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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 6178/2021 & CM APPLs.21475/2022, 60853/2024**

AYRA ROY ..... Petitioner

Through: Mr. Ekansh Aggarwal, Adv. Ms. Abiha Zaidi Adv.,Ms. Suriti Chowdhary Adv.,Mr. Anuj Bhave Adv., Mr. Pritam Raman Giriya Adv.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Anurag Ahluwalia, CGSC with Ms. Hridyanshi Sharma, Adv. (M: 9811199806)
Ms. Mehak Nakra, ASC (CIVIL) GNCTD along with Ms. Gunjan Suyal and Ms. Anjali Pandey, Advs. for R-2 & 3. (M: 7666499346)
Mr. Anand Shankar Jha & Mr. Sachin Mintri, Advs. for R-5/HDFC with Ms. Ekjot Bhasin (AR) in person. (M: 7428307214)
Mr. Siddharth, Standing Counsel for EPFO with Mr. Anshul Saxena and Mr. Harshit Manwani, Advs. (M: 7838537008)
Ms. Ruchi Sindhwani, Sr. Standing Counsel for OL.

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% 16.10.2024

1. This hearing has been done through hybrid mode.

2. The present writ petition concerns an unfortunate case of a minor child, who lost both her parents during COVID-19. She has however been able to find a home with her *Mausi* and owing to the hard work of her

parents – Ashish Roy and Disha Roy, during their life time, a substantial financial corpus has also now been created for her.

3. The facts would show that the petition has been filed by the minor child through her maternal aunt (*Mausi*) seeking a direction for securing of the entire assets left behind by her deceased parents. The present petition has been heard at length by this Court on 11th April, 2023, 24th July, 2023, 4th September, 2023, 10th November, 2023, 11th December 2023, 30th August, 2024 and 27th September, 2024; and several directions have been issued by this Court to consolidate and liquidate the various assets left behind by the parents.

4. One of the initial challenges, which the Court encountered was that Ms. Sumita Devnath, *Bua* of the Petitioner-child was contesting this petition. The CWC vide order dated 26th October, 2021, had already handed the Petitioner to her *mausi* on interim basis and all the other family members were allowed to meet the child.

5. This issue of *Bua* contesting the petition has been recorded on 11th April, 2023 in this Court where certain directions were issued to the District Magistrate (hereinafter '*DM*'), Mandir Marg to conduct a detailed enquiry into the matter and file a report. The relevant directions are as under:

> *"6. Since none appears for Respondent No.4, there is a clear need to secure the assets of the deceased parents for the welfare of the minor child. Accordingly, the* ***District Magistrate, Mandir Marg, Mahavir Enclave shall conduct a detailed enquiry in this matter and file a proper report about the status of the family of Late Shri Ashish Roy and Smt. Disha Roy. The DM shall also ascertain the employers of the said deceased parents and also trace out the assets of the said parents and place the same on record by means***

of a status report. The DM is also free to contact Ms Aadya Aggarwal, who is acting as next friend/guardian of the minor as also Bua - Ms. Sumita Devnath, who is stated to be in control of certain assets of the deceased parents.

7. In addition, ld. Counsel for the Petitioner submit that the deceased parents were holding policies with several companies. The names of the companies with which the policies were held and the address of the offices in which the said polices were held are extracted as under:

1. LIC of India, Delhi Branch Unit No.11B, Jeevan Pragati Building, 1st and 2nd Floor, Plot No.6, Distt. Centre, Laxmi Nagar, Delhi-110092

2. HDFC Life Insurance Company, Distt. Centre Advocate Chamber,1/2, 1st and 3rd Floor, Raj Nagar, Ghaziabad

3. TATA AIA Life Insurance Company Ltd., Pacific Business Park, Maharajpur, Sahibabad Industrial Area, Site-IV, Sahibabad, Ghaziabad.

8. In addition, it is submitted that the employers of the deceased parents are –

- *M/s. Bankit Services Pvt. Ltd., Ground Floor, D-49, Sector-63, Noida and*
- *M/s. EXL Services Pvt. Ltd., A-94/5/6, A-Block, Sector-58, Noida.*

Registry shall issue notices to these companies, as noted above, who shall file their respective affidavits/reports with the details of all the assets and insurance policies, death benefits which Late Ashish Roy and Late Smt. Disha Roy are entitled to. The DM is also free to make enquiries with these companies in order to file the report before this Court.

