

1973

*Present : Wijayatilake, J.*

H. DHANAPALA, Petitioner, and W. J. P. BABY NONA,  
Respondent

*S. C. 16/73—Application for Revision in M. C. Ratnapura, 71283*

*Maintenance Ordinance (Cap. 91), as amended by Act No. 19 of 1972—  
Section 2—Quantum of maintenance which can be awarded  
thereunder.*

When an application for maintenance is made under section 2 of the Maintenance Ordinance for the maintenance of a child, the Court has no jurisdiction to award any sum in excess of the quantum claimed by the applicant.

**A**PPPLICATION to revise an order of the Magistrate's Court,  
Ratnapura.

*P. O. Wimalanaga, for the petitioner.*

June 26, 1973. WIJAYATILAKE, J.—

Mr. Wimalanaga, learned counsel for the Petitioner submits that although the applicant has prayed for only a sum of Rs. 40 per month in respect of maintenance of her child the learned Magistrate has made an award of Rs. 50 per month, Rs. 10 in excess of her claim, which order is without jurisdiction. He has drawn my attention to Section 2 of the Maintenance Ordinance (Chapter 91) as amended by Maintenance Amendment Act No. 19 of 1972. With regard to the income of the defendant and the means and circumstances of the applicant or such child, Mr. Wimalanaga submits that the applicant would know best and that it is not in the discretion of the learned Magistrate to award any sum in excess of the quantum claimed by the applicant. I am in entire agreement with learned counsel and I would accordingly fix the quantum of maintenance at Rs. 40 per month.

I make no order as to the costs of this appeal.

*Order varied.*