

Does the court take into a consideration an exceptional contribution made by one party in a marriage?

Under section 25 of the Matrimonial Causes Act 1973, one of the factors that the Court may take into account when exercising its discretion and considering what a fair outcome may be is the contributions that each party has made:

"The contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family"

The starting point in any case is equality and then the court will look at a number of factors to decide whether there should be a departure from equality in favour of one party.

A court will only take into account an "exceptional contribution" (often called a "special" or "stellar" contribution) in extremely rare, high-value cases. The threshold is exceptionally high; simply earning significantly more than your spouse or having a successful career is never enough on its own.

To succeed, you must meet the following strict criteria established by family case law:

- **Gross Disparity:** There must be such a glaring and obvious disparity in the parties' contributions that it would be entirely unfair—or inequitable—to ignore it.
- **Unique Genius or Talent:** The wealth must be the result of a "stroke of genius," entrepreneurial vision, or highly unique skill. Normal business success does not qualify.
- **Exceptional Scale:** The argument is generally only applied in "big-money" cases, and the fortune must be much more than a lucky windfall.
- **No Homemaker Discrimination:** The court will strictly ensure it does not discriminate against the spouse who contributed to the welfare of the family (e.g., homemaking and childcare).

There are a number of circumstances where the court may depart from equality:

- **Short Marriages**
Courts may depart from the equal sharing principle if the marriage was brief and the majority of assets were accumulated by one party prior to the marriage.
- **Non-Matrimonial Property**
Assets acquired outside the marriage—such as unmingled inheritances—can be ring-fenced or excluded from equal division. While significant contributions

by one party justify this, the financial needs of both parties remain the primary consideration.

- **Nuptial Agreements**

Valid pre-nuptial or post-nuptial agreements carry significant weight. If one party brought substantial wealth into the marriage and a proper agreement is in place, it will likely be upheld to protect separate property and justify a deviation from equality.

- **Special Contributions**

In exceptionally rare cases, a court may adjust the division of assets if one spouse made a "special contribution" to the marriage. The threshold for this is extraordinarily high; simply outearning the other spouse is never enough.