

Date of filing: 04.08.2023  
Date of Disposal: 20.10.2023

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

**DATED THIS THE 20<sup>TH</sup> DAY OF OCTOBER, 2023**

**CONSUMER COMPLAINT NO. 217/2023**

**PRESENT:**

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

K. Venkatasubbaiah,  
Aged about 83 years,  
Retd. Professor of Agricultural University,  
Residence Flat No.211, 2<sup>nd</sup> Floor,  
Shravanti Graces Apartments,  
Thimmappa Reddy Layout, Hulimavu Gate,  
Bannerghatta Road,  
Bengaluru-560076.

**... COMPLAINANT**

**(Party-in-Person)**

**V/s**

Manager,  
State Bank of India Branch,  
ASK Mansion, Syndicate Bank Colony,  
Bannerghatta Road,  
Bengaluru-560076.

**... OPPOSITE PARTY**

**(Rep. by J.Satish Kumar, Tarun, Advocates.)**

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**//JUDGEMENT//**

**BY SMT. REKHA SAYANNAVAR, MEMBER**



1. This complaint is being filed by the complainant under section 35 of the Consumer Protection Act 2019. The complainant requests this Commission to direct the opposite parties to refund an amount of Rs.64,000/- with interest. And to pay compensation and litigation charges and grant such other reliefs to the complainant as this Commission deems fit in the interest of justice and equity.

2. **The brief facts of the case are as follows:**

The complainant is the Party-in-person who submits that he is having an S.B and FD Account in opposite party Bank. He filed this complaint against the opposite party for deficiency of services of opposite party as an amount of Rs.64,000/- was fraudulently transacted by unknown person from his Account maintained with opposite party bank by answering a phone call from S.B.I. ATM Headquarters at Hyderabad on 30<sup>th</sup> October 2021.

3. The complainant approached and filed a Cyber complaint at jurisdictional PS on 02/11/2021 and also approached his branch bank on 04/11/2021 with a copy of complaint enclosing a copy of cyber complaint. Further the complainant submits that on November 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> of 2021 there was Bank holidays, so he could approach the bank on 4<sup>th</sup> November 2021 and filed the complaint against the said fraudulent transaction. Till filing of this complaint there was no response from the opposite party as to refund/revert or any kind of trace out neither by the Cyber police nor the opposite party. All these made the complainant suffer mentally and financially. Hence, he left with no other alternatives to approach this commission



for the redressal of the grievances under the C.P. Act, 2019 for negligence and deficiency of opposite party. Hence, this complaint.

4. The notice of this complaint was duly served upon the opposite party. The counsel for opposite party had filed vakalath. Version from the side of opposite party is taken as not filed on 27/9/2023 by this commission.
5. The complainant to prove his complaint had filed an affidavit in the form of his evidence in chief and marked EX-P1 to P3.
6. Heard the arguments from the side of complainant.
7. The points that would arise for consideration are as under:
  - i) Whether the complainant proves the deficiency of Service on the part of the opposite party?
  - ii) Whether the complainant is entitled for the claim as Sought?
  - iii) What order?
8. 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 of the following:

### **REASONS**

**9.POINT NO.1&2:** To avoid the repetition of the facts we have discussed both points together. The complainant who is the party-in-person filed this complaint against the opposite party for negligence and deficiency of services. The counsel for the opposite party had not filed their version and not led their evidence to prove their defense. It is the case of the complainant who is the account holder at opposite party bank. He is having both S.B and F.D Account with the opposite party on 30/10/2021 an amount of Rs.64,000/- was fraudulently transacted from both the Accounts of the complainant

maintained with opposite party bank. The complainant immediately filed cyber complaint on 02/11/2021 at the jurisdictional cyber police station bearing FIR No.0493/2021 the same is produced and marked as EX-P2 and made a complaint to the opposite party bank with regard to the above mentioned fraudulent transaction on 04/11/2021. The same is produced and marked as EX-P1. The complainant also produced and marked EX-P3 i.e. his Bank Statement to substantiate his alleged claim against the opposite party. By considering all the documentary evidence on hand we feel the opposite party failed to safeguard the amount in the account of the complainant with regard to savings account as well as F.D account, it also failed to trace out the alleged amount even after receiving the written complaint from the complainant. It is the duty of the opposite party bank to conduct proper investigation after receiving the written complaint from its customers/complainant.

10. The point to be considered here is that the RBI issued a circular "customer protection - limiting liability of customers in unauthorized electronic banking transactions" dt. 06/07/2017. As per the circular the complainant falls under "zero liability" customer. Hence, we consider the complainant is entitled for refund/revert an amount of Rs.64,000/- with interest @ 9% from 30/10/2021 from the opposite party bank. In addition the complaint is also entitled for the compensation of Rs.25,000/- towards mental stress and financial hardships as the complainant is the Senior Citizen who was made to run pillar to post for the redressal of his grievances. And an amount of

Rs.5000/- towards litigation cost. Hence we answer Point No.1&2 in affirmative.

11. **POINT No.3:** In the result, for the foregoing reasons, we proceed to pass the following:

**ORDER**

The complaint is allowed.

The Opposite party is directed to refund/revert an amount of Rs.64,000/- with interest @ of 9% per annum from the date of 30/10/2021 till realization to the account of the complainant.

In addition the complainant is entitled for compensation of Rs.25,000/- towards mental agony and financial hardship and Rs.5,000/- towards cost of the litigation from opposite party.

Opposite party shall comply the order within 45 days. In case, if it fails to comply the order within the said period, the above said amount of Rs.30,000/- carries interest at the rate of 9% per annum from the date of order till realization.

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

Supply free copy of this order to both the parties.

(Dictated to the Stenographer, typed by her, the transcript corrected, revised and then pronounced in the open commission on **20th day of October 2023**).

 20/10/2023.  
**(REKHA SAYANNAVAR) (CHANDRASHEKAR.S.NOOLA) (SHIVARAMA. K)**  
**MEMBER MEMBER PRESIDENT**

**//ANNEXURE//**

**Witness examined for the complainant side:**

Sri.Venkatasubbaiah. K. files Affidavit of evidence in chief.

**PW-1 the complainant:-**

**Documents marked for the complainant side:**


1. Complainant letter to SBI dt. 4.11.2021. EX-P1.
2. Copy of FIR filed in south east Central PS. EX-P2.
3. Copy of statement of Accounts,EX-P3

**Witness examined for the opposite party side:**

-NIL-

**Documents marked for the opposite party side:**

-NIL-

  
20/10/2023

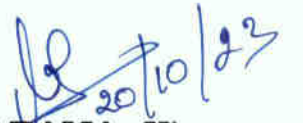
(REKHA SAYANNAVAR)

MEMBER

  
20/10/2023

(CHANDRASHEKAR.S.NOOLA)

MEMBER

  
20/10/23

(SHIVARAMA. K)

PRESIDENT