

**BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM  
ERNAKULAM**

**Complaint Case No. CC/23/456  
( Date of Filing : 13 Jul 2023 )**

1. V M PHILIP

37//1239-B, VADAKKEKALAM HOUSE, ST SEBASTIAN  
ROAD, ERNAKULAM NORTH , VYTTILA P.O, KOCHI  
682019

.....Complainant(s)

Versus

1. STATE BANK OF INDIA

MADAME CAMA ROAD, NARIMAN POINT, MUMBAI  
MAHARASHTRA 400021

.....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. D.B BINU PRESIDENT  
HON'BLE MR. RAMACHANDRAN .V MEMBER  
HON'BLE MRS. SREEVIDHIA T.N MEMBER**

**PRESENT:**

**Dated : 20 Jun 2024**

**Final Order / Judgement**

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, ERNAKULAM**

**Dated this the 19<sup>th</sup> day of June, 2024**

Filed on: 13.07 2023

PRESENT

Shri. D.B. Binu,

President

Shri. V. Ramachandran,

Member

Smt. Sreevidhia T.N,

Member

**C.C. No. 456/2023**

**COMPLAINANT**

V.M. Philip, S/o. Mathew 37/1239-B, Vadakkekalam House, St. Sebastian Road, Elamkulam  
North, Vyttila P.O., Kochi, 682019, Kerala

(Rep. by Adv. Joy Joseph)

**Vs**

**OPPOSITE PARTY**

State Bank of India (SBI) Corporate Centre, State Bank Bhavan, Madame Cama Road, Nariman Point, Mumbai, Maharashtra 400021.

(Rep. by Adv. M. Jithesh Menon, Indu K. & Mahesh Kumar P.G.)

## **FINAL ORDER**

**D.B. Binu, President:**

**1. A brief statement of facts of this complaint is as stated below:**

The complaint was lodged under Section 35 of the Consumer Protection Act, 2019. The complainant is a senior citizen and retired Naval officer. He holds an SB account at the Cochin Shipyard Branch of the State Bank of India (SBI) in Ernakulam, Kerala.

The opposite party is the State Bank of India (SBI), a state-owned bank with branches across India. The branch involved is the Cochin Shipyard Branch, MG Road, Perumanoor P.O, Ernakulam, Kochi, Kerala.

On October 16, 2021, the complainant received a message to update his PAN via a link, which he followed. Consequently, Rs. 40,000/- was debited from his account in two equal transactions through the YONO facility of SBI. The unauthorized transactions were carried out at the Jaipur Branch of SBI. The complainant immediately blocked his account and lodged a complaint with the bank. He contacted cyber police and provided CCTV footage of the theft to the bank. He also issued a lawyer notice on September 28, 2022.

The complainant alleges that no OTP was requested, nor was there any verification call for the transaction. Despite several intimations through calls and emails, and even after the lawyer notice, the bank did not take any action. The complainant has faced significant mental distress and financial loss due to the bank's inaction.

The complainant alleges that SBI failed to provide proper service, leading to financial loss and mental agony, and despite being informed, the bank did not take necessary steps to address the fraud or book the fraudster.

The complainant seeks a refund of Rs. 40,000/- along with 6% interest per annum from October 16, 2021, until the final settlement, Rs. 15,000/- as compensation for mental harassment and agony, and payment of legal costs and any other orders deemed fit by the Commission.

The complaint falls within the jurisdiction of the Consumer Commission and is filed within the prescribed time period. There is no other pending or decided suit on the same matter in any competent court.

The complainant prays that the Commission directs SBI to address the issue, refund the debited amount with interest, compensate for mental agony, and cover the costs incurred.

**2) Notice:**

The notice to the opposite party was sent by the commission. However, despite accepting the notice, the opposite party did not file a version, and as a result, they are set ex parte.

**3. Evidence:**

The complainants submitted an ex-parte proof affidavit along with ten documents, marked as Exhibits-A-1 to A-12.

