
(1996) 07 NCDRC CK 0003

In the National Consumer Disputes Redressal Commission

SURJIT KAUR

APPELLANT

Vs

STATE BANK OF PATIALA

RESPONDENT

Date of Decision : 03-07-1996

Acts Referred:

Citation : 1997 1 CLT 249 : 1998 1 CPJ 408

Hon'ble Judges : A.L.Bahri , R.L.Gupta J.

Final Decision : Appeal allowed

Judgement

1. JASMAIL Kaur Widow of Shri Isher Singh resident of Village Chahal, Teshil and District Faridkot had Saving Bank Account No. 6992 with State Bank of Patiala, Faridkot Branch. As per allegation of Surjit Kaur, complainant, she was named as nominee in the Account Opening Form by JASMAIL Kaur. After her death, Surjit Kaur approached the Bank for payment of the amount lying in credit of JASMAIL Kaur in the aforesaid account. The Bank-opposite party refused to make the payment which led Surjit Kaur to file the present complaint.

2. ON notice of the complaint. Bank denied that Surjit Kaur was the named nominee. Both the parties were given opportunities to produce evidence. Surjit Kaur produced her affidavit and affidavit of Sarpanch of the village. ON behalf of the Bank as the proceedings indicate, Paramjit Singh, Clerk of the Bank Book up the stand that the Opening form was with the Manager of the Bank. Subsequently, Manager took up the stand that after opening of the account, the Opening form was handed over to Paramjit Singh, the dealing Assistant. Ultimately, it was asserted that the opening form had been lost or was not traceable. The District Consumer Forum declined to adjudicate the dispute on the ground that complicated questions of fact and law were involved and that Surjit Kaur-complainant had not shown how she was in any manner connected with Jasmail Kaur in relation. The complaint was rejected and the complainant, if so advised, was ordered to approach the Civil Court for determination of her right. Surjit Kaur complainant is in appeal. At the time of arguments, nobody on behalf of the appellant has put-in appearance. We have heard Shri P.S. Arora, Advocate

for the respondent-Bank.

The case has been viewed from different angles. First being, that if the stand taken up by Surjit Kaur is accepted that she was the named nominee in the account opening form, obviously, the Bank was duty bound to pay the amount to the nominee and that would amount to full discharge of the Bank's liability for the amount in the account, lying in the name of the deceased. As to whether, Surjit Kaur has succeeded in establishing this fact, we have to go through the evidence produced. Without referring to the evidence produced by the complainant, it may be stated that during the proceedings, contradictory stand was taken by the Bank with regard to existence of account opening form filed by Jasmail Kaur. As briefly stated above and the proceedings of the District Forum indicate that Paramjit Singh, dealing Clerk of the Bank appeared and took up the stand that the opening form was with the Manager of the Bank. At the subsequent stage, the Manager of the Bank took up the stand that the opening form was handed over to Paramjit Singh after taking necessary entries in the register. If the opening form is still with the Bank and is not being produced for best reasons known to the Bank, the adverse inference can legitimately be drawn against the Bank that if produced, such document will not support the Bank. Secondly, if the original account opening form has been lost or is not traceable then secondary evidence could be looked into and in the present case secondary evidence has been produced which is an entry in the account register relating to the deceased i.e. ledger folio as well as entry in the Nomination register. Annexure "A" is an entry from ledger folio of Saving Bank in dispute. It mentions as under : "Account nominated in favour of Surjit Kaur, w/o Ganga Singh."

3. LIKE-wise in the copy of the Register of Nomination, the name of Surjit Kaur is mentioned followed by either "Ganga" word or "Banga" word. These copies have been produced on the record by the Bank. This evidence read with the evidence of the complainant given on affidavit, which is supported by the affidavit of Sarpanch Jagsir Singh is sufficient to hold that it is the complainant Surjit Kaur who was named as nominee by Jasmail Kaur while opening the Bank account. We hold accordingly. Although Jasmail Kaur who had opened the Bank account died about three years ago but no legal heir has so far come forward to make a claim with the Bank. But that per se is no ground to deny the relief to the nominee who of course would get the amount and keep it in Trust for the benefit of Legal heirs of the deceased.

4. FOR the reasons recorded above, this appeal is accepted. The order of District FORum is set aside. The complaint is allowed with the direction to the Bank to pay the amount lying in the aforesaid account to Surjit Kaur complainant as nominee after completing necessary Bank formalities, if any. These directions to be complied within three months of the receipt of the order. Appeal allowed.