(2000) 05 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

SWAPAN BISWAS APPELLANT

Vs

M.K. BANK OF INDIA RESPONDENT

Date of Decision : 05-05-2000

Acts Referred:

Citation : 2000 2 CLT 717 : 2000 2 CPJ 306 : 2000 3 CPR 313

Hon'ble Judges : S.C.Datta , Shilpi Majumder , D.Karformas J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is directed against order dated 17.7.1998 passed in C.D.F. Case No. 33/93 by the District Forum at Nadia. By the impugned order the claim of the complainant was dismissed on the ground that the complainant had failed to establish that he had deposited Rs. 39,000/- with the Bank on 9.11.1992.

2. THE fact involved in this case is that the complainant deposited Rs. 39,000/- is cash with the Bank by a Pay-in-Deposit Slip on 9.11.1992 in his Savings Bank A/c No. 1877 and Kuber A/c No. 6 and submitted his Passbook before the Bank for making necessary note therein. He also directed the Bank to transfer the said amount to his Kuber A/c but the employees of the Bank did not make necessary entry showing deposit of the said amount in his Bank till 28.9.1993 with the result that the two cheques amounting to Rs. 5,000/- each issued by him were bounced with the note "refer to the drawer" for which the petitioner claimed that he suffered heavy loss and humiliation. Accordingly, he approached the Forum claiming compensation and refund of the amount of Rs. 39,000/-, deposited by him on 9.11.1992. The case was contested by the Bank by filing a written version wherein it has been stated that the petitioner did not make deposit of Rs. 3,000/- as claimed in his petition on 9.11.1992. According to the Bank an employee named Shyamal Kr. Ghosh has committed suicide following investigation into some allegations of mis-appropriation, cheating, forgery, etc. According to the Bank, the complainant used to do banking transactions through the said Shyamal Kr. Ghosh without personally attending the account.

It is not disputed that the complainant opened a Savings A/c with the Bank in the year 1987 and the Kuber A/c was opened in the year 1992. It is the positive case of the complainant that he made deposit of Rs. 39,000/- with the Bank by a Pay-in-Deposit Slip on 9.11.1992 and submitted his passbook before the Bank for making necessary entry therein and also directed the Bank to transfer the amount to Kuber A/c. The complainant has taken oath to establish the case made in the complaint petition. His evidence during trial runs contrary to his case in the complainant''s petition. During cross-examination he has stated that he never instructed the Bank to transfer the amount lying at his credit in the Savings Bank A/c to Kuber A/c. The counter-foil of the Pay-in-Deposit Slip dated 9.11.1992 for Rs. 39,000/- alongwith other documents has been produced before the Forum from the custody, power and possession of the complainant on 12.4.1994. The Forum noticed that the seal of the Bank affixed on the front side of it is illegible and to some extent blurred. The counter-foil of the slip does not bear the signature of the depositor during trial. The brother of the complainant who examined himself as P.W. 2 admits that neither he nor his brother had put their signatures in the Pay-in-Slip. The Forum further noticed that there was an attempt to tamper with the same. The Forum also noticed some other interpolation in these all important documents. It appears that a sum of Rs. 39,000/- was shown as deposited with the Bank on 9.10.1992 and not on 9.11.1992 and the same was transferred to Kuber A/c on the same date and that too without any specific instruction from the depositor. The complainant withdrew a sum of Rs. 10,000/- twice by issuing two cheques from his Kuber A/c on 11.2.1992 and 2.4.1993 respectively knowing fully well when he had sufficient amount at his credit in the Savings Bank A/c. It is admitted that Kuber A/c is a high yielding long-term deposit scheme and it carries high rate of interest on the deposits. The case of the Bank was that an employee of the Bank viz, Shyamal Kr. Ghosh who committed suicide later used to run a parallel banking business with the depositor behind the back of the authority of the Bank. A criminal case was started against the said Shyamal Kr. Ghosh. Anyway the complainant having failed to substantiate his case to the effect that he had deposited Rs. 39,000/- with the Bank on 9.11.1992, the Forum on a consideration of the evidence both oral and documentary refused to grant any relief to the complainant. We have considered the matter seriously and find nothing to disagree. In our opinion, the complainant has signally failed to establish that he had deposited Rs. 39,000/- with the Bank on 9.11.1992. The Pay-in-Slip dyes not bear the signature of the depositor. The seal of the Bank affixed at its front side is illegible and to some extent blurred. Moreover, there had been attempts at interpolation of the document which is palpable on the face of the record. Therefore, on a careful consideration of the matter we find that the appeal is without any merit and as such we have no hesitation to dismiss it. Ordered that the appeal be dismissed on contest. Appeal dismissed.