**List of Exhibits:**

Exhibit A1 - Photocopy of Fraudulent Message dated 16/10/2021

Exhibit A2 – Photocopy of detailed summary of cash withdrawal from the Jaipur branch of SBI

Exhibit A3 – Photocopy of the details of with the cyber cell

Exhibit A4 – Photocopy of CCTV Footage

Exhibit A5 – Photocopy of Email on 17/10/2021

Exhibit A6 - Photocopy of Email on 19/10/2021

Exhibit A7 - Photocopy of Email on 05/11/2021

Exhibit A8 - Photocopy of Email on 07/11/2021

Exhibit A9 - Photocopy of Email on 04/12/2021

Exhibit A10 - Photocopy of Email on 21/10/2021

Exhibit A11- Photocopy of Email on 04/02/2022

Exhibit A12- Legal notice issued by the complainant dated 28/09/2022

**4. Points for Analysis:**

- i) Whether there is any deficiency in service or unfair trade practice from the side of the opposite party to the complainant?
- ii) If so, whether the complainant is entitled to any relief from the side of the opposite party?
- iii) Costs of the proceedings if any?

**5) The issues mentioned above are considered together and are answered as follows:**

The complainant demands the refund of Rs. 40,000 with 6% interest per annum from October 16, 2021, Rs. 15,000 as compensation for deficiency in service and mental harassment, and the cost of the proceedings.

**The complainant's counsel, Sri Joy Joseph, has submitted an argument note.**

The complainant, a senior citizen and retired Naval officer, holds an SB account with the State Bank of India's (SBI) Cochin Shipyard Branch in Ernakulam, Kerala (Account No. 10319821161). On October 16, 2021.

Upon realizing the unauthorized transactions were made at the Jaipur Branch of SBI, the complainant immediately blocked his account and lodged a complaint with the Cochin Shipyard

branch. He also contacted cyber police, who provided CCTV footage of the theft, which he forwarded to SBI (Exhibit A4). Despite this, the bank took no action to apprehend the fraudster.

On October 17, 2021, SBI requested additional information from the complainant, which he provided via email on October 18, 2021. He included the CCTV footage, details of the cash withdrawal, and a screenshot of the fraudulent SMS. The complainant sent reminder emails on October 19, 2021, and November 2, 2021. SBI responded on November 5, 2021, claiming they were not responsible for the loss. The complainant continued to send emails on November 7, 2021, December 4, 2021, December 15, 2021, December 21, 2021, and February 4, 2022, reiterating that SBI was responsible for his loss and urging them to resolve the matter.

As SBI failed to respond adequately, the complainant sent a legal notice through his counsel on September 28, 2022. The complainant has demonstrated that SBI failed to provide proper service and committed gross negligence, warranting compensation.

The complainant prays that the complaint be allowed with costs.

### **Summary of Argument Note Filed by Sri M. Jithesh Menon, Counsel for the Opposite Party**

The complainant demands the refund of Rs.40,000 with 6% interest per annum from October 16, 2021, Rs.15,000 as compensation for deficiency in service and mental harassment, and the cost of court proceedings. However, the opposite party argues that the complainant is not entitled to these reliefs due to his own negligence.

### **Gist of the Case:**

On October 16, 2021, the complainant received a message, allegedly from a bank officer, to update his PAN via a provided link to prevent his net banking account from being closed. Acting on this message, the complainant clicked the link and updated his PAN, resulting in Rs. 40,000 being debited from his account through the YONO app in two transactions of Rs. 20,000 each. The complainant immediately contacted the bank to block his account and lodged a formal complaint.

The complainant claims he did not receive or share any OTPs during the transactions. However, the SMS Delivery Report maintained by the bank indicates that two OTPs were sent and used in the transactions, which the complainant must have shared with the fraudsters.

### **Opposite Party's Contentions:**

1. The complainant's negligence in clicking an unverified link and sharing OTPs with fraudsters led to the loss.
2. The bank acted promptly by blocking the account upon receiving the complaint, preventing further losses.
3. The complainant voluntarily followed the instructions of an unknown sender and engaged in transactions without verifying the link's authenticity.
4. The SMS Delivery Report shows OTPs were sent and used for the transactions, proving the complainant shared them.
5. The bank continuously educates customers about the risks of online fraud and advises against sharing personal information.

6. According to the Reserve Bank of India's guidelines, the customer is liable for losses due to negligence, such as sharing OTPs.

