S R Sundaram Vs Asstt General Manager State Bank Of India, Manager State Bank of India

None

Court: NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Decision: July 10, 2012

Citation: 2012 0 NCDRC 340 : 2012 3 CPJ 455 : 2012 3 CPR 363

Hon'ble Judges: K.S.Chaudhari , Suresh Chandra J.

Advocate: Sabarish Subramaniam

Judgement

1. THIS revision petition has been filed against the order dated 29.07.2011 passed by the Tamil Nadu State Consumer Disputes Redressal

Commission, Chennai (in short, "the State Commission") in Appeal No. 26/2009 by which appeal was accepted and order of the District Forum

was set aside and complaint of the petitioner was dismissed.

2. BRIEF facts of the case are that the petitioner filed complaint before the District Forum and alleged that from his bank account maintained by

Respondent No.3, he withdrew a sum of Rs.15,000/- on 30.6.2007 through ATM and withdrew Rs.30,000/- by cheque. He was not permitted

to withdraw more than Rs.15,000/- per day through ATM under the rules but the Respondent No. 3 debited Rs.15,000/- twice on 30.6.2007

thereby committed negligence as well as deficiency in service and on account of this deficiency the petitioner claimed Rs.3,00,000/- as

compensation. The District Forum after hearing both the parties allowed the complaint and directed respondents to pay Rs.1,00,000/- as

compensation along with cost of Rs.5,000/-.

3. HEARD the learned Counsel for the petitioner at admission stage and perused record.

4. IT is an admitted fact that the petitioner withdrew only Rs.15,000/- on 30.6.2007 through ATM and he did not withdraw another Rs.15,000/-

on the same day through ATM but ATM machine recorded double entry of Rs.15,000/- as withdrawn in petitioner''s account on the same day. It

is also an admitted fact that petitioner sent a letter on 6.7.2007 by speed post to Respondent No.3 to rectify the mistake and this mistake was

rectified on 10.7.2007 i.e. within 4 days. It is also an admitted position that this mistake was not committed by staff member of the Respondent

No.3 but it appears that due to some technical defects ATM machine recorded double entry of withdrawal. In such circumstances, no deficiency

can be attributed on the part of the Respondent No.3 and learned State Commission has not committed error in accepting appeal and dismissing

complaint.

5. LEARNED Counsel for the petitioner also argued that the petitioner could not use his fund of Rs.15,000/- on account of wrong entry and he

was compelled to borrow money by pledging the jewels. No doubt, this fact has been mentioned in the order of the District Forum but no such

averment has been made in the complaint by the petitioner and in such circumstances it cannot be presumed that the petitioner had to borrow

money by pledging the jewels and the petitioner is not entitled to any compensation at all.

6. LOOKING to the fact and circumstances, it is not a fit case for admission and the revision petition is liable to be dismissed in limine at this stage.

The revision petition is accordingly dismissed with no order as to costs.