SUPREME COURT OF INDIA

Vimal Chandra Grover

Vs.

Bank of India

(S Ahmed and D Wadhwa JJ.)

26.04.2000

ORDER

D.P. WADHWA, J.

1. This appeals is directed against the order dated June 21,1996 of the National Consumer Disputes Redressal Commission (National Commission) holding that there was no negligence on the part of the respondent Bank in dealing with its security of pledged shares of the appellant or its release in part to him and that the Bank could also not be faulted on its practice not to dispose of shares through brokers not on the approved list of the Bank and lastly that it could not be said that there was any deficiency in service by the Bank as defined in Section 2(1)(g) of the Consumer Protection Act, 1986 ('Act' for short). Leave was granted limited to the claim of the appellant to his shares of Castrol Limited pledged with the Bank.

2. On the request of the appellant, Bank sanctioned to him on September 20,1990 an overdraft limit of Rs. 5,00,0007- against pledge of sharp of various companies, value of all the shares being Rs. 10,60,900/- at the relevant time. Out of these number of shares of the Castrol Limited were 1400 @ Rs. 2007- per share of the total value of Rs. 2,80,0007-. It is not disputed that as per the guidelines issued by the Reserve Bank of India banks are allowed to make advance against pledge of shares retaining 50% margin. As per the terms of sanction of the overdraft limit shares were got transferred in the name of the Bank. In due course of time Bank received bonus shares numbering 2,224 of Castrol Limited. It is stated that value of shares also increased manifold. Appellant also paid an instalment of Rs. 1,45,6007- to the Bank against the overdraft limit. Overdraft amount was to be adjusted in three equal instalments. In order to clear the overdraft account the appellant, apart from shares of other companies, requested the Bank to arrange sale of 500 shares of Castrol Limited. This he did by letter dated April 23,1992'.

3. After 12 days of the receipt of this letter the Bank at Nagpur, where the Overdraft Account of the appellant was maintained, sent a letter dated May 5,19922 to its Head Office at Bombay (copy of this letter was endorsed to the appellant) agreeing to the terms of the appellant set out in his letter of April 23,1992. Nagpur Branch received a letter of June, 19, 1992 from its Head Office stating that it did not receive the letter dated April 23,1992 of the appellant and further that the shares were not in the Head Office. By letter dated July 29, 19933 Nagpur Branch of the Bank informed the appellant

that Head Office was not holding the shares. It was, however, found that the shares were lying with the Nagpur Branch itself. By this time it appeared that the price of the share fell and the shares could not be sold at the price indicated by the appellant. He therefore, filed a claim with the National Commission for Rs, 5,09,037.53 in respect of shares of Castrol Limited as under:

Loss on account of non-sale of 500 shares of Castrol Limited. a. Estimated sale price of 500 shares @ Rs. 2400/- per share Rs. 12,00,000.00 Deduct price prevailing on 23.7.92 @ 700/- per share Rs. 3.50.000.00

Rs. 8,50,000.00 Deduct amount of effective debit balance in O/D on 30.6.92 Rs. 3.40.962.53

Rs. 5,09,037.53

He also filed other claims against the Bank with which we are not concerned in this appeal.

4. There cannot be any doubt if action had been taken by the Bank promptly or within a reasonable time appellant would have been able to clear his overdraft account. About the prevalent price of the share as claimed by the appellant there cannot be any dispute.

5. Bank has submitted before us that relationship between the parties is governed by Sections 172 to 177 of the Contract Act, 1972 and Bank was within its right to choose the time and place as to when it would like to dispose of the pledged goods and that the only requirement is that before that notice is to be given to pawnor, appellant in the present case. In support of its submissions reference was made a Division Bench decision of the Punjab High Court in Bharat Bank v. Bodhraj . We were also referred to "Chitty on Contracts", Twenty-Seventh Edition, and other decisions to which we will presently refer.

