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Legal Insights:
Banking & Finance

RECENT IMPORTANT LEGAL DEVELOPMENT

1. **LEVY OF ANY CHARGES BY BANKING INSTITUTION FOR RETURN OF A DISHONORED CHEQUE, CONSTITUTES AS "DEFICIENCY IN SERVICE".**

   In the case titled as ***Joyson K.P. v. Branch Manager, Bank of India*** *[CC/104/2018]*, the Ld. DCDRC, Thrissur, had noted and observed that:

   "8) Point No.(ii) : As is evident from the elaboration made under the foregoing point, the opposite parties' act of having unfoundedly imposed a cheque return charge of Rs.295/- on the complainant, constitutes deficiency in service on their part. Indiscriminate imposition of charges on the consumers without explicit mandate, will certainly jeopardise the very dignity of theirs, irrespective of the size of the charge, so imposed. The opposite parties shall necessarily have to compensate the complainant. We are of the considered view that the complainant is entitled to receive a sum of Rs.5,000/- (Rupees Five thousand only) towards compensation for the agony and hardship inflicted on him."

2. **BANKS LIABLE FOR FAILING TO ADDRESS UNAUTHORIZED UPI WITHDRAWALS.**

   In the case titled as ***Sanjeev Kumar Sharma v. SBI & Ors.*** *[CD/AB1/44/CC/359/2023]*, the Ld. DCDRC, Chandigarh, had noted and observed that the complainant had promptly reported the unauthorized transactions to the Cyber Crime Cell and to the bank, which was not disputed by SBI. It further observed that as per the RBI Circular on Customer Protection and Limiting Liability in Unauthorized Electronic Banking Transactions, once a customer reports an unauthorized transaction within the stipulated time, the burden of proving customer liability lies on the bank. SBI, however, failed to produce any evidence to show that the complainant had shared his UPI PIN or had authorized the disputed transactions.

The Commission held that SBI did not comply with the mandatory RBI guidelines requiring the bank to credit the disputed amount within ten working days of notification and to complete its investigation within ninety days. By failing to reverse the unauthorized debits or properly address the complainant's grievance, SBI was found to have committed deficiency in service.

3. **BANKS LIABLE FOR FAILING TO RETURN BORROWERS' TITLE DEED AFTER LOAN SETTLEMENT.**

In the case titled as ***The Deputy Regional Manager & Anr. v. Mr. Hussain Sharief & Anr.*** *[SC/29/A/2667/2024]*, the Ld. SCDRC (Principal Bench), Karnataka had noted and observed that:

The Karnataka State Consumer Commission observed that once a loan is fully settled, the borrower is entitled to the prompt return of mortgaged documents. The Commission noted that the bank received the original title deeds from the Debt Recovery Tribunal only on 05 October 2023, and despite this, the bank failed to return them within a reasonable period.

The Commission criticized the bank's insistence that the complainants personally visit the branch to collect their documents, calling it "too much on their part." It further observed that the bank could have deposited the title deeds before the District Commission or State Commission during the proceedings but failed to do so. The Commission also found no negligence or omission on the part of the complainants and held the bank's conduct unreasonable and negligent.

4. **BANKS TO COMPENSATE CUSTOMER FOR WRONGLY BOUNCED LOAN CHEQUES AND ECS, DESPITE AVAILABILITY OF SUFFICIENT BALANCE.**

In the case titled as ***Smt. Chayya Sharma v. Branch Manager, SBI & Anr.*** *[FA/106/2011]*, the Ld. SCDRC, New Delhi had noted and observed that the appellant had a savings account with SBI and had provided an ECS mandate for automatic EMI deductions, which SBI failed to process for some installments. The records demonstrated that sufficient funds were available, yet 11 EMIs were dishonored.

SBI's claim that the issue arose due to a wrong ECS mandate from HDFC Bank was found to be not credible, as other EMIs under the same mandate were successfully deducted. SBI also failed to provide any evidence to show insufficient funds in the appellant's account. The Commission concluded that dishonoring EMIs and charging erroneous bounce fees clearly constituted deficiency in service.

5. **DENIAL OF "ENCASHMENT OF CASH CERTIFICATE" BEARING SEAL AND SIGNATURE OF BANK, AMOUNTS TO DEFICIENCY IN SERVICES.**

In the case titled as ***Habibullah Sheikh v. Manager, HDFC Bank & Anr.*** *[CC/58/2024]*, the Ld. DCDRC, Baramulla/Bandipore had noted and observe:

The Bank has failed to act fairly and to investigate the matter or to honor the cash certificates issued to the complainant. The Denial of encashment of the Cash certificates amounts to deficiency in service on the part of OP.1 (Bank).

