

Date of Filing: 29.09.2023

Date of Order: 29.05.2024

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION – I, HYDERABAD

P r e s e n t

HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT  
HON'BLE MRS. D. MADHAVI LATHA, MEMBER

On this the Wednesday, the 29<sup>th</sup> day of May, 2024

C.C.No. 484/2023

Between:-

Kotturi Sharath Babu,  
S/o K. Surya Prakash,  
Aged about 41 years, Occ: Pvt Employee,  
R/o: Flat No. 401, H.No. 8-7-177/49,  
Rayala Classic Apartments,  
Swarnadhama Nagar, Old Bowenpally,  
Secunderabad , Telangana – 500011.  
Cell No. 9849839471

....Complainant

AND

The Branch Manager,  
CITI Bank,  
Rep. by its Authorized signatory,  
PO Box 4830, Anna Salai, Tamil Nadu,  
India, Chennai – 600 002.

....Opposite Party

Counsel for the Complainant  
Counsel for the Opposite party

: D. Sudhakar  
: S. Nagesh Reddy

O R D E R

(By HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT on  
behalf of the bench)

1. The present complaint is filed U/s 35 of the Consumer Protection Act, 2019, alleging deficiency of service and unfair trade practice on the part of opposite party, with a prayer which reads as under:

“VI. Prayer

It is therefore prayed that the opposite party not only adopted unfair trade practice but also there is deficiency of service on the part of the opposite party in rendering proper service to the complainant, the opposite party have acted negligently and carelessly in dealing with the case of the complainant, the

complainant suffered physically and mentally but also suffered financially. Hence this Hon'ble Commission may be pleased to

- To direct opposite party to refund an amount of Rs. 68,598/- (Rupees Sixty Eight Thousand Five Hundred and Ninety Eight Only) towards the disputed amount raised by the complainant which was unauthorized (fraudulent transaction) on Dt. 27.06.2023 along with interest @24% p.a. to be payable on the principal amount from the date the complainant lodged the complaint to the opposite party till realization or refund an amount to complainant account;
  - To grant an amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) towards compensation due to mental harassment caused by the opposite party as it has acted in a very unprofessional and negligent manner while dealing with the case of the complainant. Thus the above acts of the opposite party falls under the purview of deficiency of service as contemplated by the Consumer Protection Act, 2019;
  - To award costs of Rs. 20,000/- (Rupees Twenty Thousand Only);
  - And to pass such other relief or reliefs as this Hon'ble Commission may deem fit and proper in the circumstances of the case.”
- 2.** Brief facts as stated in the complaint and necessary for adjudication are that the complainant holds platinum credit card bearing No. 5521370103006801 issued by the opposite party bank and he has been using the said credit card for the past eight years. On 27.06.2023 at 10 p.m., the complainant has received notification through Google Chrome in the name of D-Mart. On opening the link, special offer pertaining to D-Mart groceries has appeared and the complainant has selected the groceries for purchasing the same to avail the special offers. After keeping the groceries in the cart, the complainant has been directed to payment mode and he has filled his credit card credentials. After filling the credit card details, the complainant has observed that COD option is available, therefore, he has selected COD option. Thereafter, the complainant has received two messages pertaining to unknown transactions to the tune of Rs. 26,598/- (Rupees