6. Prime facie it does appear to us that Bank has failed to honour its commitment resulting in loss to the appellant. The. question still, however, arises if the alleged default on the part of the Bank could be termed as deficiency in service. "Service" has been defined in Clause (o) of Sub-section (1) of Section 2 of the Act and "deficiency" in Clause (g) thereof. There are as under:

(g) "deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service." "(o) "service" means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement, or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

7. In the arguments it was submitted that the appellant is not a consumer within the meaning of Sub-clause (2) of Clause (d) of Section of the Act. This Sub-clause is as under:

2(d) "consumer" means any person who

(i) ...

(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person; Explanation-

8. We think that the argument that the appellant is not a consumer or that the Bank is not rendering service is an argument in desperation. No such plea was raised before the National Commission. Overdraft limit prescribed by the Bank was not without consideration. Bank is rendering service by providing overdraft facilities to a customer which is not without consideration. Bank is charging interest and other charges as well in providing the service. Provision for overdraft facility is certainly a part of the banking and its service within the meaning of Clause (o) of Section 2 of the Act. In ordinary parlance "banking" is a business transactions of a bank (The Concise Oxford Dictionary). "Banking" is defined in the Black's Law Dictionary. It is as under:

The business of banking, as defined by law and custom, consists in the issue of notes payable on demand intended to circulate as money when the banks are banks of issue; in receiving deposits payable on demand; in discounting commercial paper; making loans of money on collateral security; buying and selling bills of exchange; negotiating loans, and dealing in negotiable securities issued by the government, state and national and municipal and other corporations. Mercantile Bank v. New York 121 U.S. 138,156,7 S.Ct. 826,30 L.Ed. 895: in re Prudence Co., D.C.N.Y., 10F. Supp.33,36.

9. The Reserve Bank of India the Reserve Bank of India Act, 1934 controls various activities of the banks in India. Under Section 22 of that Act, Reserve Bank of India has the sole right to issue bank notes in India. Bank in the present case is governed by the Banking Regulation Act, 1949. Under Clause (b) of Section 5 "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise. Under Clause (c) "banking company" means any company which transacts the, business of banking in India. Under Clause (cc) "branch" or "branch office", in relation to a banking company, means any branch or branch office, whether called a pay office or sub-pay office or by any other name, at which deposits are received, cheques cashed or moneys lent, and for the purposes of Section 35 includes any place of business where any other form of business referred to in Sub-section (i) of Section 6 is transacted. Section 6 of this Act descries the forms of business which can be conducted by a banking company in addition to the business of banking. When Bank is engaged is different types of business as mentioned in Section 6, it is apparent that when bank is granting overdraft facilities to its client which is a customer, it is providing service to him. The Act itself does not define the term "banking" and as to what services a bank can provide, we can usefully refer to Section 6 of the Banking Regulation Act, 1949.

10. Request for sale of part of the pledged shares for getting overdraft facilities and which is agreed to by the Bank is certainly part of the service connected with the grant of overdraft facilities. Appellant as a consumer was hiring service of the Bank for consideration by way of payment of interest for the overdraft facilities received by him by pledging the shares of different companies. We reject the argument that the appellant is not a consumer or that the Bank is not providing any service to the appellant. The only question that requires consideration is if there wa any deficiency in service in the present case.

