic Labour in India - A Feminist Analysis*, Oxford Human Rights Hub (Aug. 27, 2026), https://ohrh.law.ox.ac.uk/judicial-recognition-and-quantification-of-unpaid-domestic-labour-in-india-a-feminist-analysis/.

[5] Lata Wadhwa v. State of Bihar (2001) 8 SCC 197.

[6] Arun Kumar Agrawal v. National Insurance Co. Ltd. (2010) 9 SCC 218.

[7] Kirti v. Oriental Insurance Co. Ltd. (2021) 2 SCC 166.

of homemaker's compensation and connected domestic labour to dignity, gender equality and India's obligations under CEDAW.

The most significant recent development was observed in *Shishu Pal @ Shish Ram & Ors. v. Surjeet & Ors.* (2026)[8]. In this, the Supreme Court introduced "Loss of Domestic Care" as a separate compensable head. The Court acknowledged that a homemaker's death caused not only financial loss but also the loss of caregiving, household management and support which every family needs. To deal with this, it prescribed ₹30,000 per month as compensation to value the loss of domestic care, while clarifying that this was used as a tool for compensation and not a fixed salary for every homemaker. The Court highlighted the important role of homemakers in supporting families and the economy, describing them as "Nation Builders".

Together, these decisions reflect a progressive movement from acknowledging unpaid domestic labour to quantifying its value.

RECOGNITION BEYOND COMPENSATION

Recognition has extended beyond claims and compensation. In a 2026 maintenance matter, the Delhi High Court observed that "A homemaker does not 'sit idle'; she performs labour that enables the earning spouse to function effectively… The law must recognise not only financial earnings but also the economic value of the contribution of the wife within the home."[9]

This demonstrates that domestic labour not only matters during the evaluation of loss but also during evaluation of economic dependence and entitlement within marriage. Although it is limited in scope, such developments demonstrate that the value of homemaking is included within broader areas of family law.

RECOGNITION IS NOT THE SAME AS ECONOMIC EQUALITY

Despite these developments, recognition should not be considered as equality. Much of the legal recognition of domestic labour remains conditional.

Monetary valuation may help in recognising unpaid domestic work but it cannot reflect the personal care and support that homemakers provide and cannot get simply replaced by paid

[8] Shishu Pal @ Shish Ram & Ors. v. Surjeet & Ors. 2026 INSC 634.

[9] Ritu, *A homemaker doesn't 'sit idle'; Law must acknowledge economic value of her unpaid contribution: Delhi HC grants interim maintenance to wife*, SCC Times (Feb. 25, 2026), https://www.scconline.com/blog/post/2026/02/25/law-must-acknowledge-homemaker-unpaid-contribution-del-hc.

services.[10] More importantly, a framework which values domestic work after death is not the same as the one that recognises homemakers as economic contributors during life. Therefore, the legal fiction exists not because the court denies the homemaker's work, but because that recognition remains confined to particular situations. The law may be better at calculating the loss of domestic care, but the broader question remains: how should unpaid domestic labour be recognised before that loss occurs?

CONCLUSION

Indian courts no longer treat a homemaker's work as invisible in the way earlier jurisprudence often did. They challenge the old assumptions that economic contributors are only those who earn money. Courts are recognising the importance of household work but often during specific situations. The primary objective is to recognise this beyond individual cases. The economic contribution of domestic work needs to be understood more broadly. The issue is no longer "Does homemaking have value?" but rather it is "How broadly the law should recognise the value in everyday family life?".

[10] Tanvi Chitranshi, *Role of Minimum Wages in Recognition of Unpaid Domestic Care Work in India: A Sign of Progress?*, Oxford Human Rights Hub (May 20, 2024), https://ohrh.law.ox.ac.uk/role-of-minimum-wages-in-recognition-of-unpaid-domestic-care-work-in-india-a-sign-of-progress/.