

Date of filing: 04.08.2023
Date of Disposal: 12.06.2024

**BEFORE THE III ADDITIONAL BANGALORE URBAN
DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, BENGALURU - 560 027.**

DATED THIS THE 12th DAY OF JUNE 2024

CONSUMER COMPLAINT NO.217/2023

PRESENT:

SRI. SHIVARAMA K : PRESIDENT
SRI. CHANDRASHEKAR S NOOLA : MEMBER
SMT. REKHA SAYANNVAR : MEMBER

Sri. K. Venkatasubbaiah,
Aged about 83 years,
Retd., Professor of Agricultural
University, Residence Flat 211,
2nd Floor, Shravanti Gracess
Apartments, Thimmappa Reddi
Layout, Hulimovu Gate,
Bannerghatta Road,
Bengaluru-560076.
(Party In Person)

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COMPLAINANT

V/s



Manager,
State Bank of India,
Branch ASK Mansion, Syndicate
Bank Colony Bannerghatta Road,
Bengaluru-560076
(Sri. J. Sathish Kumar, Advocate)

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OPPOSITE PARTY

// JUDGEMENT //**BY SRI.SHIVARAMA K, PRESIDENT**

The complainant is a senior citizen aged 83 years. He has filed this complaint u/sec. 35 of the Consumer Protection Act-2019 praying for a direction to the opposite party to refund the amount of Rs.64,000/- lost by the complainant from his SB and FD account siphoned out by fraudsters and such other relief as this commission deems fit in the circumstances of the case.

2. It appears from the record that on 20.10.2023 this commission has allowed the complaint in part and directed opposite party to refund a sum of Rs.64,000/- with interest and such other reliefs. Against the said order, opposite party had filed an Appeal in No. A/2331/2023 on the file of Hon'ble KSCDRC. On 14.12.2023 Hon'ble KSCDRC had set aside the order passed by this commission and remanded the case with a direction to this commission to provide an opportunity to



opposite party to file the version. Subsequently the version came to be filed.

3. It is the case of the complainant that on 30.10.2021 he had received a message asking him to update the pan card. Accordingly the complainant updated the pan card and answered OTP under an impression that he had received the message from head office Hyderabad. Further, he had lost the amount on the said day in between 6 pm & 7 pm of Rs.25,000/-, Rs.20,000/- & Rs.19,000/- in total Rs.64,000/- from his SB account and FD account. Hence, as 31.10.2021 being Sunday and 1st, 2nd & 3rd of November 2021 being bank holiday he could approach the bank only on 04.11.2021 with the copy of the complaint enclosing a copy of the complaint lodged before cyber crime police station on 02.11.2021. Further, even though the complainant had approached the bank in three times with a gap of six months he did not receive a favourable reply from the bank.

4. It is the case of the opposite party that yono app service were provided to the complainant and said app is a customer friendly app in which the customer can log into yono web portal with the existing INB login credentials through online SBI. Customer can go for yono cash through ATM option only if he receives OTP and had followed the credentials. Further, after submission of the 6 digit temporary PIN for each transaction the customer will receive a unique reference number on his registered mobile number



which is valid for 4 hours. Thereafter, the customer has to visit yono cash enable ATM and process the cash withdrawal transaction by entering unique reference number received on the customer registered mobile number followed by temporary PIN already set by him and the desired amount. After successfully validation of the above the cash will be dispensed from ATM machine. Further, maximum daily limit for yono cash transaction is of Rs.40,000/- and maximum Rs.20,000/- per transaction. Further, customer is an existing user of INB having user ID and has registered for INB facility on 26.10.2021. Further, since the complainant had shared the log in password and INB credentials and OTP there is no deficiency of service on the part of opposite party.

5. To prove the case, the complainant (PW-1) has filed affidavit by way of his evidence in chief and got marked Ex.P1 to P3 documents. The Branch Manager of opposite party (RW-1) has filed affidavit by way of her evidence in chief and got marked Ex.R1 to R9 documents. The complainant and counsel for opposite party have filed their respective written arguments.

6. The points that would arise for consideration are as under:

- i) Whether there is deficiency of service on the part of the opposite party?



ii) Whether the complainant is entitlefor the relief sought ?

iii) What order?

7. Our findings on the aforesaid points are as follows:

Point No.1: In affirmative

Point No.2: partly in affirmative

Point No.3: As per the final order for the following;

REASONS

8. POINT NO. 1 & 2:- In order to avoid the repetition of facts, we have discussed both the points together. PW-1 & RW-1 have reiterated the fact stated in their respective pleadings, in the affidavits filed by way of their evidence in chief. It is the contention of the complainant that he never shared any credentials and a sum of Rs.25,000/- was siphoned out from his FD account. The responsibility is on the bank to safeguard the fixed deposit and it is surprise as to how the fixed deposit has been tampered. We feel it is the duty of the bank to protect the FD kept by the customer. Further, the complainant in the complaint submitted before cyber crime police has admitted about the sharing of credentials. Further, the bank should not have debited the



FD account without the permission of the complainant. Hence, there is merit in the contention of the complainant that opposite party bank has failed to protect his FD account. Further, it appears in Ex.R7 that opposite party bank had closed the FD account of the complainant without taking any consent from the customer.