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*11. **The above two employers of the parents of the Petitioners shall also disclose as to the death benefits and other benefits, which the minor's parents were entitled to as per their HR policy.** The said details* *shall be placed on record as a status report by the competent officials of the said two employers.* ***__The said status report shall also give details of the current status of the death benefits as due to the parents of the Petitioner__****."*

6. A perusal of the above order would show that the DM had to conduct a detailed inquiry and file a report with respect to the following:

-a proper report as to the status of the family;

- the details of the insurance policies were to be obtained;

- the employers of both the parents of the Petitioner were directed to disclose all the benefits and amounts payable to the parents of the Petitioner.

7. As per the report of the SDM (Noida) dated 4th September, 2023, which was handed over in Court the following properties of the Petitioner were in possession of the *Bua*-Smt. Sumita Debnath. The details of the properties are as under:

(i) Immovable property bearing No.G-51, Bengali Colony, Mandir Marg, Mahavir Enclave, Palam, New Delhi;

(ii) 13 items of jewellery belonging to the mother of the Petitioner;

(iii) One Hyundai I10 car bearing No.DL4CAQ5198 alongwith registration papers;

(iv) One Renault Duster car bearing No. UP14DV1949 without registration papers;

(v) Original papers of the Tata AIG term life insurance Policy No.C22188296 of the deceased father of the Petitioner;

(vi) Original LIC policy no.208401194 in the name of father of the Petitioner;

(vii) Movable assets i.e. Air Purifier, Cycle, Oxygen Cylinder, Vacuum Cleaner, Apple Air Pods, HP Laptop, PS4, Projector.

8. In addition, the companies, with whom parents of the minor girl were working and had also obtained insurance polices, were issued notice. They were directed to file affidavits with details of all the assets, insurance policies, death benefits and other benefits, which the Petitioner would be entitled as per their HR policy.

9. Vide order dated 24th July, 2023, the Court had also met the child, who was accompanied by Ms. Aadya Aggarwal and her husband Mr. Saurabh Aggarwal. The Court also noticed that the child was comfortable with her *Mausi* and uncle.

10. Thereafter paternal Aunt (*Bua)* of the child had also appeared and had submitted all the original policies of Tata AIA Life Insurance, LIC, which were in her possession. She also had title documents relating to immovable property and jewellery of the Petitioner's mother as also one car. The employers of the parents had also appeared and had filed their affidavits. In the meantime, the CWC was directed to take steps to secure all the assets for the future of the child.

11. On 4th September, 2023, the Court recorded that the CWC's report has been received. As per the said report, there were various movable and immovable properties, which are set out above in paragraph 7.

12. Insofar as the immovable properties are concerned, *Bua* was directed to hand over the original documents to CWC and the CWC was to obtain a bank account locker in Canara Bank, Eiffel Tower Branch, Sector-9,

Vasundhara, Ghaziabad so that all the papers could be deposited therein. LIC policies etc. were also to be handed over to the CWC, which was to contact their companies and obtain the policy amounts and deposit the same in the Canara Bank account, the details of which are as under:

A/C No.110042845028

Name - Arya Roy under guardianship of Aadya Agarwal

Bank - Canara Bank, Vasundhara Branch.

13. The Court then requested ld. Counsel for the OL to assist in liquidating the movable and immovable assets of late parents of the Petitioner like the two cars and a property bearing No.G-51, Bengali Colony, Mandir Marg, Mahavir Enclave, Palam, New Delhi, and deposit the money in the above stated account. Insofar as the movable assets like air purifier *etc*. are concerned, the same was directed to be handed over to the *Mausi* for the use of the child and the jewellery was directed to be deposited in the locker with a proper list.

