MEENATCHI *v.* SUPRAMANIAN CHETTY.

*P. C., Avissawella, 1,215.*

*Maintenance—Refusal of grandmother to give up child to its father—Her
right to claim maintenance from him for its support.*

If the father of an illegitimate child whose mother is dead is
willing to take it into his house and maintain it, its grandmother,
who refuses to give it up to the father, has no right to claim
maintenance for its support.

THE complainant's application for maintenance of her deceased
daughter's two children by the accused was rejected on the
ground that the elder child, a girl, was being maintained by him,
and that he was prepared to take over and maintain the younger
child, a boy.

The Police Magistrate, Mr. Godamune, upheld the first objection,
but as regards the second objection, he ordered that, as the
children were illegitimate, the mother was their natural guardian,
and as upon her death the grandmother took her place as guardian,
the accused respondent should pay her Rs. 5 for the maintenance
of the boy.

On appeal, there was no appearance.

12th July, 1898.  LAWRIE, J.—

Mr. Justice BROWNE was obliged to send this case back in
order that the Magistrate should make a definite order specifying
for which of the children he ordered the respondent to pay
maintenance.  The Magistrate this time says : " I order that the
" respondent do pay him Rs. 5 monthly for its maintenance."

This is worse than before, for the applicant is a woman, and
the child is not named, even its sex is left undetermined.  The
Magistrate calls the child " it."  On the merits I hold that the
respondent is not liable to pay maintenance to the applicant for
the illegitimate child.

The mother of the child is dead, and the respondent now maintains one of his and her children.

The respondent does not refuse to maintain the other child, a baby of six months old. He offers to take it and maintain it in his own house, and the applicant, the maternal grandmother, has no right to demand maintenance for the baby if she refuses to give the child to the father.

I set aside and dismiss the application.