

Complaint filed on 28/02/2024
Decided on 31/05/2024

**BEFORE THE UDUPI DISTRICT CONSUMER DISPUTES
REDRESSAL COMMISSION
AT UDUPI
PRESENT**

**SRI. SUNIL T. MASARADDI : HON'BLE PRESIDENT
SMT. SUJATA B. KORALLI : HON'BLE MEMBER**

CONSUMER COMPLAINT NO.38/2024

ORDER DATED: 31/05/2024

BETWEEN:

COMPLAINANT

Melwin D'Mello
S/o. Thomas D Mello
Aged about 52 years
Podamale House
Bantakal Post
Kaup, Udupi - 574 115

(Smt. Vidya Bhat, Advocate for complainant)

..... Complainant

/ Vs. /

OPPOSITE PARTY:

Bank of Baroda
Shankerpura Post
Salmara Road
Shankerpura Post
Innanje branch,
Udupi 574 115
Represented by its Manager

(Shri. Chandrakant S. Shetti, advocate for OP)

.....Opposite Party

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ORDER DELIVERED BY HON'BLE PRESIDENT
SRI. SUNIL T. MASARADDI

- I. This complaint is filed by the complainant U/Sec.35 of the Consumer Protection Act, 2019 for seeking a direction against Opposite party
- a. to refund the deposit amount of Rs.1,54,795/- (Rupees One lakh Fifty four thousand Seven hundred Ninety five only) at the rate of interest 15% p.a. from 26/04/2019 to till the payment is made by Opposite party to the complainant.
 - b. to pay Rs.1,00,000/- (Rupees One lakh only) towards the mental agony and stress due to their deficient and negligence services.
 - c. To pay the litigation expenses,
 - d. And any other reliefs as deemed fit.

II. **In the present complaint, the salient facts are as follows:**

1. The complainant submits that he opened an NRI account with the opposite party's branch in 1993 and initiated a fixed deposit account in 1996. This deposit was consistently renewed until 2019. On April 26, 2018, the fixed deposit was renewed, with maturity due on April 26, 2019. When renewal was sought, the complainant's sister was informed that the deposit had been prematurely closed, despite the complainant being in possession of the original deposit receipt.

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2. The complainant further submits that the Opposite party committed to investigating the matter but failed to provide a satisfactory resolution.

3. The complainant further submits that the COVID-19 pandemic prevented him from travelling to India until April 2022. Upon his visit, he sought the return of his fixed deposit amount. Subsequent follow-ups revealed that the deposit had been erroneously adjusted against another customer's loan account by the Opposite party. This error has not been rectified by the Opposite party despite repeated requests.

4. The complainant further submits that on November 18, 2023, the Opposite party advised the complainant to lodge a written complaint, which was submitted on December 20, 2023. However, the Opposite party has not resolved the issue.

5. The complainant further submits that the Opposite party's lack of prompt action and negligence in addressing the issue have caused the complainant considerable distress and inconvenience. Despite persistent efforts since 2019, the Opposite party has failed to resolve the issue, leading the complainant to seek assistance from the Human Rights Protection Foundation (HRPF) in Udupi. However, the Opposite party did not respond to HRPF's communication dated January 31, 2024.

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- 6.** The complainant further submits that the Opposite party's failure to timely and adequately address the matter is indicative of unfair trade practices, raising serious concerns about the security of the complainant's funds and the Opposite party's accountability.
 - 7.** The complainant further submits that the actions of the Opposite party demonstrate significant service deficiencies and negligence, resulting in undue mental stress and anxiety for the complainant.
 - 8.** The complainant contends that the Opposite party's lack of action and failure to address the grievances constitute negligence, deficiency in service, and unfair trade practises under the Consumer Protection Act, 2019. The complainant seeks redress from this Hon'ble Commission for the Opposite party's deficiencies and negligence. Hence this complaint.
- III.** After service of notice from this commission, the Opposite Party has not appeared and hence the Opposite party placed an ex-parte, Exparte
 - IV.** During the course of enquiry, complainant i.e. Sri. Melwin D'Mello, S/o: Thomas D Mello, has filed affidavit evidence as CW-01 and got marked documents as Ex.C-01 to C-04. The Opposite party has not filed affidavit evidence and documents on his behalf.
 - V.** Heard.
 - VI.** The points arise for consideration are-

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- 1) Whether the complainant proves that the Opposite party has committed deficiency of service?
- 2) Whether the complainant is entitled for relief as sought for?
- 3) What order?

