

Supreme Court of India strikes down the age-limit for children in determining adoptive mothers' maternity benefits as discriminatory and violative of Article 14 of the Constitution of India

The Hon'ble Supreme Court of India ("Supreme Court"), in the case of *Hamsaanandini Nanduri vs. Union of India and Ors.*¹ examined the constitutional validity of the provision governing maternity benefits for adoptive mothers under the Code on Social Security, 2020 ("SS Code"). The Supreme Court considered whether restricting maternity benefits only to women adopting children below 3 (three) months of age results in an unreasonable classification and violates the reproductive autonomy of adoptive mothers. In doing so, the Supreme Court clarified the scope of maternity benefits, emphasising that such benefits extend beyond biological considerations to include caregiving, emotional bonding, and the welfare of the child.

Brief facts

The petitioner being an adoptive mother of 2 (two) children, had preferred a public-interest-litigation petition, challenging the vires of Section 5(4) of the Maternity Benefit Act, 1961 ("**Maternity Act**") as amended by the Maternity Benefit (Amendment) Act, 2017, as being violative of Articles 14, 19(1)(g) and 21 of the Constitution of India ("**Constitution**"). During the pendency of the matter, on November 21, 2025, the SS Code was notified, effectively amending and consolidating all laws relating to social security, including the Maternity Act. Hence, Section 60(4)² of the SS Code being the prevailing law as on date (*pari materia* to Section 5(4) of the Maternity Act) ("**Impugned Provision**") was the provision assailed to be unconstitutional, insofar as it governed adoptive mothers.

The petitioner's challenge to the vires of the Impugned Provision was on the basis that the Impugned Provision arbitrarily restricts maternity benefits only to mothers adopting children below three months, creating an unreasonable and unconstitutional classification under Article 14 of the Constitution. It was contended that the age limit of the child as prescribed under the Impugned Provision has no rational nexus with the objective of the law and deprives both mothers and children, including older infants, of essential care and bonding, as the Impugned Provision also ignores the statutory adoption timelines that make it practically impossible to complete an adoption before a child turns three (3) months. The Petitioner also contended that the age-limit prescribed under the Impugned Provision violates the mother's right to livelihood under Article 19(1)(g) and both mother and child's right to dignity under Article 21 of the Constitution.

¹ Writ Petition (C) No. 960 of 2021 (decided on March 17, 2026)

² Section 60(4) of the SS Code: A woman who legally adopts a child below the age of 3 (three) months or a commissioning mother will be entitled to maternity benefit for a period of 12 (twelve) weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

Issues

The following issues were considered for adjudication by the Supreme Court:

1. whether restricting maternity benefits only to adoptive mothers of children below 3 (three) months of age as prescribed under Section 60(4) of the SS Code is in violation of Article 14 of the Constitution; and
2. whether the age limit of 3 (three) months prescribed under Section 60(4) of the SS Code is in violation of both the children and adoptive mother's right under Article 21 of the Constitution?

Findings and analysis

Maternity benefit as a basic human right

The Supreme Court observed that maternity protection is a fundamental human right aimed at supporting women during the physically and emotionally demanding early phase of motherhood and in such circumstances how institutional support becomes necessary to enable them to discharge responsibilities effectively without fear of financial insecurity, professional disadvantage, or the loss of livelihood. It was further noted by the Supreme Court that the right of maternity benefit recognises the biological as well as caregiving realities associated with motherhood and seeks to correct structural inequalities that women face in employment.

The Supreme Court recognised maternity protection as a basic human right, grounded in dignity, equality, and social justice, as codified in several international instruments. In the Indian context, the Supreme Court traced the statutory evolution of maternity benefits, from the Bombay Maternity Benefit Act, 1929 being the first statutory regulation of employment of women after childbirth culminating in the Maternity Act, and its subsequent incorporation into the SS Code. In the aforesaid context, the Supreme Court interpreted the term 'maternity' by relying on a multitude of landmark judicial precedents which emphasise that maternity benefit legislation must be interpreted liberally to advance social justice for biological mothers, including adoptive mothers. It was acknowledged by the Supreme Court that although biological and adoptive mothers form distinct categories, the validity of the law is required to be assessed by examining whether the purpose of maternity leave is served in each situation. Maternity leave is described as consisting of 3 (three) elements: (a) physical recovery after childbirth; (b) emotional bonding between mother and child; and (c) the time needed to meet a child's physical and emotional needs for integration into the family. It is noted that while adoptive mothers do not require the first component, the latter 2 (two) are fully required and are implicitly recognised through the legislature's decision to extend some maternity leave to them.

The Supreme Court states that by imposing an arbitrary 3 (three) month age limit, adoptive mothers of older children are denied the opportunity to fulfil these essential caregiving and bonding functions. As a result, the purpose of maternity protection is held to be undermined by the age-based restriction.

The constitutional guarantee of equality under Article 14 of the Constitution

The Supreme Court examined the Impugned Provision in light of the constitutional guarantee of equality under Article 14, reiterating that while classification is permissible, it must satisfy the twin tests of intelligible differentia and a rational nexus with the object of the legislation.