11. Bank has denied that there was any deficiency in service on its' part and the conduct of the Bank in dealing with the alleged securities was not negligent. It was stated that facts on record clearly established that it was the appellant who was solely responsible for causing the confusion and misguiding the Bank to locate the shares with Bombay Office. It was, thus, contended that the alleged delay which was caused could not be attributed to the negligence of the Bank as it was the appellant himself who misled the Bank. It was rather explained that it was the assertion of the appellant which led to the time consuming process of checking and again rechecking whether the said shares were indeed in the Bombay Office. It was thus denied that "there was any negligence or deficiency in service on the part of the respondent Bank who carried out its duty with due diligence and care and was hampered by the misleading information given by the appellant himself. It was then contended that the Bank had lien over certain shares which the appellant had pledged as security for the overdraft facility of Rs. 5,00,0007- provided by the Bank. It was stated that the Bank, in fact, acceded to the request of the appellant and sanctioned the overdraft facility after imposing certain terms and conditions. It was also submitted that prior to the agreement for grant of overdraft facility of Rs. 5,00,0007-appellant had executed a letter of lien and set off dated August 9, 1989 which entitled the Bank to retain all the shares, which were in its possession or which may come into the possession of the Bank at any future date, as collateral security for all the outstanding dues of the appellant apart from any specific facility provided to him. Then the Bank said that it was well-settled principle of law that the Banker's lien extended to all securities deposited in it in its character as a banker. It was, therefore, contended that it was undisputed that the Bank had every right to exercise lien over the pledged shares. Then it was submitted that though the appellant had requested the Bank to sell the shares through his broker who was not on the approved list of the Bank and that it was the Standard Practice followed by the banks that they dealt with the pledged shares only through brokers whose names featured in the approved list of the Bank. According to the Bank appellant should have discharged his contractual obligations by setting the overdraft account in three equal installments as agreed and secured the release of the pledged shares but instead he sought release of some of the pledged shares. Bank, in pursuance to the request and directions given by the appellant, carried out a thorough search in the Bombay Office but the Castrol shares were not traceable there. It was then denied by the Bank that the appellant suffered any monetary loss. This is how the Bank advanced its plea:

It is submitted that the appellant received some bonus shares of Castrol India Ltd. which were allotted in the ratio of 3:5 in 23.6.1992. Subsequently the appellant obtained some more bonus shares whose total market value inclusive of the original No. of shares pledged with the answering respondent, at a time when market price of the said shares allegedly dipped was higher that the alleged previous value of the Castrol shares pledged by the appellant with the answering respondent. Hence the averments made by the Appellant about the loss suffered by him is wholly unsustainable and illogical.

12. It was then submitted by the Bank that the appellant was a regular defaulter and time and again had failed to liquidate his dues and discharge his obligations. The Bank was under no obligation whatsoever to release the shares which were in its possession and could not be compelled in law to sell any of the pledged shares. Then the Bank said that delay was caused to process the request of the appellant to sell the shares held by the Bank as security as his request needed to be carefully examined especially in view of the fact that he had several irregular accounts and was a habitual defaulter. The Bank which is a custodian of public funds could hardly be rushed into making its commercial/business decisions, so the Bank lamented. Lastly, it was submitted by the Bank that it could not be blamed for any fluctuations of the market, price of the shares and by merely fluctuating

the market price of the shares on the days when the value of the shares are particularly high, one cannot calculate the gain or loss suffered and that in any case fluctuations in the value o the shares could also be worked out the other way, i.e., to the prejudice of the Bank. That is all to the case set up by the Bank.

13. We have been referred to various decisions by Mr. Krishna Venugopal, who appeared for the Bank. He submitted that he could certainly raise issues such as the law of pledge or the jurisdiction of the National Commission in this appeal for sustaining the decision of the National Commission. In support of his submission, he referred to a decision of this Court in Management of Northern Railway Co-operative Society Ltd v. Industrial Tribunal, Rajasthan, Jaipur and Anr. . But as held by this Court in Chinta Lingam and Ors. v. Government of India and Ors. when there is no foundation laid in the pleadings before the National Commission argument of such pleading could not be allowed to be raised in this Court. However, if it is a pure question of law going to the root of the case, this plea may be allowed to be raised with the permission of the Court. We may in this connection refer to Order 41 Rule 22 of the CPC which provides that though the respondent may not have appealed from any part of the decree, he may not only support the decree but may also state that finding against him in the court below in respect of any issue ought to have been in his favour. For this, however, there has to be pleadings and evidence on that. In Warehousing & Forwarding Company of East Africa Ltd. v. Jafferali & Sons Ltd. 1963 (3) AII.E.R. 571 on the question when a new point is raised in appeal, which was not raised in the court below, whether that new point should have been allowed to be taken the Privy Council observed:

The question of ratification never having been investigated and the outcome of such an investigation not being clear, it was not possible to hold that the result would have been the same whatever such investigations would have revealed; in such circumstances the respondents ought not to have been allowed to argue the new point before the Court of Appeal.