14. Finally, in the petition under Section 7 of the Guardian and Wards Act 1890, the maternal aunt (*Mausi*) of the child, whose parents passed away during COVID-19 was appointed as the legal guardian *vide* judgement dated 7th November, 2023 passed by the Judge-II, Family Court (South), Saket, New Delhi. The said order is of significance and is extracted below:

> *"1. The petitioner has filed the present petition under section 7 of the Guardians and Wards Act, 1890 seeking appointment of the petitioner as the Guardian of girl child Ms. Ayra Roy and granting permanent custody of the child to the petitioner.*
>
> *2. Briefly stated the petitioner is the real maternal aunt (Mausi) of the minor child namely Ms.*

Ayra Roy who is aged about 4 years (DOB: 06.10.2017). She is the only child of Late Ms. Disha Roy and Late Sh. Ashish Roy. Both the parents of the child expired due to Covid-19 on 03.06.2021 and 25.05.2021 respectively. The maternal grand father and maternal grand mother also expired due to Covid-19 on 04.05.2021 and 09.06.2021 respectively. The grand parents of the child are already pre-deceased. The only surviving relatives of the child are petitioners (Mausi) and the respondent no.1 (Bua). Hence, by way of present petition, petitioners has prayed that she be appointed as the Guardian of the child and custody of the child also been handed over to her.

3. Written statement to the petition was filed by the respondent, whereafter, issues were framed. ***During the pendency of the petition, vide order dated 26.10.2021 the custody of the child was granted to the petitioner by CWC. Since then, the child is in the custody of the petitioner****.*

4. Further, before the evidence could be started, both the respondents (Bua and her husband) have stated that they have no objection, if the permanent custody of the child is granted to the petitioner. However, they be granted visitation rights to meet the child.

5. Separate statements of both the respondents have been recorded in the court. Petitioner has also placed on record an order dated 04.09.2023 passed by the Hon'ble High Court of Delhi wherein directions have been passed by the Hon'ble High Court of Delhi with regard to management of assets of the deceased parents of the child.

6. The child has also appeared twice before the court and she is happy to be in the company of her Mausi / petitioner and wants to stay with them only.

7. Under section 7 of the Guardians and Wards Act, 1890, this court has the power to appoint Guardian of a minor child. ***Considering the totality of facts and circumstances, the unfortunate death of the parents***

<u>of the minor child due to Covid-19, the petitioner and the respondent no.1 being the only surviving relatives of the child, the respondent no.l having given her consent to give the custody of the child to the petitioner and considering the wishes of the child, this court hereby appoints the petitioner Ms. Aadya Agarwal to be the Guardian of the child namely Ms. Ayra Roy. The child is already living with the petitioner. The permanent custody of the child is also granted to the petitioner Ms. Aadya Agarwal.</u> *However, the respondents are granted visitation rights. They can visit the child as per convenience and keeping in mind the time schedule of the child vis a vis her school and other extra curricular activities.*

8. Petition accordingly stands disposed off.

9. File be consigned to record room."

15. From the above order, it is clear that the only two surviving heirs were the *Mausi* and the Bua. The *Bua* had given consent to the *Mausi* being appointed as the Guardian. Thus, after recording statements of parties the Family Court has given custody of the child to *Mausi* and has appointed her *i.e.,* Ms. Aadya Aggarwal as guardian of the child Ms. Ayra Roy. It is also to be noted that the child was already living with the *Mausi* and the *Bua* of the child will have visitation rights.

16. On 10th November, 2023 the Court noted the final judgment extracted above passed by the Family Court on 7th November, 2023 appointing the *Mausi* as the guardian. On the said date, the OL was also directed to proceed with the auction of the subject property as suggested by the OL by fixing the realisable value as the Reserve Price. Jewellery of the parents were also to be handed over to the guradian, which was done so by the *Bua* of the Petitioner to the guardian. Accordingly, the Reserve price for the property

along with the movable assets including equipment and furniture which maybe lying in the subject property was fixed at Rs.80 lakhs. Vehicles were also to be permitted to be auctioned. Counsels for the LIC etc. were also issued notice on the said date.

17. In the meantime, HDFC had confirmed that the *ex gratia* payment of Rs. 10 lakhs, which was to be paid to the Petitioner has been credited and M/s. EXL Services Pvt. Ltd. has also deposited a sum of Rs. 36,90,740/- in terms of the dues of the mother of the Petitioner in the No-Withdrawal Account. The jewellery as also other insurance documents from TATA AIA Life Insurance, LIC was handed over by the *Bua* to the guardian of the Petitioner-Ms. Adya Aggarwal.

