

Advantage Consumer

Monthly News Letter of Consumer Protection Council, Rourkela

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ADVANTAGE - XI

Queries & Answers through the Web

(www.advantageconsumer.com is the website of Consumer Protection Council, Rourkela. One of the major attractions of the website is that a visitor can ask queries on issues relating to consumer protection. Answers to these queries are made free of cost, by the Chief Mentor of the Council, Sri B. Vaidyanathan.)

Bank is responsible for safe custody of the Lockers and their contents, and it is liable to compensate the customer, for any deficiency.

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

FIRST APPEAL NO. 382 OF 2020

(Against the Order dated 31/01/2020 in Complaint No. 5/2018 of the State Commission Jharkhand)

STATE BANK OF INDIA

ADM. BUILDING BRANCH, P.O. BOKARO STEEL CITY,
827001, P.S. SECTOR-1, CITY POLICE STATION,
DISTRICT-BOKARO,

JHARKHAND

.....Appellant(s)

Versus

GOPAL PRASAD MAHANTY & ANR.

S/O. BALRAM MAHANTY, AT PRESENT RESIDENT OF
QUARTER NO. 4-F-6110, P.O. P.S.- SECTOR-4, BOKARO
STEEL CITY, DISTRICT-BOKARO, PIN-8270004

JHARKAHND

.....Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE R.K. AGRAWAL, PRESIDENT

HON'BLE DR. S.M. KANTIKAR, MEMBER

Dated : 07 Apr 2022

ORDER

1. The present Appeals have been filed against the Orders dated 31.01.2020 passed by the State Consumer Disputes Redressal Commission Jharkhand, Ranchi (hereinafter to be referred to as "State Commission"), whereby the Complaints filed by the Complainants were partly allowed and State Bank of India (hereinafter referred to as Opposite Party Bank) was directed to pay lump sum compensation of Rs 30,00,000/- within one month, failing which it would carry interest @6% p.a..

2. Since the facts and question of law involved in these First Appeals are similar, these Appeals are being disposed off by this common Order. However, for the sake of convenience, FA No. 382 of 2020 is treated as the lead case and the facts enumerated hereinafter are taken from Complaint No. 05 of 2018.
3. Brief facts of the case as narrated in the Complaint are that the Complainants had Saving Bank Account and several High Value Fixed Deposit Accounts for nearly last four decades with State Bank of India, Bokaro Steel City (hereinafter referred to as the 'OP Bank'). They were also allotted Safe Deposit Locker No. 1/46 by the OP Bank. During the intervening night of 25th and 26th December 2017 a theft took place in the OP Bank as a result of which various items including jewellery and postal deposit instruments which were kept in the Safe Deposit Locker by the Complainants, were taken away by the miscreants/thieves. In the evening of 26.12.2017, they came to learn from the news media that on or about 25th December 2017 (night) some Safe Deposit Lockers had been broken open by thieves and valuables had been stolen away. It is averred that no intimation was given to them by the OP Bank. On the following day i.e., on 27.12.2017, they rushed to the OP Bank and found three lists pasted on the wall of the main entrance and the complainants noted that among others, that their Safe Deposit Locker No. 1/46 has been broken open and burgled. The Complainants met the Officer of the OP Bank, who confirmed about the incident and asked them to furnish a list of their valuables. According to the Complainants the Locker contained gold jewellery assessed at Rs 32,00,000/-, Silver jewellery, cash, and antiques, valued at Rs 1,85,000/- (excluding antique value), Wrist watches valued at Rs 34,000/- and bank and postal documents.
4. It is averred by the Complainants that the OP Bank did not follow the guidelines of RBI and because of deficiency in service on the part of the OP Bank, their Safe Deposit Locker No. 1/46 along with several other Safe Deposit Lockers of several other Consumers had been broken open and burgled and all valuables kept therein, stolen. Alleging deficiency in service on the part of the OP Bank, the Complainants filed Consumer complaint before the State Commission seeking compensation of their loss and damages to the extent of Rs 34,19,000/- along with Rs 15,00,000/- towards mental trauma, along with interest @ 15% p.a. and Rs 15,000/- towards cost of litigation.
5. The Complaint was resisted by the OP Bank before the State Commission. They denied all the allegations levelled by the Complainants and submitted that apart from the security measure adopted by the OP Bank in compliance to the directions issued by the RBI, as also that of the OP Bank, the OP Bank had installed Fire Detection and Alarm System, Security Alarm System and CCTV system in its entire premises inside and outside the branch to guard against any untoward incident. The said Fire Detection and Alarm System, Security Alarm System and CCTV system were operational at the time of the incident. But the miscreants had neutralized the Fire Detection and Alarm System and Security Alarm System to facilitate the incident. They further neutralized the CCTV cameras one by one and in course of that their activities were recorded in the Digital Video Recorders (DVRs). There were three DVRs installed in the branch and out of those, the miscreants took away one of them which has been later recovered by the police. It is pertinent to mention here that the CCTV system was functional at the time of the incident which helped the police to nab the miscreants. All the three DVRs are in the custody of Bokaro Police. It was submitted that there was no deficiency in service on their part and prayed that the Consumer Complaint be dismissed.
6. After hearing both the Parties and perusal of material on record, the State Commission partly allowed the Complaint by observing as under: -
7. "3. In their written statement, the opposite party in paragraph 24 have stated as follows:

