

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION HAMIRPUR, DISTRICT HAMIRPUR,H.P.**

Date of Institution: 08.09.2021

Date of final hearing: 23.04.2024

Date of Pronouncement: 17.05.2024

Consumer Complaint No.-219/2021

IN THE MATTER OF

Ashok Kumar son of Sh. Lohka Ram resident of House No.187, ward No.1,
Krishna Nagar, Hamirpur, Tehsil and District Hamirpur (HP).

(Through: Mr. Happy Kango, Advocate)

.....Complainant

Versus

State Bank of India, Main Branch Hamirpur, Tehsil and District Hamirpur (HP).

(Through: Ms. Chhaya Jaggi, Advocate)

.....Opposite Party(s)

CORAM:

President: Mr. Hemanshu Mishra

Members: Ms. Sneh Lata & Mr. Joginder Mahajan

PER: Mr. Hemanshu Mishra, President:-

O R D E R

The complainant has filed instant complaint seeking direction to the opposite party(s) to pay Rs.1,05,000/- to the complainant wrongly transferred from the account of the complainant. The opposite party be further directed to pay Rs.50,000/-as damages for the mental tension and harassment and Rs.10,000/- as litigation expenses.

2. Facts giving rise to filing of this complaint are that on 22.03.2021 the complainant received a telephone call on his mobile phone in which it is stated that his JIO SIM card services are about to stop and in order to continue the services a link is provided in which the complainant was asked to fill his ATM card number and CVV number. The complainant believing the

information as true entered his ATM card number and CVV number being simple person. The complainant then on 22-03-2021 received three messages from the opposite party showing withdrawal of Rs.1000/- twice and then Rs.3000/- have been again withdrawn from the account of complainant. The complainant then came to know that some fraud has been committed with him, thus the complainant then rushed to the opposite party and requested the opposite party to stop the withdrawal. The officials of the opposite party assured the complainant that they have stopped further withdrawal. The complainant then during night received two messages from the opposite party that Rs.50,000/- each have been withdrawn from the account of the complainant and thus the complainant came to know that the opposite party had failed to stop the withdrawal services as stated by the opposite party. The complainant reported the matter to the opposite party and made a written application but the opposite party refused to credit the amount of Rs.1,05,000/- in the account of complainant. Alleging deficiency in the service on the part of opposite party(s), the complainant has filed the present complaint.

3. Upon notice, opposite party(s) appeared through counsel and contested the complaint by taking preliminary objections of suppression of material facts, locus standi, jurisdiction and non-joinder of necessary party. It is submitted that complainant himself has shared his CVV number and OTP with some unknown person and money cannot be transferred without sharing the OTP. It is submitted that the complainant never approached the opposite party to act on his behalf. It is, further submitted that the complainant visited to the office of replying OP, but he himself blocked his ATM card by calling the toll free number and the complainant never asked to freeze his account. Moreover the bank has no authority to freeze any bank account without the permission of the account holder.

4. The parties were called upon to produce their evidence in support of their contentions and parties have adduced their respective evidence.

5. We have heard learned counsel for the parties and also gone through the case file carefully.

6. Admittedly, the complainant is account holder with the opposite party. On 22.03.2021, the complainant got suspicious call. The complainant received a link thereafter and entered his ATM as well as CVV number ignorantly. On the same day, the complainant received three messages showing withdrawal of Rs.1000/- twice and thereafter of Rs.3,000/-.

7. The complainant on realizing the fraud immediately rushed to the opposite party. The opposite party vide annexure C-17 dated 30.03.2021 wrote a letter to the complainant and it is revealed from this annexure C-17, that the complainant made a query regarding blocking ATM card and when the officials of the opposite party checked the debit card of the complainant, it was already blocked by the customer care and same was conveyed to the complainant by the officials of the opposite party. Meaning thereby, it was admitted by the opposite party that complainant immediately upon realizing the fraud contacted the opposite party. The opposite party in annexure C-17 is stating that they had not received any instruction whether verbal or written from the complainant to mark a hold on complainant's saving account.