18. On the said date, M/s. Bankit Services Pvt. Ltd. was also directed to provide the details of the PF account, LIC account or any other account from where any benefits have to be collected by the guardian of the Petitioner. It was further directed that if any pension account is to be opened in the name of the Petitioner, the same be also done, so that the monthly pension from EPFO can also be collected by the guardian.Vide order dated 11th December, 2023, it was noted that the jewellery would be maintained in the locker in SBI Bank till the time the Petitioner attains the age of majority. The guardian of the Petitioner also submitted that she is unable to dispose of the cars. Thus, the OL was permitted to dispose of the said cars at realisable values.

19. On 13th February, 2024, the Court noted that the immovable property had not attracted any bids at the reserve price of Rs.80 lakhs. One purchaser from the local area wanted to participate in the auction, but due to reserve price could not do so. Thus, the Court directed the bidders to appear before

the Court on the next date of hearing with 10% of the reserve price of Rs.8 lakhs. On 5th April, 2024, two bidders were present before the Court for immovable property. Bid of Mr. Manish Beri was accepted for the sum of Rs.80 lakhs. He also deposited the EMD of Rs.8 lakhs with the OL and finally, the said sale transaction has also been effected from the OL office. The entire consideration amount also stands deposited in the Canara Bank non withdrawal account. Further, bids for Rs.1.25 lakhs for Hyundai car and Rs.4.25 lakhs for Duster car were also received, which was recorded by the Court. The said amounts are also deposited by the OL in the following account of the Petitioner:

A/C No. 110042845028

Name-Ayra Roy under guardianship of Aadya Agarwal

Bank- Canara Bank, Vasundhara Branch

20. The only outstanding issues were in respect of provident fund and certain amounts, which were due from one of the employers of the mother of the Petitioner. At that stage on 30th August, 2024, the Court received an application being ***CM APPL.50078/2024***, filed by the HDFC Bank seeking impleadment on the ground that one of the vehicles *i.e.,* Renault Duster car bearing No. UP14DV1949 was mortgaged with HDFC Bank and there was a loan account, which was outstanding and the sale proceeds of the said car shall be transferred towards satisfaction of outstanding dues. The Court then directed the HDFC Bank to disclose if there was any other account opened by the parents in HDFC Bank *qua* which the details were furnished on 27th September, 2024. The Court was later informed that the mother of the Petitioner had a saving bank account wherein there was a balance of Rs.3,83,651.25/- had stood deposited. The Court also issued notice to Mr.

Siddharth, who was a regular Counsel appearing for EPFO to consolidate and file the details relating to the amounts payable from the accounts of the parents of the Petitioner.

21. Broadly, therefore, today the status is as under:

(i) All the insurance amounts have been paid to the Petitioner from TATA AIA Life Insurance, LIC;

(ii) The movable and immovable assets have either been handed over to the guardian or have been liquidated through the OL's office and the sums have been deposited in the Canara Bank no-withdrawal account;

(iii) All the dues from the employers of the Petitioner's parents are stated to have been credited to the Petitioner's account;

(iv) The proceedings before the CWC and the Family Court have culminated and the petition under Section 7 of the Guardians and Wards Act, 1890 is also been brought to a closure and the *Mausi* has been appointed as the guardian.

22. The outstanding issues to be dealt with by the Court are as under –

(i) Relating to the HDFC Bank loan account and the savings bank account of the mother of the Petitioner;

(ii) The provident fund amounts of the parents of the Petitioner;

(iii) An application being ***CM APPL.60853/2024*** filed by the Petitioner.

23. The above three aspects are dealt with herein below:

(i) Relating to the HDFC Bank loan account and the savings bank account of the mother of the Petitioner

24. Insofar the HDFC bank is concerned, pursuant to the last order dated

27th September, 2024, the HDFC Bank has agreed to grant 50% waiver in the principal outstanding. Thus, as on date the HDFC Bank is willing to accept a sum of Rs.3 lakhs as the final amount for closing of the loan account and for issuance of No Dues Certificate. In view of this position, the amount lying in HDFC saving bank account in the name of Late Ms. Disha Roy bearing No.3941140121600 shall be deducted for a sum of Rs.3 lakhs, which can be utilized for settling the loan account and the remaining amount along with any interest accrued thereon shall be transferred to the Canara Bank account, details of which are set out in paragraph 19 above. HDFC to give effect to this order within one week.

