

“809. Principles as to custody and upbringing of minors.- Where in any proceedings before any court, the custody or upbringing of a minor is in question, the court, in deciding that question, must regard the welfare of the minor as the first and paramount consideration, and must not take into consideration whether from any other point of view the claim of the father in respect of such custody or upbringing is superior to that of the mother, or the claim of the mother is superior to that of the father. In relation to the custody or upbringing of a minor, a mother has the same rights and authority as the law allows to a father, and the rights and authority of mother and father are equal and are exercisable by either without the other.”

Halsbury’s Laws of England (4th Edn., Vol. 13)

referred in Mausami Moitra Ganguli v. Jayant Ganguli, (2008) 7 SCC 673