8. As per annexure C-4 the account of the complainant linked to UPI ID 9418097927@postbank was debited for Rs.1,000/- on 22.03.2021 at 12:51:19 hours. Thereafter Rs.1,000/- was debited@SBI UPI from complainant's account per annexure C-5. At 12:45:09 hours Rs.3,000/- was again debited from the complainant's account having UPI ID 9418097927@postbank.

9. The SBI debit card of the complainant was blocked at 13.57 hours. Meaning thereby after going through the annexure C-17, it is established that the complainant has approached the opposite party on 22.03.2021 after 13.57 hours.

10. Once the complainant approached the opposite party, the opposite party only checked the ATM/debit card. The opposite party did not bother to check the UPI activation or mode of earlier transactions, as earlier transactions of Rs.1,000/- and Rs.3,000/- were executed from the Unified Payments Interface System (UPI).

11. This Unified Payments Interface is a system that powers multiple bank accounts into a single mobile application. Had the officials of the opposite party gone through the transactions and the mode of transaction at the time of complaint by the complainant on 22.03.2021, then the Unified Payments Interface system could have been blocked and further two transactions of Rs.50,000/- each on 23.03.2021 could not take place. The precious hard earned money of the complainant could have been saved from the fraudsters.

12. The complainant vide annexure C-11 has sent email, wherein it is specifically mentioned that the account of the complainant was not frozen even after complaint by the complainant before his branch.

13. The complaint of the complainant was closed vide annexure C-12 with the remarks: please raise your CMS complaint in correct category i.e. ATM related or as per your nature of complaints. The complainant also filed a complaint with police station Sadar Hamirpur.

14. In our considered opinion, the officials of the opposite party at the time of receiving the complaint had not gone through the mode of earlier two transactions of Rs.1,000/-each and Rs.3,000/-. Had the officials of opposite party gone through these transactions and their mode, then the Unified

Payments Interface of the complainant was required to be put on hold or frozen or deactivated the and then, but non deactivation of all Unified Payments Interface accounts of the complainant, specifically UPI ID 9418097927@postbank by the officials of opposite party is clearly deficiency in service.

15. As per guidelines of RBI, the customer will get full refund, bank will pay for the entire loss in the following cases. On a fraudulent transaction has happened due to deficiency or negligence on the part of the bank irrespective the fact that the customer has reported it or not. "A digital transaction goes through various intermediary forms such as the payer bank, the payee bank, the payment gateway, etc, and the transaction has to be crypted. No data should be stored with either of the intermediaries but only transferred. Therefore, if a fraud opens during this process, the customer should not be held liable. As per RBI recommendations, the bank will be to refund to the customer.

16. We are of the view that whenever a consumer of the bank approaches the officials of the bank with a complaint of any digital/online fraud, then it is incumbent upon the official of the opposite party to give the complainant/consumer a patient hearing. A detailed Performa is to be maintained and after hearing the complainant/consumer this detailed Performa be filled by the official and thereafter immediate action is required to be taken by the officials of the opposite party/bank so as to secure the hard earned money of the complainant/consumer. Herein the present complaint, as we have discussed there is gross deficiency in service on the part of the opposite party, so the opposite party is liable to refund an amount of Rs.1,00,000/- to the complainant along with interest. As such, complaint deserves to be allowed.

17. Accordingly, the complaint is allowed and opposite party is directed to pay an amount of Rs.1,00,000/- to the complainant alongwith interest @ 9% per annum from the date of complaint i.e. 08.09.2021 till its realization. Opposite party is also directed to pay compensation to the complainant to the tune of Rs.20,000/-, besides litigation cost quantified as Rs.10,000/-.

18. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.

19. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986/2019. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.

20. File be consigned to record room along with a copy of this Judgment.

(Hemanshu Mishra)
President

(Sneh Lata)
Member

(Joginder Mahajan)
Member