

**District Consumer Disputes Redressal Commission Rohtak.  
Haryana.**

**Complaint Case No. 541/2018  
( Date of Filing : 05 Nov 2018 )**

1. Smt. Shakuntala Devi wife of Sh. Kanwar Singh  
R/o H.No. 1135, Sector-4, Extn. Rohtak.

.....Complainant(s)

Versus

1. The ICICI Bank  
R/o Ashok Plaza Complex, Opposite Maina Tourist Complex,  
Delhi Road, Rohtak.

.....Opp.Party(s)

**BEFORE:**

**Nagender Singh Kadian PRESIDENT  
Mrs. Tripti Pannu MEMBER**

**PRESENT:**

**Dated : 29 Dec 2023**

**Final Order / Judgement**

**Before the District Consumer Disputes Redressal Commission, Rohtak.**

Complaint No. : 541

Instituted on : 05.11.2018.

Decided on :29.12.2023.

Smt. Shakuntala Devi age 38 years, w/o Sh. Kanwar Singh resident of H.No.1135, Sector-4,  
Extn. Rohtak.

.....Complainant.

The ICICI Bank through its Manager, Rohtak Branch, Ashoka Plaza Complex, Opposite Maina  
Tourist complex, Delhi Road, Rohtak.

.....Opposite party.

**COMPLAINT U/S 12 OF CONSUMER PROTECTION ACT,1986.**

**BEFORE: SH.NAGENDER SINGH KADIAN, PRESIDENT.**

**DR. TRIPTI PANNU, MEMBER.**

Present: Ms. Renu Hooda, Advocate for the complainant.

Sh. Naveen Chaudhary, Advocate for opposite parties.

### **ORDER**

#### **NAGENDER SINGH KADIAN, PRESIDENT:**

1. Brief facts of the case, as per the complainant are that she is an account holder in the respondent bank bearing account no.016801515552. The complainant is also ATM holder and on 20.06.2018, she went to the respondent bank to activate the ATM but the respondent asked for the TP Number which the complainant was not having at that time, so he was told that the bank will ring the complainant for intimation to get the TP number on cell phone. Accordingly the respondent rang the complainant to ask the TP number and complainant intimated the respondent for the same. Complainant also deposited an amount to the extent of Rs.373283/- in the form of FDR with the respondent on 22.06.2018. The complainant received messages from the respondent bank on 22.06.2018 that an amount of Rs.22999/- was withdrawn on 21.06.2018 and Rs.116000, Rs.150000/-, Rs.100000/- and Rs.123000/- were withdrawn from the account of complainant. The amount of Rs.373283/- in the FDR was transferred prematurely in SB account of the complainant. The respondent has with malafide intention transferred the amount of FDR in SB account of the complainant without any permission from the complainant which shows that the respondent had played fraud with the complainant by withdrawing the total amount of Rs.513999/- in an illegal manner. The complainant through her husband made the complaint before Superintendent of Police, Rohtak and when the respondent was summoned the respondent deposited the said amount in the account of the complainant on 27.06.2018 and after recovery of the amount, the complaint was filed in SP office. But to the utter surprise of the complainant, the respondent withdrew the amount deposited by the respondent on 27.06.2018 without any reason and in this manner the respondent have played fraud on the complainant. The act of opposite party is illegal and amounts to deficiency in service. Hence this complaint and it is prayed that opposite party may kindly be directed to pay Rs.513999/- alongwith interest @ 18% p.a. from 22.06.2018 to the date of actual realization, Rs.50000/- against harassment and also to impose litigation expenses upon the respondent.

2. After registration of complaint, notice was issued to the respondent/opposite party. Opposite party filed its written reply and has submitted that it is admitted to the extent that the complainant is ATM holder of the said account. It is denied that on 20.6.2018, the complainant went to the respondent-Bank to activate the ATM or that the respondent asked for OTP (One