(ii) The provident fund amounts of the parents of the Petitioner

25. Detailed affidavit has been filed by Mr. Divya Jyoti, Assistant Provident Fund Commissioner from EPFO. As per the said affidavit, the following are the various amounts that have been agreed to be paid or are due and payable.

> *"2. Petitioner's father, late Mr. Ashish Roy was employed in five different establishments at different times, resulting in five different PF accounts. The PF in respect of his last employment was under the jurisdiction of Regional Office, NOIDA.* ***This amounted to Rs.1,86,662/- which was credited to the petitioner's SBI A/c No no. 42474920312 Con 06.02.2024 vide. UTR no. 42474920312001040317765394. The PF for the first four employments amounting to Rs. 8,13,540/- was under the jurisdicions of Regional Officers, Shimla, Chandigarh and Delhi (East), which has been consolidated and is transferred to Regional Office, NOIDA for disbursal to the petitioner. Thus, Mr. Ashish Roy's PF of Rs. 8,13,540 is payable to the petitioner as on 15.10.2024. The ledger statement for***

Mr. Ashish Roy is annexed as Annexure1 at pp.4-9 to this affidavit.

*3. **Apart from PF, the petitioner is also entitled to her father's life insurance. The maximum benefit under EDLI is Rs. 7,00,000/-; vide GSR 299(E) dated 28.04.2021 (Annexure 2 at pp. 10-15). The petitioner is entitled to this maximum benefit. Of this, Rs. 5,39,571/- was credited to her SBI A/c no. 42474920312 on 06.02.2024 vidé Cheque no. 176550. The remainder of Rs.1,60,429/- is now payable to the petitioner.***

4. Further, the petitioner is entitled to orphan's monthly pension of Rs. 2,176/-(which is 75% of the widow pension) since her father's demise on 25.05.2021: vide paragraph 16 read with Table C of the Employees' Pension Scheme, 1995. Hence, pension arrears of Rs. 87,886/- are payable to the petitioner, along with a monthly pension of Rs. 2,176/-.

EPF Benefits in respect of Late Mrs. Disha Roy

*5. **Late Mrs. Disha Roy was employed in two different establishments resulting in two PF accounts. The total PF in respect of these two establishments is Rs. 5,42,481/-. The ledger statement maintained by Regional Office Delhi (East) in respect of Mrs. Disha Roy is annexed as Annexure 3 at pp. 16-25.***

6. Apart from PF, Life Insurance amounting to Rs. 6,97,586/- is payable to the petitioner under the Employees' Deposit-Linked Insurance Scheme, 1976.

7. Further, the petitioner is entitled to orphan's monthly pension of Rs. 2,176/- PUBLIC (which is 75% of the widow pension) since her mother's dermise on 03.06.2021; vide paragraph 16 read with Table C of the Employees' Pension Scheme, 1995. Hence, pension arrears of Rs.84,646/- are payable to the petitioner, along with a monthly pension of Rs.2.176/-."

26. As can be seen from the above affidavit of the EPFO there are various amounts which have already been paid. Further the following sums are due and payable to the Petitioner *qua* her parents EPF accounts:

Benefits in respect of Mr. Ashish Roy	Rs.8,13,540/- Rs.1,60,429/- Rs.87,886/-	PF dues from regional offices EDLI – Insurance Pension arrears
Benefits in respect of Ms. Disha Roy	Rs.5,42,481/- Rs.6,97,586/- Rs.84,646/-	PF dues from regional offices EDLI – Insurance Pension arrears
Monthly pension in respect of Mr. Ashish Roy	Rs. 2,176/-	
Monthly pension in respect of Mr. Ashish Roy	Rs. 2,176/-	

27. The monthly pension of Rs.2176/- in respect of both the parents would be liable to be paid by the EPFO to the Petitioner every month till she attains the age of 25 years. Let all the above sums be transferred/paid to the SBI account, details of which are as under:

SBI A/c No. 42474920312

UTR No. 42474920312001040317765394

28. The said transfer shall be effected within two weeks. In addition,

monthly pension amount shall also be credited to the above stated SBI account on monthly basis, which can be withdrawn by the Petitioner's guardian for day to day expenses of the child Ms. Ayra Roy.

