

**District Consumer Disputes Redressal Commission-I (North District)**

[Govt. of NCT of Delhi]

Ground Floor, Court Annexe -2 Building, Tis Hazari Court Complex, Delhi- 110054

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**Consumer Complaint No. 008/2019**

In the matter of

Abdul Jalil

Late Abdul Karim

R/o H.No.7628, Gali Daroga Wali

Kasabpura, Sadar Bazar

Delhi-110006

...Complainant

Versus

Branch Manger

Punjab National Bank

Azad Market, Delhi-110006

...Opposite Party

**ORDER**  
28/11/2023**Ms.Harpreet Kaur Charya, Member**

The present complaint has been filed by Mr. Abdul Jalil, the complainant against Punjab National Bank, OP with the allegations of deficiency in services.

1. Facts necessary for the disposal of the present complaint are that the complainant is maintaining account No.0155000104317377 with OP for past five years.
2. On 12/12/2018, at about 13.07.05 hrs., the complainant received a message from OP informing that Rs.10,000/- had been debited from his account. Another message at 13:07:56 hrs. was received by the complainant where his account was again debited for Rs.10,000/-.
3. The complainant immediately contacted the customer care and requested to block the ATM card, which was blocked and confirmed vide message at 14:27 hours. It has been stated by the complainant that he visited the OP where he was informed by the manager that his complaint has been registered and the debited amount will be reversed in the complainant account within 48 hours.
4. As the money was not credited even after the lapse of one week, the complainant contacted the manager of OP; however, without any satisfactory reply. On 24/12/2018, the complainant gave a written complaint. Since, the money has not been credited to the account of the complainant, hence, the present complaint with the prayer for directions to OP to pay Rs.20,000/- along with compensation of Rs.50,000/- and litigation charges. The complainant has also prayed for compensation of Rs.30,000/- for harassment, mental agony and financial loss.
5. The complainant has annexed the copy of the passbook, Aadhar card as **Annexure-A** and **Annexure-B**, printout of the messages as **Annexure -C & Annexure D** and written complaint dated 24/12/2018 to the Branch Manager, Punjab National Bank, Azad market, Delhi.
6. Notice of the present complaint was served upon OP.

7. Written statement was filed on behalf of OP where they have stated that the present complaint was false and frivolous. The transaction in question was successful as per the account statement of the complainant. The OP had issued ATM and their private password to the complainant and without ATM and password the transaction is not possible. Blocking of the ATM card upon request of the complainant has been admitted. Thus, there is no deficiency in service on the part of the OP and the present complaint will be dismissed with heavy cost.
8. OP has annexed the statement of account of the complainant with their written statement as **Annexure-A**.
9. Rejoinder to the written statement was filed by the complainant wherein the contents of the complaint have been reaffirmed and those of the written statement have been denied. It has been submitted that the complainant had not used his ATM card but the amount was debited from his account and the transaction was reflected as complete in his ledger account. The complainant has also prayed that OP be directed to produce the CCTV footage to ascertain as to who had withdrawn the money for the disputed transaction. The complaint has further submitted that as per RBI guidelines, in case the manager is informed in the stipulated time, the account holder will not suffer any type of loss.
10. Evidence by way of affidavit was filed by both the parties. Complainant has reaffirmed the content of the complaint. He has relied upon the document annexed with the complaint have them got exhibited. The copies of the passbook and aadhar card are **Ex.CW-1/A** and **Ex.CW-1/B** respectively. Copy of the message received at 13:08 hrs. reflecting the debit entries of Rs.10,000/- each at 13:07:05 hrs and 13:07:56 hrs as **Ex.CW-1/C**. The messages from the customer care with respect to the blocking of the ATM card at 14.09 hrs registration of two complaints for Rs.10,000/- each vide complaint No.SRA-091635658 and SRA-091635773 as **Ex.CW-1/D** and written complaint to OP on 24/12/2018 has been exhibited as **Ex.CW-1/E**.
11. Sh. Upendra Singh Sr. Manager/Authorised representative of Punjab Nation Bank, Branch Bara Hindu Rao has been examined on behalf of OP. He has also repeated the contents of their written statement has got exhibited the copy of the GPA authorising him as **Ex.R-1/1** and the statement of account and certificate under Section 65B of Indian Evidence Act as **Ex.R-1/2 (colly)**.
12. We have heard the argument of Ld. Counsel for the complainant and Ld. Counsel for the OP and have perused material placed on record.
13. The complainant has alleged that on 12/12/2018, his account was debited vide two transaction of Rs.10,000/- each due to unauthorised withdrawal. The complainant immediately reported the OP with respect to the disputed transactions by contacting the customer care and got his ATM card blocked as evident from the screenshot of the SMS received at 14:09 hrs. ,also evident from the letter dated 24/12/2018 addressed to the Branch Manager, Punjab National Bank, Azad Market, Delhi-110006. In the said letter the complainant has stated that complaint No.SRA-091635658 and SRA-091635773 were issued, pursuant to his complaint. Communication and blocking of ATM card has been admitted by the OP.
14. As per Notification No. RBI/2017-18/15 DBR. No.Leg.BC.78/09.07.005/ 2017- 18 dated 06/07/2017, issued by Reserve Bank of India with respect to“*Customer Protection-limiting Liability of Customers in Unauthorized Electronic Banking Transactions*”, the customer is required to report the unauthorized transaction to the bank, which has been done in the instant case. Further under the head Limited Liability of the Customer and reversal time line for zero liability directs the bank :-