14. Mr. Krishna Venugopal, it appears, made this point in answer to objection by the appellant that the Bank did not raise any issue regarding law of pledge or the jurisdiction of the National Commission before the National Commission. We heard Mr. Venugopal on the applicability of the law of pledge as contained in Sections 172 to 177 of the Contract Act on a plea that there was no deficiency in service because the Bank was not under a legal obligation to follow a customer's instructions to sell the pledged shares. He said the statute not only imposes no obligations on the pledgee to sell pledged shares on the request of the pledger it grants a positive option to pledgee to either retain or sell the pledged shares which would be nullified by creating an obligation on his part to sell on the request of the pledger. We may refer to some of the decisions cited by Mr. Venugopal at the Bar on this aspect.

15. In Halliday v. Holgate 1868 LR Exhequer-299 the facts (as appeared from the Head Note) a holder of scrip certificates for shares borrowed of the defendant a sum of money on his own promissory note, payable on demand, and on the security of the shares, and deposited with the defendant the scrip certificates. He afterwards became bankrupt, and the defendant, without demand and without notice, sold ten of the fifteen shares to repay himself his debt. The creditor's assignee, without making any tender of the amount of the debt, brought an action of trover against the defendant to recover the value of the shares. It was held that even assuming the sale to be wrongful, the immediate right to the possession of the shares was not by the sale revested in the plaintiff, and that he could not, therefore, maintain trover, either for the whole value of the shares or for nominal damages.

16. In S.L Ramaswamy Chetty and Anr. v. M.S.A.P.L. Palanlappa Chettiar the Court said:

The respondent (a pledgor) could not compel the appellants to exercise the power of sale as a means of discharging or satisfying the decree. His only rights were (1) in case the appellants (a pawnee) exercised the power, to insist that it should be honestly and properly done and the sale proceeds applied to the debt (2) in case the appellants did not exercise the power, to redeem the pledges on payment of the debt or so much of it as remained otherwise unpaid and (3) in case the sale was improperly exercised, to get damages caused thereby.

17. A single Judge of the Delhi High Court in Bank of Maharashtra v. Racmann Auto (P) Ltd. on examining the provisions of Sections 176-177 said:

In view of the provisions of Section 176 of the Contract Act, there remains no doubt about the legal propositions that it is in the discretion of the plaintiff bank to have filed the suit for recovery of the debt and retain the pledged goods as collateral security or in the alternative could, resort to selling the pledged goods after giving reasonable notice of sale to the defendant. Plaintiff bank had in its wisdom exercised the first option of filing the suit and retained the pledged goods as collateral security. So, even if the value of the goods had deteriorated due to passage of time, no relief can be obtained by the defendant against the plaintiff as the defendant was legally bound to clear the debt and obtain the possession of the pledged goods from the plaintiff bank before the pledged goods were sold during the pendency of the suit. That is clearly provided in S. 177 of the Contract Act.

18. In China and South Sea Bank Ltd v. Tan (1989) 3 ALL E.R. 839, the Privy Council laid the following principle:

The creditor is not obliged to do anything.. No creditor could carry on the business of lending if he could become liable to a mortgagee [sic: mortgagor] and to a surety or to either of them for a decline in value of mortgaged property, unless the creditor was personally responsible for the decline.