<u>W.P.(C) 6178/2021 & CM APPL.60853/2024</u>

29. This is an application filed by the Petitioner seeking following prayers:

> *"A. Allow the petitioner to transfer required amounts from the Nowithdrawal account no110042845028 at Canara Bank, Vasundhara, Ghaziabad in the name of Ayra Roy towards creating fixed deposit accounts & other interest bearing accounts under government schemes such as "Sukanya Samridhi Scheme of the government in the name of the minor child for such periods as may be required till the child attains majority.*
> *B. Allow the petitioner to withdraw a sum of Rs. 15,000/~ per month from the no-withdrawal account no. 110042845028 at Canara Bank, Vasundhara, Ghaziabad in the name of Ayra Roy starting from the date of the appointment of the petitioner as guardian i.e. from dated 07.11.2023 with further a provision of increase in the value by 20% of the existing amount on annual basis. The amount of increase may be allowed from 01 January of each year.*
> *C. Allow the petitioner to pay the school fee of the minor child by bank transfer to the concerned school from the no-withdrawal account no110042845028 at Canara Bank, Vasundhara, Ghaziabad in the name of Ayra Roy.*
> *D. Allow the petitioner to pay the income tax on the accrued interest in the deposited amount in the no-withdrawal account no110042845028 at Canara Bank, Vasundhara, Ghaziabad in the name of Ayra Roy from the proceeds of the said account itself.*
> *E. Direct the employer of the deceased mother of the*

minor child i.e. M/s EXL Services Pvt. Ltd to pay the EPF amount & pension due against the service benefits of the deceased mother."

30. The Court has heard the ld. Counsel for the Petitioner. The Petitioner's Guardian *Mausi* and her husband are also present. After considering the prayers made in this applicatioin, the following directions are issued in this application.

i. The amount lying in the no-withdrawal account in Canara Bank may be converted into FDRs as also other interest bearing accounts including being invested in government schemes as per the instructions of the guardian. The said amount shall, however continue to remain in Canara Bank in the name of the Petitioner. The FDRs and the amounts under the said schemes shall, however, not be encashed till the child attains majority. Instructions for FDRs and investments shall however be given for the present by the Guardian, until the child attains majority;

ii. A sum of Rs.10,000/- per month with 20% increase on annual basis be released to the guardian for day to day expenses of the Petitioner. This would be in addition to Rs.4,000/-, which the Petitioner's guardian would be entitled to withdraw from the SBI account where the pension from the EPFO would be credited on a monthly basis. In addition, if there are expenses to be incurred by the guardian for the Petitioner, she may approach the concerned Family Court by way of an application in the guardianship petition itself;

iii. The Petitioner is currently studying in Seth Anandram Jaipuria School, Sector-12C, Vasundhara, Ghaziabad – 201012. Insofar as the education expenses are concerned *i.e.*, school fee of the Petitioner including tuition, transportation, uniform or any other expenses shall be paid to the school directly. The same shall be deposited from the no-withdrawal account of the Canara Bank itself.

iv. Insofar as any income tax on the interest accured is concerned, if the income tax is to be paid on the interest accrued *qua* the minor, the income tax be paid directly from the no-withdrawal account in Canara Bank to the Income Tax Department;

v. Insofar as prayer (E) is concerned, since the provident fund amounts are being disbursed directly, no further orders are called for against M/s EXL Services Pvt. Ltd.

31. The Court acknowledges the assistance given by the ld. Counsel for the Petitioner, the Guardian of the Petitioner and her husband who have diligently followed up this case, the counsel for the OL as also all other counsels who has appeared in this matter, so as to ensure that the efforts of the deceased parents of the Petitioner, to ensure giving of a sound financial health for the minor daughter are not in vain.

32. No further orders are called for in this petition. Accordingly, the petition and all applications are disposed of in the above stated terms.

PRATHIBA M. SINGH, J.

OCTOBER 16, 2024/*dk/ks*