The complainant has established a prima facie case because the cash certificates bears the seal and signature of the Bank. Furthermore, the Bank has failed to contest or to submit any cogent evidence in the case to substantiate that the Cash certificates does not bear the seal and signature of the Bank. Submission of mere written version does not suffice. The OP Bank has responsibility to verify the authenticity of the certificates.

Customers have right to rely on the certificates issued by the Bank and the Banks cannot deny liability without sufficient evidences.

We rely on the judgement passed by the Hon'ble supreme Court in the case titled PNB Vs Surendra Prasad Sinha 1992 AIR 1815 whereunder it was held that the Bank cannot deny its liability on the grounds that the certificate was not issued by the Bank if the said certificate bears the seal and signature of the Bank.

6. **LOSS OF 'TITLE DEED" BY BANKING AUTHORITIES, AMOUNTS TO NEGLIGENCE AND DEFICIENCY IN SERVICES.**

In the case titled as ***Jolly Mathew v. M/s Federal Bank & Anr.*** *[CC/382/2023]*, the Ld. DCDRC, Ernakulam had noted and observe:

In the present case, the complainant's distress is not merely a legal issue but a deeply personal hardship. Losing an original title deed is not just about a piece of paper-it represents security, stability, and financial independence. The complainant's inability to sell or mortgage his property due to the bank's negligence has undoubtedly caused immense frustration and anxiety. A bank, as a trusted institution, has a fundamental duty to protect the interests of its customers, and its failure to do so has far-reaching consequences beyond just financial loss. The mental agony, uncertainty, and struggle faced by the complainant in seeking justice highlight the importance of holding financial institutions accountable. This judgment is not only about compensation but also about restoring faith in the system and ensuring that such negligence does not affect others in the future.

7. **BANKS NOT LIABLE FOR ISSUES ARISING TOWARDS MIS-REPRESENTATION / MIS-SELLING OF ANY POLICY BY AN INSURANCE COMPANY.**

In the case titled as ***Canara Bank (e-Syndicate Bank) v. Ms Sulakshana Bhattacharya & Ors.*** *[FA/737/2014]*, the Ld. SCDRC, New Delhi had noted and observed:

9. Furthermore, the Appellant has established that there existed no principal-agent relationship between itself and Respondent No. 1. As per the terms and conditions of the agreement, the Appellant was merely facilitating the sale of insurance products and did not assume responsibility for the performance or services provided by the insurers (Respondents No. 2 and 3). It is therefore clear that there was no direct or principal-agent relationship between the Appellant and Respondent No. 1.

10.In view of the above, this Court is of the opinion that the District Commission erred in holding the Appellant liable for the actions of Respondents No. 2 and 3, especially when there was no direct contractual relationship or principal-agent relationship between the Appellant and Respondent No. 1. The Appellant acted within the scope of its authorized role and was not responsible for the deficiencies in service alleged by the Respondents.

8. **UPON EXPIRY OF OLD DEBIT CARD, UPON PLACEMENT OF A REQUEST FOR ISSUANCE OF NEW DEBIT CARD, DELAY IN ISSUANCE OF A NEW DEBIT CARD, AMOUNTS OF DEFICIENCY IN SERVICES.**

In the case titled as ***James E.P. v. Branch Manager, SBI Bank*** *[CC/9/2023]*, the Ld. DCDRC, Thrissur had noted and observed:

9. As elaborated supra, there is deficiency in service on the part of the opposite party, in so far as their having not cared to timely despatch the renewed card to the complainant, is concerned. […] In the instant case, the complainant might certainly have, as claimed, undergone such agony, hardship and financial loss owing to the delay caused by the *opposite party in delivering the renewed debit card to him. The opposite party has necessarily to compensate the complainant.*

9. COMPLAINTS OF BANKING FRAUDS ARE NOT MAINTAINABLE UNDER CONSUMER LAW.

In the case titled as ***Rajesh Handa v. ICICI Bank*** *[CC/525/2024]*, the Ld. DCDRC, III West, New Delhi had noted and observed:

2. […] Hon'ble SCDRC Delhi in Laxmi Narain Nagpal Vs SBI I (2024) CPJ 74 (Del) decided on 27/03/2023 relying upon judgments of Hon'ble NCDRC in Capital Charitable & Educational Society Vs Axis Bank decided on 09/12/2019 & P.N. Khanna Vs Bank of India II (2015) CPJ 54 (NC) held that in a case of illegal withdrawal from bank account case involves primary question of fraud, forgery outside jurisdiction of Consumer Commission & dismissed this complaint. On the issue of fraud and forgery, the matter no longer being ResIntegra in view of exhaustive legal discourse discussed in foregoing paras, the complaint is evidently non-maintainable before the Consumer Commission as if involves allegation of cheating, fraud & forgery & cyber crime etc. involving detailed police investigation & bank enquiry etc. The same is therefore dismissed in limine with liberty to complainant to approach appropriate Court of law for remedy. No order as to costs.

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