

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**  
(Shariat Appellate Jurisdiction)

**PRESENT:**

Khawaja Muhammad Nasim, J.  
Raza Ali Khan, J.

**CIVIL APPEAL NO. 14 OF 2025**

(Against the judgment  
dated September 11,  
2024, passed by the  
Shariat Appellate Bench of  
the High Court, in Family  
Appeal No. 227/ 2023.

Mst. Shaida Bibi d/o Muhammad Fayyaz Khan w/o Raja  
Imran Khan & 2 others.

... Appellants

**VERSUS**

Raja Imran Khan s/o Nadir Khan & another

...Respondents

**Appearances:**

For the Appellants: Mir Abdul Latif,  
Advocate.

For the Respondents: Nemo.

Date of hearing: 16.07.2025.

**JUDGMENT:**

**Raza Ali Khan, J:-** The present appeal, by  
leave of the Court, arises out of the judgment of the  
Shariat Appellate Bench of the High Court (hereinafter

referred to as “the High Court”) dated September 11, 2024, rendered in Family Appeal No. 227/ 2023.

2. The brief facts of the case are that the plaintiffs–appellants, instituted two separate suits, one for recovery of dower and the other for maintenance allowance, against the defendants–respondents, herein, before the Court of Additional District Judge/Judge Family Court, Dhirkot, on October 05, 2021. The defendants contested the claims in their entirety by submitting written statements. The trial Court framed issued and recorded evidence from both parties. In light of the pleadings of the parties, framed issues and directed them to produce evidence pro and contra. Upon conclusion of the proceedings, the trial Court vide judgment dated August 25, 2023, dismissed the suit for recovery of dower, whereas the suit for payment of maintenance allowance was partially decreed. Feeling aggrieved, the appellants, herein, preferred an appeal before the High Court on September 26, 2023. The said appeal was dismissed on the ground of limitation vide impugned judgment dated September 11, 2024.

3. Mir Abdul Latif, the learned counsel for the appellants, contended that the dismissal of the appeal by the High Court on the ground of limitation is contrary to settled legal principles and reflects a mechanical application of procedural rules. He argued that the High Court erroneously computed the limitation period and dismissed the appeal without adjudicating upon its merits. He pointed out that the judgment of the Family Court was announced on August 25, 2023, and the appeal before the High Court was filed on September 26, 2023, i.e., after 31 days. However, the appellants had spent 3 days in obtaining certified copies of the judgment of the Family Court which

was required for proper institution of appeal. The application for certified copies was filed on September 16, 2023, and the copies were provided on September 18, 2023. Thus, upon exclusion of this period, the appeal was within the prescribed limitation. He maintained that the High Court failed to appreciate this legal position and dismissed the appeal in a cursory and mechanical manner without addressing the merits, thereby causing miscarriage of justice.

4. We have considered the submissions made by the learned counsel for the appellants and carefully examined the record. It is evident that the judgment of the Family Court was announced on August 25, 2023. The application for obtaining certified copies was filed on September 16, 2023, and the copies were issued on September 18, 2023. The appeal was filed before the High Court on September 26, 2023. The period consumed in obtaining the certified copies is liable to be excluded under the settled legal principles. Consequently, the appeal was well within the prescribed limitation of 30 days required under Section 7 of the Azad Jammu and Kashmir Shariat Appellate Bench of the High Court Act, 2017. The High Court while dismissing the appeal, failed to exclude this period and adopted a rigid and mechanical approach. Such treatment of a substantive right is impermissible in law.

5. In view of the above, the appeal is accepted. The impugned judgment dated September 11, 2024, passed by the High Court is set aside. The matter is remanded to the High Court for a fresh decision on merits, after providing proper opportunity of hearing to the parties.

Since the appeal pending before the High Court pertains to the year 2023, it is hereby directed that the matter be decided positively within a period of three months from the date of communication of the judgment.

JUDGE  
(JII)

JUDGE  
(JI)

Muzaffarabad,  
16.07.2025.