time password) which the complainant was not having at that time. It is also denied that the complainant told that she will come on 21.06.2018 to intimate regarding the OTP. It is further denied that the respondent asked the complainant that the Bank will ring the complainant for OTP or that the respondent rang the complainant to ask OTP or that the complainant intimated the same to the respondent. The complainant has put forth an untrue and concocted story before this Hon'ble Forum(Commission). At the first juncture when this fraud was committed with the complainant, the complainant and her husband submitted a written complaint dated 22.06.2018 to S.P., Rohtak with the caption that online fraud has been committed wherein they disclosed that the complainant received a telephonic call on her mobile no.9466725644 from mobile no.9123286792 who introduced himself as Gorkh Kumar working with ICICI Bank and wanted to activate ATM card of the complainant upon which the complainant disclosed all the details related to the Bank account to the said person and after that, he withdrew an amount of Rs.513999/- from the Bank A/c No. 016801515552 by way of online transactions. Now by cleverly drafting the present complaint and by moulding the allegations, the complainant wants to get the whole amount recovered from the answering respondent. It is denied that the respondent has with malafide intention transferred the amount of FDR in Savings Bank account of the complainant without any permission from the complainant or that the respondent has played fraud on the complainant by withdrawing the total amount of Rs.5,13,999/- in an illegal manner. It is submitted that the respondent-Bank has neither played any fraud upon the complainant nor the respondent-Bank transferred the amount of FDR in the SB Account of the complainant on their own. The said FDR was prematurely closed through internet banking login session after undergoing successful debit card grid authentication of the complainant and the closure proceeds of Rs.3,73,283/- were credited in savings account of the complainant on 22.06.2018. Thus, there is no error on behalf of the respondent, rather the complainant herself was in providing her account details including OTP to some unknown person. It is denied that the respondent felt sorry for his activities for having adopted unfair trade practices. Nothing of this sort ever happened. The complainant has cooked up a false and concocted story just to recover the amount from the respondent-Bank by leveling false allegations. So far as deposit of the amount of Rs.4,89,000/- on 27.06.2018 is concerned, the said entries were shadow entries as the complainant had registered a complaint with the respondent Bank in respect to fraud committed and after completion of the internal investigation by the respondent-Bank, it was found that loss is due to negligence by the complainant herself, as she has shared the payment credentials and thus, shadow credit was debited from aforementioned account on 10.08.2018. The complainant herself was negligent in sharing her account details and other payment credentials to some other person and by leveling these false allegations against the respondent-Bank, the complainant cannot overcome her own negligence. All the other contents of the complaint were stated to be wrong and denied and opposite party prayed for dismissal of complaint with costs.

3. Ld. counsel for the complainant in his evidence has tendered affidavit Ex.CW1/A, documents Ex.C1 to Ex.C11 and closed his evidence on dated 27.02.2020. Ld. counsel for the opposite party has tendered affidavit Ex.RW1/A, document Ex.R1 to Ex.R5 and closed his evidence on dated 29.11.2021.

4. We have heard learned counsel for the parties and have gone through material aspects of the case very carefully.

5. As per the complainant, he received messages from the respondent bank that some amount was withdrawn from the account of complainant i.e. on 21.06.2018 an amount of Rs.22999/-, on 22.06.2018, Rs.116000/-, Rs.150000/-, Rs.100000/- and Rs.123000/-

respectively were withdrawn from the account of complainant. As per the complainant, he has not withdrawn the alleged amount and the same was debited from the account of complainant by the opposite party itself. On the other hand, as per the reply to the legal notice filed by the opposite party as Ex.R3, it is submitted that on receipt of complaint filed by the complainant, the bank provided a shadow credit of Rs.489000/- in the account of complainant on 27.06.2018 and had investigated the concerns raised by the complainant. With regard to the transaction of Rs.24999/-, the same was an online transaction. As per their record, the said disputed transaction has been effected on the card which had undergone an OTP Authentication, which is a second level authentication. It is further submitted that : “We wish to stated that, Bank on identifying an unusual pattern of transaction in your account i.e. debit card online transaction for an amount of Rs.24999/- on June 21,2018 had proactively blocked your debit card on 21.06.2018 @ 20:05:17 in order to avoid any misuse of funds in the account. For which you had also received an SMS intimation of card blocking. However, the same card was activated through IVR by calling from your registered mobile number on 22.08.2018 @ 10:13:05 for the reasons best known to you”.

6. From the alleged reply filed by the opposite parties, it is observed that it has been very much identified by the respondent bank on 21.06.2018 that some unusual pattern of transaction has been made in the account of complainant. So they blocked the account of complainant immediately. Meaning thereby the complainant was not using such type of transaction from his account and respondent bank properly after seeing some suspicious transactions blocked the card of the complainant but later on the debit card was activated through IVR. It is the prime duty of the bank to verify from the customer prior to activation of debit card or transaction in the account of complainant through IVR pattern. But the same has not been done by the opposite parties and the card was activated by the bank. In this regard it is observed that: “Interactive Voice Response (IVR) system in the banking sector is a computer-based system that allows bank customers to interact with the bank's telephone system through their phone keypad or voice commands”. The definition of IVR itself shows that the IVR is a computer based system. Then how the bank can know that the complainant himself was doing transaction. When the bank itself observed some unusual pattern of transaction has been made in the account of complainant, then how the bank without appearing the customer before the bank, can activate the card through IVR system. The bank should have definitely checked their security pattern that whether the card is being activated on the request of customer himself or not. But the same has not been done by the opposite parties and due to which the alleged amount of Rs.489000/- has been deducted from the account of complainant.

7. In view of the facts and circumstances of the case, we hereby allow the complaint and direct the opposite party to refund the amount of Rs.489000/- (Rupees four lac eighty nine thousand only) alongwith interest @ 9% p.a. from the date of deduction i.e. 22.06.2018 to till its realisation and also to pay a sum of Rs.5000/- (Rupees five thousand only) as compensation on account of deficiency in service and Rs.5000/- (Rupees five thousand only) as litigation expenses to the complainant. Order shall be complied within one month from the date of decision.

8. Copy of this order be supplied to both the parties free of costs. File be consigned to the record room after due compliance.

Announced in open court:

29.12.2023.

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Nagender Singh Kadian, President

.....

TriptiPannu, Member.

**[ Nagender Singh Kadian]  
PRESIDENT**

**[ Mrs. Tripti Pannu]  
MEMBER**