19. In Bharat Bank Ltd. v. Bodhraj the appellant gave notice to the respondent. The appellant was defendant in a suit filed by the respondent-plaintiff. The plaintiff had cash credit account with the Bharat Bc.nk Ltd. at Rawalpindi (now in Pakistan) prior to the year 1947. He had pledged as security 988 shares of a company. The defendant have notice to the plaintiff demanding payment of the debt due from the plaintiff by 18.8.1947 and if the amount was not paid the shares would be sold without any reference to the debtor and at his risk and responsibility. The plaintiff did not send any reply to this letter of demand by the defendant. On 28.8.1948 the shares were sold at Rs. 10/ - per share. Plaintiff on 31.1.1949 gave a notice to the defendant claiming Rs. 9,0007-on account of surplus which would have aborted had the shares been sold by the middle of September 1947 when the price was Rs. 19/ "- per share. The defendant replied on 1.2.1949 saying that it was not bound to the shares in September 1947 and could sell them at any time after the expiration of the period of notice sent by it in August 1947. The material plea of the defendant was that the Conk could not function after August 1947 due to disturbances that the Bank could not bring its records to India due to restrictions imposed by the Pakistan Government and that before the shares could be sold the Bank had to get the sanction of the Custodian of Evacuee Property. Suit of the plaintiff was decreed on appeal by the defendant to the High Coun. Reference was made to Section 176 of the Contract Act which requires a reasonable notice of the sale. It was submitted by the defendant that the sale

should take place within a reasonable time of the notice but the High Court negatived this plea. High Court referred to an earlier decision in Suraimal v. Fulchand AIR 1951 Nag 264 where it was held that a pawnee who has given a reasonable notice of sale under Section 176, Contract Act can sell at any time and is not bound to sell within a reasonable time after the expiry of the period mentioned in the notice. Section 176 of the Contract Act talks of reasonable notice of sale. The pawnor is warned by notice that if he does not discharge the debt within a reasonable time the.pledged goods would be put to sale. This will mean that if there is default by the pawnor the goods would be put to sale after expiry of a reasonable period from the date of the notice. However, it does not mean that after reasonable period has expired from the date of notice, the pawnor is debarred from all time to redeem his pledged goods. Any time before the pledged goods are put to sale, he can redeem them after discharging the debt.

20. In Agenda Commercial International Limited and Ors. v. Custodian of the Branches of Banco National Ultramarino this Court held that branch of the bank in which account is maintained by the customer is a separate and distinct entity from the head office. This is how this Court said:

14. Now it is indisputable as a general proposition that a body corporate and its branches are not distinct and separate entitles from each other, that the branches constitute mere components through which the corporate entity expresses itself and that all transactions entered into ostensibly with the branches are in legal reality transactions with the corporate body and it is with the corporate body that a person must deal directly. But it is also now generally agreed that in the case of a Bank which operates through its Branches, the Branches are regarded for many purposes as separate and distinct entities from the Head Office and from each other. This Court observed in Delhi Cloth and General Mills Co. Ltd. V. Harnam Singh 1995 (2) SCR 402:

In banking transactions the following rules are now settled: (1) the obligation of a bank to pay the cheques of a customer rests primarily on the branch at which he keeps his account and the bank can rightly refuse to cash a cheque at any other branch: Rex v. Lovitt 1912 AC 212, State Aided Bank of Travancore v. Dhrit Ram AIR 1942 PC 6 and New York Life Insurance Co. v. Public Trustee (1924) 2 Ch 101; (2) a customer must make a demand for payment at the branch where his current account is kept before he has a cause of action against the bank; Joachimson v. Swiss Bank Corporation (1921) 3 KB 110 quoted with approval by Lora Reid in Arab Bank Ltd. v. Barciays Bank 1954 AC 495. The rule is the same whether the account is a current account or whether it is a case of deposit. The last two cases refer to a current account; the Privy Council case was a case of deposit. Either way, there must be a demand by the customer at the branch where the current account is kept, or where the deposit is made and kept, or where before the bank need pay, and for these reasons the English courts hold that the situs of he debts is at the place where the current account is kept and where the demand must be made.