Twenty Six Thousand Five Hundred and Ninety Eight Only) and Rs. 42,000/- (Rupees Forty Two Thousand Only). Immediately, the complainant has informed the opposite party about the fraud / disputed transactions. At 23:01:09 hrs., the complainant has received message stating that his credit card has been blocked for domestic transactions with immediate effect. When the complainant has contacted the opposite party customer service on 29.06.2023, they have suggested him to raise complaint with Cybercrime. Accordingly, the complainant has called 1930 for raising his complaint about the fraud transaction and he has received acknowledgement number (Cybercrime:33706230022500). On the direction of the Cybercrime, the complainant has lodged complaint with Bowenpally P.S. on 30.06.2023 (Ex.A7) and the police has not showed any interest in registering FIR in respect of the complaint lodged by him. Although opposite party has sent e-mails asking the complainant to provide requisite documents for initiating investigation for the disputed transactions (Ex.A6, Ex.A9), the opposite party has not shared any status with regard to the investigation. Therefore, on 31.07.2023, the complainant has approached RBI (Complaint Management System) and lodged complaint against opposite party (complaint No. N202324009011374) (Ex.A13, Ex.A14). While the issue of disputed transactions is pending, the complainant, trusting the words of the opposite party and to avoid interest for non-payment of outstanding dues, has cleared the disputed / unauthorized transaction amount (Ex.A15) by taking funds from his friends. Before the RBI CMS team, the opposite party has submitted their reply wherein it has been stated that the bank does not have chargeback rights as per the Master / Visa Association guidelines since the disputed transactions are secured (Ex.A10, Ex.A17)). The opposite party, in order to escape their liability, has suppressed certain relevant facts with the Banking Ombudsman and has turned the unauthorized / fraud transactions into secure transactions. After considering the reply of the opposite party, the RBI has closed the complaint (Ex.A16). Hence, left with no other alternative, the complainant has filed the present complaint and has prayed the Commission to grant the reliefs as stated above.

3. While denying the allegations made in the complaint except those that are specifically admitted in the written version, it is contended by the opposite party that the complaint is not maintainable either on law or on facts and the same is liable to be dismissed. It is further contended that the issuance and usage of credit cards are governed by the credit card member terms and conditions. At the time of applying for a credit card, the account holder is made aware of the applicable terms and conditions and the same are sent to the customer / complainant at the time of issuance of the credit card. It is averred that, on receiving the complaint in respect of disputed transactions on 27.06.2023 by the complainant, the bank has blocked the credit card bearing number 5521370103006801 for security reasons. As per the bank records, the alleged disputed transactions have been authorized by 'one-time passwords' (OTPs) that are sent to the registered mobile number provided by the complainant. It is further averred that, as per credit card industry practice and Visa Master Card Association rules, the credit card issuing bank is obliged to settle / make payment when a valid debit charge is received from the acquiring bank / merchant establishment. The transactions of the complainant is OTP based and OTP can be created only by providing requisite credential information pertaining to the complainant. It is stated that the transactions have been completed with 'secure mode' and two OTPs are sent for the alleged transactions with the message 'PLS DO NOT SHARE WITH ANYONE'. It is further stated that the OTP credentials are known to the credit card holder only. In line with security measures implemented by the opposite party bank to protect the customer interests, the bank always adheres to strict security procedures to safeguard customer's accounts held with the bank. It is submitted that, during complainant's interaction with the opposite party, he has confirmed that the disputed transactions have been carried out due to the negligence / compromise of confidential details by the complainant himself. The opposite party takes utmost care of its customer's confidential information and no details compromising client confidentiality are shared with any third party / external entity. It is further submitted that the opposite party periodically educate their customers on prevailing fraudulent trends and sends awareness communications via e-mail and SMS

to customers. All the information relating to security communications are displayed on Citibank's online as well as banking application under the heading 'security tips' that provides Do's and Don'ts to be followed by customers while executing transactions. The customer / complainant is responsible for the security of the card at all times and the same is mentioned in para 7(i) of RBI notification dated 6<sup>th</sup> July, 2017. The complainant, in his complaint, has not explained how the opposite party is responsible in the alleged fraudulent transaction that has taken place due to sharing of confidential details of the credit card by the complainant without making proper checking of the link he has received. The complaint filed by the complainant before the Ombudsman (RBI) is closed with the finding that there is no deficiency in service on the part of opposite party. Hence, denying the allegations of deficiency of service and unfair trade practice on their part, the opposite party has prayed the Commission to dismiss the complaint with costs.

4. During the course of enquiry, the complainant (PW-1) has filed evidence affidavit and has got marked the documents at Ex.A1 to Ex.A17. Mr. Chaitanya, the authorized representative / signatory (DW-1) has filed evidence affidavit on behalf of opposite party and has got marked their documents at Ex.B1 to Ex.B3. Both parties have filed written arguments. Thereafter, the learned counsels for complainant and opposite party have advanced oral arguments / submissions and the matter is reserved for orders.
5. Based on the facts and material placed on the record and written / oral arguments / submissions of both sides, the following points have emerged for consideration.
  - a. Whether the complainant has established deficiency of service and unfair trade practice on the part of opposite party?
  - b. Whether the complainant is entitled for the reliefs as prayed in the complaint? If so, to what extent?