"That it is denied that no smoke, security arrangement or burglar alarm system is functional. It is stated and submitted that apart from the security measure adopted by the OP Bank in compliance to the said circular of the RBI, as also that of the OP Bank, the OP Bank had installed Fire Detection and Alarm System, Security Alarm System and CCTV system in its entire premises inside and outside the

branch to guard against any untoward incident. The said Fire Detection and Alarm System, Security Alarm System and CCTV system were operational at the time of the incident. But the miscreants had neutralized the Fire Detection and Alarm System and Security Alarm System to facilitate the incident. They further neutralized the CCTV cameras one by one and in course of that their activities were recorded in the Digital Video Recorders (DVRs). There were three DVRs installed in the branch and out of those, the miscreants took away one of them which has been later recovered by the police. It is pertinent to mention here that the CCTV system was functional at the time of the incident which helped the police to nab the miscreants. All the three DVRs are in the custody of Bokaro Police.”

4. Upon perusal of the aforementioned statements made in the written statement by the opposite party, it is very difficult for us to come to a specific conclusion as to what were the actual contents of the locker.

5. Under the circumstances we are inclined to accept the arguments of the learned counsel for the opposite party that this is a case of mere hiring of space and even the Bank had no knowledge about the contents of the Lockers.

6. Paragraph 17 of the written statement reads as follows:

“That it is stated and submitted that the said two cabinet type safe deposit lockers have been manufactured by M/S Gunnebo India Ltd., erstwhile M/S Steelage Industries Limited which is on the panel of the OP Bank for supplying security equipments to the various branches of the OP bank. The said cabinet type safe deposit lockers provide two-layer protections to each cabinet. The one outer door is made of very thick and heavy armoured steel and further bears a strong safe lock which provides security in the nature of a strong room. The said outer door bears two locks which are locked by the OP Bank whereas within that door each cabinet is locked by their users.”

7. When asked as to how the complainants proved the contents of the locker, he clearly stated that he would not be able to establish and prove the contents of the locker. However, from the facts of the case, it is clear that there was a burglary which had certainly caused huge loss to the complainants. They had blindly accepted the locker and in their faith and trust they had kept their valuables. This would be evident from Annexure-2 which is a list given by the complainants.

8. Under the circumstances, we are of the view that a lump sum compensation towards mental trauma can be granted and taking these facts into consideration we grant a sum of Rs 30,00,000/- (Rupees Thirty Lakhs only) as compensation to be paid to the complainants for the mental trauma that they have suffered. Such payment should be made to the complainants within a period of one month from the date of receipt of this order. In the event, the payments are not so made, the same shall carry interest @ 6% p.a. (simple) and upon failure of the opposite party in making payment, the same may, in addition to other remedies, will be recoverable as arrears of land Revenue.”

7. Feeling aggrieved by the Impugned Order dated 31.01.2020 passed by the State Commission, while the Opposite Party Bank has filed Appeal Nos. FA/382/2020 and FA/383/2020 for setting aside the Order passed by the State Commission, Complainants have preferred Cross-Appeals bearing Appeal Nos. FA/388/2020 and FA/463/2020 for enhancement of the Compensation awarded by the State Commission.
8. Mr. Jitendra Kumar, learned Counsel appearing on behalf of the State Bank of India, submitted that the stolen goods were recovered by the Police from the thieves and out of the recovered goods; the Complainants had identified their goods. It was further submitted that all the precautionary measures/directions for maintaining the lockers were followed by the Bank and there is no deficiency in service on their part. In the circumstances the impugned Order passed by the State Commission awarding lump-sum compensation of Rs 30,00,000/- towards mental agony is bad in the eyes of law and it was prayed that the Impugned Order dated passed by the State Commission be set aside.

9. *Per contra*, the Complainants in person, submitted that in the Test Identification Parade conducted by the Police of the seized jewellery and other valuables, they could identify only small quantity of their jewellery because most of the jewellery was in distorted shape due to rough handling by the burglars and substantial quantity of jewellery was melted and transformed into Gold Biscuits. It was further submitted that they have suffered mental torture and struggled for nearly two years without support travelling from Bokaro City to Ranchi to pursue the proceedings before the State Commission and prayed for enhancement of the Compensation awarded by the State Commission.
10. We have heard Mr. Jitendra Kumar, learned Counsel appearing on behalf of the State Bank of India, Mr. Gopal Prasad Mahanty and Mr. Shashi Bhushan Kumar, Complainant in person, perused the material available on record and have given thoughtful consideration to the various pleas raised by the Parties.
11. The very purpose for which the customer avails of the Locker hiring facility is so that they may rest assured that their assets are being properly taken care of. But in the present case the OP Bank failed to take care of the assets/valuable articles of the Complainants which were lying in the Lockers provided by the OP Bank. Although, the stolen goods were seized by the Police and the Complainants could identify only small quantity of their jewellery because most of the jewellery was in distorted shape due to rough handling by the burglars and substantial quantity of jewellery was melted and transformed into Gold Biscuits, yet the OP Bank cannot be absolved from the deficiency in service on their part. We do not find any ground to interfere with the well-reasoned Order passed by the State Commission.
12. For the reasons stated hereinabove, we do not find any merit in the present Appeals. Consequently, the Impugned Orders dated 31.01.2020 passed by the State Commission are upheld and all the Appeals are dismissed. ■

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