

SUPREME COURT OF INDIA

Vijaya Bank

Vs.

Gurnam Singh

C.A.No.1064 of 2003

(D.K. Jain and T.S. Thakur JJ.)

02.12.2009

ORDER

1. This appeal, by special leave is directed against order dated 16th July, 2002, passed by the National Consumer Disputes Redressal Commission, New Delhi (for short, "the National Commission") declining to entertain the appellant's revision petition under Section 21(b) of the *Consumer Protection Act, 1986* (for short, "the Act").

2. The material facts, found by the forums below and relevant for the purpose of this appeal, are as follows:

“The respondent. (hereinafter referred to as "the complainant") had a savings bank account with the appellant bank. Somehow he lost his cheque book containing one unused leaf and the requisition slip required for issue of a new cheque book. On 24th September, 1999, when the complainant visited the bank to draw money, he was surprised to find that there was only a balance of Rs.1682.93 in his account. On enquiries being made, it transpired that the requisition slip had been used to get a new cheque book issued from the bank and the left over cheque in the lost cheque book had been misused to draw an amount of Rs.2,500/- from complainant's account. It was also discovered that an amount of Rs.3,50,000/- had been withdrawn from the account by using a cheque leaf of the newly issued cheque book.”

3. Having failed to get the amount so withdrawn from his account reimbursed by the bank, the complainant filed a complaint with the District Consumer Disputes Redressal Forum, U.T. Chandigarh, (for short, "the District Forum") alleging deficiency in service by the Bank. Upon consideration of the material before it, which included examination of complainant's account opening form; the requisition slip; and the cheque in question, vide order dated 4th December, 2001, the District Forum came to the conclusion that there was gross deficiency in the service by the bank which resulted in loss to the complainant.

4. The District Forum found that specimen signatures on the account opening form and the cheque used for withdrawal of money were different and more significantly when cheque in

the sum of Rs. 3,50,000/- was presented, balance in the account of the complainant was only 3,46,682.93/- and yet it was honoured by recording a debit entry of Rs. 3,317.07/- as recoverable from the complainant.

5. Consequently, the District Forum accepted the complaint and directed the bank to credit the amounts of Rs.2,500/- and Rs. 3,50,000/- less Rs. 5,000/- in the account of the complainant along with interest @ 10 per cent per annum w.e.f. 17th August, 1999 till the date of the correct entry.

6. Being aggrieved, the appellant preferred appeal to the Consumer Disputes Redressal Commission, U.T., Chandigarh (for short, " the State Commission") but without any success. The State Commission affirmed the findings recorded by the District Forum.

7. Not being satisfied, the appellant preferred revision petition before the National Commission. As afore-stated, the National Commission has dismissed the revision petition on the ground that both the forums below have recorded a concurrent finding of fact that there is negligence on the part of the bank in rendering the services. Hence, the present appeal.

8. We have heard Mr. Sanjay R Hegde, learned counsel appearing on behalf of the appellant. It is strenuously urged by the learned counsel that all the forums below have erred in ignoring the expert's opinion adduced in evidence by the bank in support of its stand that there was no forgery in the signatures on the cheques in question. We do not find any substance in the submission for the simple reason that the said report was no evidence in the eye of law. Admittedly, the report was not proved by summoning the expert. The Manager who had merely annexed the report with his affidavit could not prove the same and, therefore, the forums below were justified in ignoring the report. On a query by the Court as to how in the absence of any overdraft facility being enjoyed by the complainant, a cheque for the amount which was in excess of the balance amount in the account of the complainant could be honoured, learned counsel is unable to furnish any satisfactory explanation. In our opinion, this fact, highlighted by the State Commission, by itself is a glaring example of negligence/deficiency in the service of the bank.

9. In the light of of the factual scenario as emanating from the orders of the District forum as also the State Commission and bearing in mind the limited scope of revisionary jurisdiction of the National Commission, we are of the opinion that the National Commission was justified in declining to entertain the revision petition against the said orders. The appeal, being bereft of any merit, is dismissed accordingly with costs quantified at Rs. 10,000/-.