**6. Point 'a':**

- 6.1. Admittedly, the opposite party has issued platinum credit card bearing No. 5521370103006801 (Ex.A2) to the complainant. Further, giving information about the disputed

/ fraudulent transactions to the opposite party, receiving messages on the mobile in respect of debit of disputed amounts from the credit card account of the complainant (Ex.A3, Ex.A4), blockage of credit card by the opposite party upon receiving information / complaint about disputed transactions (Ex.A3), lodging complaint before Banking Ombudsman (RBI), closure of complaint by Banking Ombudsman and payment of amounts of disputed transactions by the complainant (Ex.A15) are not disputed.

- 6.2.** It is evident from e-mail dated 29.06.2023 (Ex.A6) sent by the opposite party to the complainant that the bank, upon receiving information from the complainant about the disputed transactions, has initiated investigation for disputed transactions. It is further evident from e-mail dated 06.07.2023 (Ex.A10) that the opposite party has informed the complainant that, during investigation, it is identified that the disputed transactions have been carried out under secure mode by validating the OTP that has been sent to his registered mobile number which is used to authorize the transaction. As per the said document (Ex.A10), the opposite party has informed their inability to initiate charge back rights since the disputed transactions have been carried out in secure mode.
- 6.3.** It is the case of the complainant that though he has complained to the opposite party about the unauthorized / fraudulent transactions, the opposite party has not shared the status of the disputed amount. It is also the case of the complainant that the opposite party, in order to escape their liability, has turned the unauthorized fraud transactions into secure transactions and has not reversed the amount of disputed transactions.
- 6.4.** It is the version of the opposite party that the complainant, without verifying the genuineness and authenticity of the link that he is alleged to have received from D-Mart, has clicked on the link leading to fraudulent transaction by third party. It is also the version of the opposite party that the

complainant has shared confidential information viz. credit card number, card expiry date, CVV and OTP and as per the directions of the RBI vide circular dated 06.07.2017, the customer will bear the entire loss until he reports the unauthorized transaction to the bank [7(i) – Ex.B3).

- 6.5.** The oral submissions of the learned counsel for complainant and opposite party are in line with their respective pleadings, statements, averments and contentions. The learned counsel for complainant, in support of his oral arguments, have filed circulars of RBI at the time of their oral submissions. The learned counsel for opposite party has strongly objected for taking the circulars on record. Since the documents are circulars of RBI, the same are taken on record.
- 6.6.** In the oral submissions, it is contended by the learned counsel for complainant that the complainant, after clicking on the link he has received on 'Google Chrome', has filled the details of his credit card for purchasing groceries from D-Mart. It is also contended by the complainant that the opposite party, after receiving the fraudulent transactions complaint from him, has not conducted investigation / enquiry. Further, he has referred to para 6 of circular of RBI (Ex.B3).
- 6.7.** Per contra, the learned counsel for opposite party has contended that the direction of RBI that has been relied by the complainant applies where there is contributory fraud / negligence / deficiency on the part of the bank and in the case of complainant, it is he who has filled the credentials and he has filled the system generated OTP logs for completing the transactions (Ex.B1). It is further contended that, when a valid debit charge is received from the acquiring bank / Merchant establishment, the issuing bank is obliged to settle / make payment of the same. Moreover, the disputed transactions are OTP based and the online transactions can be created only by providing details like credit card number, card verification value (CVV), card expiry date and customer name as on the credit card.