### **Conclusion:**

The loss incurred by the complainant is solely due to his negligence in following instructions from an unknown sender and sharing OTPs. The bank acted lawfully and swiftly to prevent further losses once notified. There has been no deficiency in service or negligence on the part of the bank. Therefore, the complaint lacks merit and should be dismissed.

The opposite party requests that this Commission dismiss the complaint as it lacks merit and is not made in good faith.

### **Extract from the Argument Note Filed by the Opposite Party:**

“9. The Reserve Bank of India in its notification "Customer liability in unauthorized Electronic Banking Transactions" mentions that if the transaction has happened because of the negligence of the customer himself, i.e. because of sharing their Password, PIN or OTP, then the customer himself have to bear the loss and need to report it to the bank, and again if such fraudulent transactions occur after reporting it to the bank, then only the bank will be liable for such transactions.

### **The relevant portion the Master Circular of the Reserve Bank of India dated 06.072017 read as:**

Limited Liability of a Customer 7. A customer shall be liable for the loss occurring due to unauthorized transactions in the following cases: (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 unauthorized transaction to the bank. Any loss occurring after the reporting of the unauthorised transaction shall be borne by the bank.

In this case, after reporting to this opposite party, there is no money lost by the complainant and the money which the complainant lost is purely because of the negligence of the complainant himself.”

We have meticulously considered the detailed submissions of both parties, as well as thoroughly reviewed the entire record of evidence, including the argument notes.

### **Relevant Case Laws and Legal Analysis:**

1. **RBI Notification on Customer Liability:** The Reserve Bank of India in its notification "Customer Liability in Unauthorized Electronic Banking Transactions" states that if the transaction occurs due to the customer's negligence, such as sharing passwords, PINs, or OTPs, the customer bears the entire loss until reporting it to the bank. Only transactions occurring after reporting are the bank's liability.

### **II (2024) CPJ 310 (NC)**

In this case, the Honourable National Commission held that:

“From the above circular, it is clear that 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. In this case, as the loss occurred to the customer till the date/time of reporting *i.e.* with respect of transfer of Rs.57,400 under four transactions, it has to be borne by the Respondent/complainant. Immediately on receipt of the complaint, the Bank blocked the account of third-party Ashok Saha. No loss has happened after the date of reporting. Hence, Bank is not liable.

12. In view of the foregoing, we are of the considered view that in the instant case, the Bank was not at fault and State Commission went wrong in reversing a well-reasoned order of the District Forum. Hence, the order of the State Commission cannot be sustained. Accordingly, we hereby set aside the order of the State Commission and restore the order of the District Forum. Accordingly, the Revision Petition stands disposed of.”

The bank was not liable for the losses incurred due to the complainant's negligence. After reviewing the evidence and arguments presented, it is clear that the complainant's actions led to the loss. The bank had provided necessary warnings and educational materials regarding online fraud and did not fail in its duty to prevent unauthorized transactions once notified.

**Liability of the Opposite Party:** The bank is not liable for the complainant's loss as it resulted from his negligence. The opposite party acted promptly and appropriately once the fraudulent transactions were reported.

Based on the above analysis and legal reasoning, the complaint is dismissed as it lacks merit and good faith. No relief is granted to the complainant. The complainant is also liable for the costs of the proceedings.

Pronounced in the Open Commission on this the 19<sup>th</sup> day of June, 2024

Sd/-

D.B.Binu, President

Sd/-

V. Ramachandran, Member

Sd/-

Sreevidhia.T.N, Member

Forwarded/By Order

Assistant Registrar

**Appendix**

**Complainant's Evidence**

Exhibit A1 - Photocopy of Fraudulent Message dated 16/10/2021

Exhibit A2 – Photocopy of detailed summary of cash withdrawal from the Jaipur branch of SBI

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Exhibit A11- Photocopy of Email on 04/02/2022

Exhibit A12- Legal notice issued by the complainant dated 28/09/2022

**Opposite party's Exhibits**

Nil

Despatch date:

By hand: By post

kp/

**CC No. 456/2023**

**Order Date: 19/06/2024**

**[HON'BLE MR. D.B BINU]  
PRESIDENT**

**[HON'BLE MR. RAMACHANDRAN .V]  
MEMBER**

**[HON'BLE MRS. SREEVIDHIA T.N]  
MEMBER**