It was explained further that if the bank wrongly refused to pay when a demand was made at the proper place and time, then it could be sued at its head office as well as at its branch office, but the reason was that "the action is then, not on the debt, but on the breach of the contract to pay at the place specified in the agreement", and reference was made to Warrington, L.J. at page 116 and Atkin, L.J. at page 121 of New York Life Insurance Co. v. Public Trustee. That is the position in regard to banking law and practice, and it is apparently in that light that the Regulation has been framed."

21. Chitty on Contract (Twenty-Seventh Edition) dealt with unlawful dealing by the pledgee. It said,

"If the pledgee deals with the thing pledged in an unlawful manner, such as by sale before the time fixed for repayment of the debt, or by wrongfully claiming to be absolute owner of the thing, the contract of pledge is not determined and the pledger cannot, without payment or tender of the debt, sue the pledgee for conversion. But if the pledgee "deals with it in a manner other than is allowed by law for the payment of his debt, then, in so far as by disposing of the reversionary interest of the pledger he causes to the pledger any difficulty in obtaining possession of the pledge on payment of the sum due, and thereby does him any veal damage, he commits a legal wrong against the pledge." (paras 32-100)

22. It is difficult to accept the contention of the Bank that the correspondence that was exchanged between the appellant, the Nagpur Branch of the Bank and its head office did not constitute an agreement between the parties under which the Bank is agreed to sell the 500 shares of Castrol Limited pledged with it by the appellant. This agreement can be clearly spelt out from the correspondence exchanged between the parties. Mr. Venugopal sought reference to the provisions of Securities Contracts (Regulation) Act, 1956 under which stock exchanges in the country function. We cannot permit him to raise such a plea which has no foundation either in the pleading or in the evidence before the National Commission.

23. We do not think it is necessary for us to go into all these legal niceties in view of the clear provisions of law and in this mass of judicial pronouncements referred to above we should not forget the real issue. We have held that the appellant is a consumer and Bank is provider of the service. Appellant's case is simple. He did not want his shares back. He only wanted part of the shares to be sold and for the bank to keep the money to liquidate part of his overdraft account. Bank agreed. Each branch of the bank is independent. The Bank has taken two principal pleas: (1) it was not obliged to sell the shares as under law Bank is not bound to follow the instructions in view of the provisions regarding pledges as contained in Sections 172 to 177 of the Indian Contract Act: and (2) it was the appellant who misled the Bank by saying that the shares were lying in the head office of the Bank at Bombay. That the Bank has a right under the law to retain the pledged goods is not in dispute. But once the Bank having agreed to sell part of the pledged goods, it could not fall back on those very provisions to raise a plea of its right under the law to retain the pledged goods. Bank says it was mislead by the appellant that the shares were lying in Bombay when in fact these were lying in the Nagpur branch itself where the appellant had the overdraft account. Could not the Bank verify as to where the pledged shares were kept when on the basis of those very shares as security overdraft facility was granted? We think that the Bank is just firing a shot from the shoulders of the appellant to hide its own defaults, ney negligence. As far as the appellant is concerned, he has clearly stated, which has not been denied, that the pledged shares were to be transferred in the name of the Bank and sufficient number of blank transfer forms duly signed by him were submitted to the Bank and further that the Share Department of the Bombay Head Office of the Bank was centralised for handling all matters concerning shares and that bonus shares in this very case were received by the Bombay Head Office of the Bank. Bank also advanced a plea that the appellant was guilty of contributory negligence by which the Bank tacitly admitted its own negligence on its part as well. That the appellant suffered loss because of the delay in not disposing of his shares as agreed to by the Bank cannot be disputed. In these days of revolution in information technology Bank is merrily going on corresponding with its customer, the appellant., and also its own Head Office. It was not difficult for the Bank to find out on receipt of the letter dated April 23, 1992 of the appellant where the pledged shares were lying, It took 12 days to transmit the request of the appellant to its Head Office. When the Nagpur Branch received letter dated June 19, 1992 from the Head Office that the shares were not lying there, it took another 40 days to inform the appellant of his fact by its letter of