Applying these principles, it was noted that while legislative classification is inherent in social welfare schemes, it must include all persons similarly situated with respect to the purpose of the law. The Supreme Court highlighted the issue of 'under-inclusiveness', observing that the Impugned Provision excludes adoptive mothers of children above 3 (three) months, despite their similar need for caregiving, bonding, and integration of the child into the family. Such exclusion, without sufficient justification, renders the classification constitutionally suspect, as the object of maternity benefit is not associated with the biological process of childbirth alone but also takes into account a holistic understanding of attainment of motherhood and consequent fulfilment of the role. It was observed that the benefit of such interpretation must be extended to adoptive mothers, irrespective of whether or not the age of the child is below or above the age of

3 (three) months, as adoptive mothers also contribute to such fulfilment, including in the event of a child being disabled or in the case of a single adoptee mother, as is the principle of law followed by peer countries.

Accordingly, the Supreme Court emphasised that the Impugned Provision, to the extent that it prescribes the age limit of 3 (three) months, has failed to withstand scrutiny under Article 14 of the Constitution as it does not disclose a reasonable distinction nor does the distinction have any nexus with the object sought to be achieved and such distinction is plagued by 'under-inclusiveness'.

The right to a dignified life for adoptive parents and adopted child under Article 21 of the Constitution

The Supreme Court examined the Impugned Provision in light of Article 21 of the Constitution, recognising that the right to life encompasses the right to live with dignity, reproductive autonomy, and the right of a child to receive adequate care and development. The Supreme Court observed that adoption is an expression of reproductive choice, and the decision to adopt a child forms part of an individual's autonomy and dignity. It emphasised that the law must respect diverse forms of parenthood and cannot discriminate against adoptive parents by denying them the conditions necessary to meaningfully exercise their role as caregivers. Further, the Supreme Court highlighted the principle of the "*best interests of the child*" codified by various statutes and judicial precedents, noting that early caregiving, bonding, and a stable family environment are critical for the child's psychological and emotional well-being, a continuing aspect the Impugned Provision fails to adequately account for.

Examining validity of the Impugned Provision through its workability

The Supreme Court examined the validity of the Impugned Provision from the standpoint of its practical workability, observing that a statutory provision must be capable of meaningful implementation to achieve its intended purpose. The Supreme Court took note of the procedural framework governing adoption, particularly under the Juvenile Justice Act, 2015 and the relevant adoption regulations, which involve multiple stages such as declaration of a child as legally free for adoption and completion of ancillary formalities. It observed that these processes often take several months, making it highly unlikely for an adoptive parent to complete the adoption of a child below 3 (three) months of age.

In this context, the Supreme Court found that the 3 (three) month age threshold renders the provision largely unworkable in practice, as the benefit is effectively unavailable to most adoptive mothers. A provision that is symbolic and illusory but practically inaccessible fails to serve its legislative purpose and undermines the object of providing maternity benefits. Accordingly, the Supreme Court emphasised that the validity of a provision must also be assessed based on its functional efficacy, and a provision that is incapable of practical application cannot be sustained as a reasonable classification under constitutional scrutiny.

The Supreme Court also highlighted that society has long assumed caregiving to be the primary responsibility of mothers, causing fathers to be sidelined in early childcare despite their equally important role. It was observed that the absence of paternity leave reinforces gender stereotypes, deprives fathers of meaningful early bonding with their child, and places an unfair burden on mothers. Ultimately, the Supreme Court underscored the need for formal recognition of paternity leave as a social security benefit to promote gender equality and support the best interests of the child.

Conclusion

The Supreme Court emphasised that maternity benefits must be interpreted in a manner that reflects the realities of caregiving and child welfare, as it represents the State's commitment to uphold human dignity, equal treatment at work, and broader ideals of social justice. It further clarified that emotional bonding and caregiving are integral aspects of motherhood, irrespective of whether the child is biological or adopted. The judgment highlights that, rigid classifications such as the 3 (three) month age limit, must withstand constitutional scrutiny and should not exclude

similarly situated individuals without justification. Overall, the decision reinforces a progressive and inclusive understanding of motherhood, aligning social welfare legislation with the constitutional principles of equality, dignity, and the best interests of the child.

Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimise associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

JSA also has significant experience in assisting employers to ensure that they provide focused and proactive counselling to comply with the obligations placed on employees under the prevention of sexual harassment regime in India. We advise and assist clients in cases involving sexual harassment at the workplace, intra-office consensual relationships, including drafting of prevention of sexual harassment (POSH) policies, participating in POSH proceedings, conducting training for employees as well as Internal Complaints Committee members, and acting as external members of POSH Committees

This Prism is prepared by:



Bhavya Sriram
Partner



Mahemaa Senthilkumar
Associate



Pratiksha Easwar
Associate



19 Practices and
40 Ranked Lawyers



8 Ranked Practices,
22 Ranked Lawyers



15 Practices and
20 Ranked Lawyers



13 Practices and
49 Ranked Lawyers



20 Practices and
24 Ranked Lawyers



8 Practices and
10 Ranked Lawyers
Highly Recommended in 5 Cities



**Regional Legal Expertise Awards
(APAC) of the Year**
Energy Firm Competition/
Antitrust Firm



Among Best Overall
Law Firms in India and
14 Ranked Practices



Recognised in World's 100 best
competition practices of 2026



Ranked Among Top 5 Law Firms in
India for ESG Practice

9 winning Deals in
IBLJ Deals of the Year

15 A List Lawyers in
IBLJ A-List – 2026



Asia M&A Ranking
2025 – Tier 1

For more details, please contact km@jsalaw.com

www.jsalaw.com



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi



This Prism is not an advertisement or any form of solicitation and should not be construed as such. This Prism has been prepared for general information purposes only. Nothing in this Prism constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this Prism disclaim all and any liability to any person who takes any decision based on this publication.

Copyright © 2026 JSA | all rights reserved