**BEFORE THE HON’BLE DISTRICT CONSUMER DISPUTE REDRESSAL COMMISSION, (MAIN) VADODARA**

**CC.No.61/2020**

IN THE MATTER OF:

1. Jagrut Nagrik

Through their Managing Director P. V. Moorjani

Opp. LBS Vidhyalay, Nr. Prerna School,

Sangam, Karelibaug Road, Vadodara

1. Bhavesh C. Panchal

Res. D-194, Surbhi Park,

Inside Shree Hari Town Ship, Sayaji Park,

Ajwa Road, Vadodara - 390 019.

................ COMPLAINANT

Vs.

The Manager, State Bank of India.

Shop No : 12 to 18, GF" Kanha. Near LPG Pump,

Kamla Nagar, Ajwa Road,

Vadodara, Gujarat - 390 019.

............. OPPOSITE PARTY

COMPLAINT UNDER SECTION 35 OF THE CONSUMER PROTECTION ACT

RESPECTFULLY SHOWETH:

1. That the Complainant No. 1 is a public trust working as a voluntary consumer association for the welfare and benefit of consumers. The Complainant No. 2, a citizen of India residing in Hastinapur Society, Karelibaug, Vadodara, has filed the present complaint through the first complainant.
2. The Complainant No. 2 holds a Savings Bank account (Account No: XXXXXXX2704) with the Opponent Bank, State Bank of India.
3. The Opposite Party above named is situated in Ajwa Road, Vadodara.
4. This complaint relates to the deficiency in financial services of the opposite party faced by the complainant.
5. On 05/09/2019, Complainant No. 2 received an SMS notification indicating an available balance of Rs. 61.07 in his Savings Bank account, instead of the expected Rs. 41,249.77.
6. Concerned about the significant discrepancy, Complainant No. 2 immediately visited the Opponent Bank's branch to seek clarification and rectify the issue.
7. Upon inquiry, it was revealed by the bank's records that three unauthorized ATM transactions had been made: two withdrawals of Rs. 20,000 each on 26/01/2019 and one withdrawal of Rs. 1,000 on 27/01/2019. These transactions were conducted at an ATM located at Hanuman Temple, Jharkhand.
8. Complainant No. 2 affirmed that he did not authorize these transactions and was not present in Jharkhand at the time. He did not receive any SMS alerts prior to or during the transactions, which is a mandatory security measure expected from the Opponent Bank to prevent fraudulent activities.
9. On 12/09/2019, Complainant No. 2 lodged a formal complaint regarding the fraudulent transactions and simultaneously informed the Opponent Bank through a written complaint
10. Despite these efforts, the Opponent Bank did not provide any satisfactory resolution or explanation for the unauthorized debits, nor did they take any corrective actions to reimburse the lost amount.
11. Subsequently, on 14/10/2019, a legal notice was served to the Opponent Bank demanding the reversal of the fraudulent transactions and compensation for the inconvenience caused. This notice was acknowledged by the Bank on 16/11/2019, yet no further action or response was forthcoming from the Opponent Bank.
12. The failure to send mandatory SMS alerts for the unauthorized transactions is a clear breach of the security protocols and services that the Opponent Bank is obliged to provide. The mental agony, distress, and financial inconvenience caused to Complainant No. 2 due to the unauthorized debits and the subsequent non-responsiveness of the Opponent Bank amount to a severe deficiency in service and dereliction of duty towards the consumer.
13. The Complainant relies on the following evidences:
    1. Xerox copy of the SMS received on 05/09/2019
    2. Xerox copy of the statement of account dated 12/09/2019
    3. Xerox copy of the ATM transaction details and location dated 12/09/2019
    4. Xerox copy of the letter to the Opponent dated 12/09/2019
    5. Xerox copy of the legal notice dated 14/10/2019 and acknowledgment of receipt dated 16/11/2019
14. The complainant has not filed any complaint having the same cause of action in any other forum or court.
15. The complainant resides within the jurisdiction of this Hon'ble Commission. Hence this Hon'ble Commission has jurisdiction to try and entertain this complaint
16. The total consideration amount paid in purchasing the mobile phone is less than Rs. 50 lakhs. Hence, this Hon'ble Commission has jurisdiction to entertain this complaint.
17. The cause of action arose on 05/09/2019 which is within the limitation period prescribed under the Act. Hence, the claim in the complaint is not barred by the law of limitation.
18. The Complainant is complying with the Court Fees Mandated under Rule 7 of the Consumer Protection (Consumer Dispute Redressal Commission) Rules, 2020.
19. In light of the above facts and circumstances, the Complainants respectfully pray that this Hon’ble Commission be pleased to:
    1. Direct the Opponent to credit Rs. 41,000/- to the Complainant No. 2's account along with 9% interest from the date of filing the complaint until realization.
    2. Award compensation of Rs. 5,000/- for mental harassment and agony.
    3. Award costs of Rs. 5,000/- for litigation.
    4. Pass any other order as this Hon’ble Commission deems fit and proper in the interest of justice.

Dated this day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**COMPLAINANT**

**VERIFICATION**

I, Bhavesh C. Panchal, resident of Sayaji Park, Ajwa Road, Vadodara hereby declare that I have not misrepresented any facts nor have tried to hide any information in my above complaint. All the facts mentioned herein are true to the best of my knowledge.

Name & signature of the complainant