- 6.8.** The circulars referred to by the complainant at the time of oral submissions speak about the grievance redressal machinery to be provided by the opposite party. The learned counsel for the complainant has argued that the grievance redressal machinery has not been provided by the bank and it is pertinent to mention here that the same is not pleaded in the complaint and for the first time raised by the complainant in the oral submissions. It is settled proposition of law that the Court cannot grant what is not pleaded in the plaint.
- 6.9.** It is noteworthy that every case has to be dealt with independently depending upon the facts, pleadings of the parties and documentary evidence placed on the record.
- 6.10.** On careful consideration of the entire facts and circumstances of the case, we are of the view that, in the instant case, there is no contributory negligence on the part of the bank. Therefore, para – 6 directions / instructions of the RBI Circular dated 06.07.2017 (zero liability of the customer), on which the complainant wishes to place reliance is not applicable.
- 6.11.** In the case at hand, admittedly, SMSs have been sent on the registered mobile number of the complainant as mandatorily required (as per RBI guidelines). Further, it is evinced from the pleadings of the complainant substantiated by cogent documentary evidence that the complainant has filled his credit card details and OTP. These facts show gross negligence on the part of the complainant which facilitated the unknown miscreant to do the disputed withdrawals. Thus, it is established that the loss is due to the negligence on the part of the complainant where he has shared the payment credentials. Hence, point ‘a’ is answered against the complainant.

**7. Point ‘b’:**

- 7.1.** As per the circular of RBI, the customer shall be liable for the loss occurring due to unauthorized transactions where



the loss is due to negligence by a customer, such as where he has shared the payment credentials and the customer will bear the entire loss until he reports the unauthorized transaction to the bank.

**7.2.** In the case at hand, the pleadings of the complainant show that he has clicked on the link and he himself has provided the credit card details and shared OTP for completing the transaction. Thus, when the complainant has provided credential information which is only available with him and the loss is due to his negligence, he cannot attribute deficiency of service on the part of opposite party. Therefore, in the absence of documentary evidence to prove deficiency of service and unfair trade practice on the part of opposite party, liability cannot be fastened upon the opposite party.

**7.3.** In view of the above discussion and findings, the complainant is not entitled for the reliefs as prayed in the complaint.

**7.4.** In the result, the complaint is dismissed and the parties shall bear their costs.

Dictated to steno, transcribed and typed by him, pronounced by us on this the 29<sup>th</sup> day of May, 2024.

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

WITNESS EXAMINED FOR THE COMPLAINANT:

(PW1) Kotturi Sharath Babu,

WITNESS EXAMINED FOR THE OPPOSITE PARTY

(DW1) Chaitanya G.

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

- Ex.A1 Copy of Aadhar Card No. 9119 2079 2429.
- Ex.A2 Copy of credit card.
- Ex.A3 Copy of message pertaining to the unauthorized transactions.
- Ex.A4 Copy of g-mail message received from opposite party dated 27.06.2023.

- Ex.A5 Copy of message pertaining to the acknowledgment through whats up dated 29.06.2023.
- Ex.A6 Copy of g-mail message received from opposite party regarding dispute acknowledgment dated on 29.06.2023.
- Ex.A7 Copy of written complaint lodged with the Bowenpally P.S dated 30.06.2023.
- Ex.A8 Copy of message from Citi Bank credit card kit, shipment is dispatched via Bluedart dated 01.07.2023.
- Ex.A9 Copy of reply message from the opposite party / respondent through an g-mail dated on 02.07.2023.
- Ex.A10 Copy of reply message from the opposite party / respondent through an g-mail dated 06.07.2023.
- Ex.A11 Copy of message from the concern SHO, police station, Bowenpally dated 10.07.2023.
- Ex.A12 Copy of reply message from the opposite party / respondent through an g-mail dated 13.07.2023.
- Ex.A13 Copy of acknowledgment for registration of complaint filed with the Ombudsman against the Citi Bank N.A dated 31.07.2023.
- Ex.A14 Copy of complaint tracking against opposite party / respondent dated 31.07.2023.
- Ex.A15 Copy of payment details to opposite party dated 11.08.2023.
- Ex.A16 Copy of closure imitation for complaint against citi bank date 04.09.2023.
- Ex.A17 Copy of reply message from the opposite party through an g-mail dated 22.09.2023.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY

- Ex.B1 Copy of system generated OTP logs of the transactions involved dated 27.06.2023.
- Ex.B2 Copy of statement of account of complainant dated 25.07.2023
- Ex.B3 Copy of RBI Guidelines issued on customer protection dated 06.07.2017.

MEMBER

PRESIDENT

PSK  
READ BY:-  
COMPARED BY :-