July 29, 1992. Then the Nagpur Branch finds that the shares are lying with it and then it is too late. It is true that the Bank is not expected to process the request of its customer at once but within reasonable time and certainly promptness and diligence is required which we find lacking in the present case. Whatever may be the fault of the appellant being not regular in his account with the Bank, all these pleas raised by the Bank are merely afterthoughts in order to hide its own default and inefficiency. Once the Bank agreed to sell the part of the shares on request by the appellant and without any preconditions, it cannot fall back on other alleged defaults of the appellant in his dealing with the Bank. The plea of the Bank that it could dispose of the shares only through its own broker is without substance as it never apprised the appellant this fact. We, therefore, find ourselves unable to agree with the view of the National Commission that there was no negligence on the part of the Bank or that the Bank was not bound to dispose of the shares.

24. The appellant made a claim of Rs. 29,56,264.76 before the National Commission. He further claimed interest at the rate of 21% per annum till the final decision of the National Commission and realisation of the decreed amount. We think the claim made is highly inflated and there does not appear to be any basis for the same. The indicative price at which the appellant requested the Bank to sell the shares of Castrol Ltd. was Rs. 2,4007- to Rs. 25007- per share. As to what is the price of share on any day is known to the Bank and for that matter to any person interested in knowing value of the share. On July 29,1992 the price of the share of Castrol Ltd. had fallen to Rs. 7007- per share though it was more than the value of the share at the time these share were pledged with the Bank. The appellant has arrived at the figure of Rs. 8,50,0007- as the loss occasioned to him. On June 30, 1992 his overdraft account showed debit balance, of Rs. 3,40,962.53 with the Bank. The appellant, therefore, said that he suffered a loss of Rs. 5,09,037.47 after deducting the debit balance, which he thus claimed with interest and other charges like damages for loss of long standing business due to non renewal of letter of credit; for non-releasing of securities; undue and unjust harassment thus making a total of Rs. 29,56,264.76. On the face of it apart from the claim of damages for loss in selling of shares other claims are too much overblown to be considered at all. The appellant would, thus, be entitled to the award of Rs. 5,09,037.47 with interest at the rate of 11% per annum from August 1,1992. The bank is granted four weeks time to make the payment. In case of default, the appellant shall be entitled to further interest at the rate of 18% per annum on the amount of Rs. 5,09,037.47 from the date of the award till payment. We are not concerned in this appeal with the working of the overdraft account, which the appellant had with the Bank in respect of which shares of Castrol India Ltd. were pledged. In any amount is due to the Bank in any of the accounts of the appellant or of any of his firms where he is a partner or otherwise, the Bank shall be entitled to adjust the amount awarded by this judgment. Bank shall, however, not claim any interest or other charges on amount of Rs. 3,40,962.53 in the relevant overdraft account of the appellant from the date of filling of complaint before the National Commission.

25. The appeal is, therefore, allowed. Impugned judgment of the National Commission is set aside and the complaint of the appellant is allowed. There shall be award of Rs. 5,09,037.47 with interest at the rate of 11% from August 1,1992 in favour of the appellant and against the respondent Bank of India. Bank is granted four weeks time to make the payment of the amount so awarded. In case of default the appellant shall be entitled to further interest at the rate of 18% on Rs. 5,09,037.47 from the date of this judgment till payment. Bank shall be entitled to adjust the amount of award against any sum due to it from the appellant in any of his accounts with the Bank or any other account in which he has interest as a partner or otherwise. Parties shall bear their own costs.