

ORDER SHEET

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	<p>the applicant filed a suit for divorce, being M.A.T. Suit No. 97 of 2009, before the learned Additional District Judge, Nadia and the same was decreed ex-parte. It has been stated that since the date of decree the son and daughter of the applicant are residing with him. The son of the petitioner is reading in class seven and the daughter in class two. While working as Grade-II Nurse at R.G. Kar Medical College and Hospital under the Department of Health and Family Welfare, Government of West Bengal, the wife of the applicant expired on 5th January, 2014. After the death of his wife the applicant made a representation dated 27th January, 2014 before the respondent authorities regarding disbursement of death-cum-retirement dues of his wife. It appears that earlier the applicant had moved an application on 3rd January, 2014 before this Tribunal, being O.A. No. 341 of 2014, which was disposed of by an order dated 28th June, 2014 directing the Director of Health Services, West Bengal, the respondent No.2 to consider the representation and pass an order. Accordingly the Director had passed an order which has been annexed to this application, being annexure "H" to this application, the relevant portion of which is as under :-</p> <p style="text-align: center;">“.....Thus, on going through all the fact and circumstances of the matter and legal proviso, I am of the opinion that all the death-cum-</p>	

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	<p>retiral benefits in respect of the deceased Mithu Bhowmick (Chakraborty) be released immediately to Sri Partha Chakraborty (though judicially separated now) subject to the fulfilment of other conditions like affirmation of maintaining his two minor children as a natural guardian and protect their right in all respects. A child has a basic right to be looked after by his father. The courts and the state are the ultimate guardians of every person who is non sui juris. The court has the jurisdiction to ensure that the person and property of any one, who is not in a position to look after himself, are duly protected. The obligation of a parent to look after the child has been customarily accepted. Since father is recognised as the guardian, he is under a duty to maintain and protect the child. Hence, it is ordered that :</p> <p style="text-align: center;">ORDER</p> <p>The claim for release of the death benefits in respect of late Mithu Bhowmick (Chakraborty) as staked by</p>	

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	<p>her husband, Sri Partha Chakraborty (though judicially separated) for the interest of their minor children is accepted on the grounds as shown above and the Superintendent / MSVP, R.G. Kar Medical College & Hospital is hereby directed to proceed for the same forthwith so that the actual amount as regards that is received by the petitioner in accordance with law in due course of time.</p> <p>Thus, the prayer of the petitioner is considered and the matter is disposed of accordingly. Let the copy of the order be issued to all concerned immediately.”</p> <p>It is submitted that since the reasoned order has been passed, appropriate order, as prayed for in this application be passed for release of the financial benefits.</p> <p>Mr. S. Burman, learned advocate appearing on behalf of the added respondent no.6, Pramila Bhowmick, mother of the deceased employee, submits on instruction that his client has no objection if the benefits are released in favour of the applicant.</p>	

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	<p>It appears from the submission by Mr. B.P. Ray, learned advocate for the State that after divorce Mithu Bhowmick submitted a fresh nomination in favour of her son Mrinmoy Chakraborty and Tania Chakraborty and had nominated Pramila Bhowmick as the local guardian of her son and daughter which appears from the intimation dated 23rd June, 2015 issued by the Medical Superintendent-cum-Vice Principal, R.G. Kar Medical College and Hospital, Kolkata addressed to the Joint Secretary Finance Department (P), Nabanna, Howrah. Let a copy of the same be kept on record.</p> <p>It is submitted by the learned advocate for the parties that during the pendency of this application, Mrinmoy Chakraborty has attained majority.</p> <p>Heard the learned advocates for the parties. We are of the view that since late Mithu Bhowmick (Chakraborty) during her life time had submitted fresh nomination on 23rd September, 2011 in favour of her son and the daughter and had also nominated Pramila Bhowmick, respondent no.6 as the legal guardian, submission made on behalf of the learned advocate for the applicant cannot be accepted. The nomination made on 23rd September, 2011 has to be accepted. Therefore, considering the facts and circumstances of the case, this application is disposed of by directing the Medical</p>	

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SCN.	<p>Superintendent-cum-Vice Principal, R.G.Kar Medical College & Hospital, Kolkata, the respondent no.3 to disburse death-cum-retiral dues of Mithu Bhowmick (Chakraborty), in favour of Mrinmoy Chakraborty, the son who has attained majority and in favour of Pramila Bhowmic, as the legal guardian of Taniya Chakraborty, in accordance with rules, along with interest @ 8% per annum within 12 weeks from the date of presentation of a copy of this order, after giving an opportunity of hearing and after verifying the records.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	