9. It is the further contention of the learned counsel for the opposite party that the complainant had shared the credentials and the OTP sent. Therefore, there is no deficiency on the part of the opposite party. On perusal of Ex.R8 the decision for fraudulent transaction in respect of the complainant it appears that the internal ombudsman of the bank has concurred with the reject of the claims made by the complainant by the bank. However, it is observed that bank should endeavour to follow up for refund of fraudulent amount for customer. On perusal of Ex.R9 photo prints it appears that the cyber crime police have taken out the CCTV footage and found the culprit in the footage. Further, the investigation is going on with regard to the trace of the culprit.

10. It appears that on 30.10.2021 in the evening in between 6 pm to 7 pm the incident took place. The complainant is aged 80 years at the time of lodging complaint on 04.11.2021 before opposite party bank. Further, immediately after the incident he had blocked his ATM card and also SB account by contacting customer care and registered the complaint and got the complaint No. 718719.



Further, on 02.11.2021 the complaint came to be registered by cyber crime police. Further, since there was holiday the complainant was not able to submit physical complaint before the bank.

11. We feel since the bank was not able to protect the FD account of the complainant there is negligence on the part of opposite party. Admittedly the complainant has shared the credentials. As per the RBI guidelines issued in DBR No. Leg.BC.78/09.07.005/2071-18 dated: 06.07.2017 as stated in 7(i) in cases where the loss is due to negligence by a customer, such as where he has shared the payment credentials, the customer will bear the entire loss until he reports the unauthorised transaction to the bank. Any loss occurring after the reporting of the unauthorised transaction shall be borne by the bank. Therefore, the bank is not liable for the amount came to be siphoned out from the SB account of the complainant. Therefore, there is deficiency of service on the part of opposite party to the incident stated above.

12. Complainant claimed for refund of Rs.64,000/-. We feel the complainant is entitle for refund of the amount of Rs.25,000/- as per as the FD account of the complainant's is concerned. Further, the complainant is entitled for interest at the rate of 9% per annum from the date the said amount came to be siphoned out i.e., on 30.10.2021 till realization. Further, for the mental agony suffered and undergone the complainant is entitle for a sum of Rs.10,000/- and for the litigation cost the complainant is entitle for a sum of



Rs.10,000/- . Accordingly, we answer point No. 1 in affirmative and point No. 2 partly in affirmative.

13. POINT No.3:- In view of the discussions made above, we proceed to pass the following;

ORDER

Complaint is allowed in part. The Opposite Party is directed to pay a sum of Rs.25,000/- with interest at the rate of 9% per annum from 30.10.2021 till realization and a sum of Rs.10,000/- towards mental agony and a sum of Rs.10,000/- towards litigation cost.

Opposite party shall comply the order within 45 days. In case the opponent fails to comply the same within the above said period, the above said amount of Rs.20,000/- carries interest at the rate of 9% per annum from the date of order till realization.

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

Supply free copy of this order to both the parties and return extra copies of the pleading and evidence to the parties.

(Dictated to the Stenographer, typed by him, the transcript corrected, revised and then pronounced in the open Commission on **12th day of June 2024**)

 12/06/2024.
  12/6
  12/06/24

(Rekha Sayannvar) (Chandrashekhar S Noola) (SHIVARAMA K)
MEMBER MEMBER PRESIDENT

//ANNEXURE//**Witness examined from the side of complainant:**

Sri. K. Venkasubbaiah, the complainant (PW-1).


Documents marked from the side complainant:

1. Complainant letter to the SBI dated: 04.11.2021 is marked as Ex.P1.
2. Copy of FIR filed in south east central PS is marked as Ex.P2.
3. Copy of statement of accounts is marked as Ex.P3.


Witness examined from the side of opposite party:


Smt. Jaya, the opposite party (RW-1).

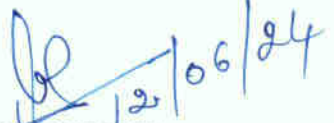
Documents marked from the side of Opposite Party:

1. Xerox copy of letter dated: 04.11.2021 is marked as Ex.R1.
 2. Xerox copy of FIR in crime No. 0493/2021 is marked as Ex.R2.
 3. Xerox copy of FIR registered message is marked as Ex.R3.
 4. Xerox copy of the letters dated: 15.11.2021 forwarded by opposite party to the regional office is marked as Ex.R4.
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5. Xerox copy of yono cash unauthorized transaction reporting format is marked as Ex.R5.
6. Xerox copy of account statement of venkatasubbaiah. K is marked as Ex.R6.
7. Xerox copy of format for fraudulent case report (FCR) is marked as Ex.R7.
8. Xerox copy of I.O. decision for fraudulent transaction is marked as Ex.R8.
9. Photos (image of the third party captured at ATM) and CD containing the said photos are marked as Ex.R9.


12/10/2024
(Rekha Sayannvar)
MEMBER


12/10/24
(Chandrashekhhar S Noola)
MEMBER


12/10/24
(SHIVARAMA K)
PRESIDENT