*“9.On being notified by the customer, the bank shall credit (shadow reversal) the amount involved in the unauthorised electronic transaction to the customer’s account within 10 working days from the date of such notification by the customer (without waiting for settlement of insurance claim, if any). Banks may also at their discretion decide to waive off any customer liability in case of unauthorised electronic banking transactions even in cases of customer negligence. The credit shall be value dated to be as of the date of the unauthorised transaction.*

*10. Further, banks shall ensure that:*

*(i) a complaint is resolved and liability of the customer, if any, established within such time, as may be specified in the bank’s Board approved policy, but not exceeding 90 days from the date of receipt of the complaint, and the customer is compensated as per provisions of paragraphs 6 to 9 above;*

*(ii) where it is unable to resolve the complaint or determine the customer liability, if any, within 90 days, the compensation as prescribed in paragraphs 6 to 9 is paid to the customer; and*

*(iii) in case of debit card/ bank account, the customer does not suffer loss of interest, and in case of credit card, the customer does not bear any additional burden of interest.*

11. ....

### **Burden of Proof**

*12. The burden of proving customer liability in case of unauthorised electronic banking transaction shall lie on the bank*

15. OP has not complied with the directions issued by Reserve Bank of India, neither they have credited the shadow reversal nor they have placed any document, such as investigation report, communication with the IndusInd Bank, whose ATM has been used to show that there was negligence on the part of the complainant. Further, as per the notification, the burden of proving the complainant's liability is on the OP, which they have failed to discharge. Merely stating that the complainant was negligent and transaction was successful as per the account statement, that too, without any concrete documentary evidence does not absolve them of their duty. Hence, non compliance of the directions and failure to redress the grievance of the complainant issued by 'Reserve Bank of India' definitely amounts to deficiency in services.

16. Therefore, in the facts and circumstance of the present case, we direct OP to pay :-

- a. Rs.20,000/- debited on the account of unauthorised transactions.
- b. Compensation of Rs.10,000/- on account of mental harassment and agony, inclusive of litigation expenses.

The order be complied with in 30 days from the date of receipt of order. In case of non-compliance, the OP shall be liable to pay interest @7% per annum on (a)+(b), from the date of order till realisation.

Office is directed to supply the copy of this order to the parties as per rules. Order be also uploaded on the website. Thereafter, file be consigned to the record room.

(Ashwani Kumar Mehta)

Member

(Harpreet Kaur Charya)

Member

(Divya Jyoti Jaipurian)

President