VII. Our findings on the above points are as hereunder:-

- 1) Point No 1:-Affirmative,
- 2) Point No 2:-Partly in affirmative,
- 3) Point No 3:- As per the final order

REASONS

VIII. Point No.1 and 02 :-

1) In the matter before the Commission, the complainant has substantiated their claim through Exhibit C-3, the original fixed deposit receipt, evidencing a deposit of Rs.1,04,794/- made in the year 2016 with the opposite party, which was subsequently renewed until 2019, reaching a maturity amount of Rs.1,54,795/- as of the maturity date, April 26, 2019. The possession of the fixed deposit receipt by the complainant suggests that the amount has not been withdrawn and remains with the opposite party. The absence of a counter from the opposite party, despite their appearance through counsel, further strengthens the complainant's position.

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2) The Commission notes with concern that despite efforts by the complainant since 2019 to amicably resolve the issue of the fixed deposit and even after initiating legal proceedings, the respondent has failed to address the grievance. This inaction has led to considerable distress and mental agony for the complainant.

3) Therefore, the Commission concludes that the opposite party is liable to refund the maturity amount of Rs.1,54,795/- along with interest at the rate of 9.10% per annum from the date of maturity, April 26, 2019, until the date of actual realization. Additionally, the opposite party is directed to compensate the complainant for mental agony in the sum of Rs.50,000/- and litigation expenses amounting to Rs.10,000/-.

4) The Opposite party is instructed to recover the aforementioned compensation amount of Rs.50,000/- and litigation expenses of Rs.10,000/- from the responsible branch manager, as their actions have led to this situation.

5) The Commission's decision aims to provide relief to the complainant for the distress and inconvenience caused by the Opposite party's negligence and to ensure accountability for the mishandling of the complainant's funds.

6) This order shall be complied with by the Opposite party within 45 days from the date of receipt

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of this order, failing which the amount shall carry interest at the rate of 12% per annum until the date of payment.. Accordingly, we answer **Point No.01 in the affirmative and No.02 partly in the affirmative.**

- IX. Point No.03:**In view of our answer on point No.01 and 02, and for the reasons stated above, we proceed to pass the following:-

ORDER

- i.** The complaint filed U/Sec.35 of C.P. Act 2019 is partly allowed.
- ii.** The opposite party is hereby directed to refund the maturity amount of Rs.1,54,795/- (Rupees One lakh Fifty four thousand seven hundred ninety five only) along with interest at the rate of 9.10% per annum from the date of maturity, April 26, 2019, until the date of actual realization to the complainant.
- iii.** The Opposite party is also hereby directed to pay Rs.50,000/- (Rupees Fifty thousand only) as compensation for mental agony and Rs.10,000/- (Rupees Ten thousand only) as litigation expenses to the complainant.

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- iv. This order shall be complied with by the Opposite party within 45 days from the date of receipt of this order, failing which the amount shall carry interest at the rate of 12% per annum until the date of payment.
- v. The office is hereby directed to send copy of the order at free of cost to parties to the complaint.

(Dictated to the stenographer and got it transcribed and corrected and pronounced by us in the open Commission on this day of the 31st day of May 2024.)

Smt. Sujata B. Koralli
31/05/24
(Smt. Sujata B. Koralli)
Hon'ble MEMBER

Basmaddi. 31/5-
(Sri. Sunil T. Masaraddi.)
Hon'ble PRESIDENT

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ANNEXURE

Witness examined on behalf of the complainant.

1. CW-01 Sri. Melwin D Mello,
S/o: Thomas D. Mello,
complainant

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Documents marked on behalf of the complainant

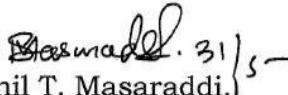
- 1) **Ex.C-1** - Two postal receipts,
- 2) **Ex.C-2** - Savings Account Pass Book
- 3) **Ex.C-3** - Term Deposit Receipt,
- 4) **Ex.C-4** - Term Deposit Receipt,

Witnesses examined on behalf of the Opposite party

NIL

Documents marked on behalf of the Opposite party

NIL


(Sri. Sunil T. Masaraddi.)
Hon'ble President