

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 333 OF 2013**

(Against the Order dated 21/08/2012 in Appeal No. 866/2010 of the State Commission Punjab)

1. KULWINDER KAUR & 2 ORS.

WD/O SH VIKRAMJIT SINGH, 15486, MATA JIWI  
NAGAR

BATHINDA

PUNJAB

2. MANJOT SINGH MINIO S/O SH. VIKRAMJIT  
SINGH,

15486, MATA JIWI NAGAR

BATHINDA

PUNJAB

3. RANJIT KAIR, W/O SH AMRJIT SINGH & M/O SH.  
VIKRAMJIT SINGH,.

15486, MATA JIWI NAGAR

BATHINDA

PUNJAB

.....Petitioner(s)

Versus

1. STATE BANK OF PATIALA & ANR.

THROUGH ITS GENERAL MANAGER, REGION 1,  
ZONAL OFFICE, AMRIK SINGH ROAD,

BATHINDA

PUNJAB

2. BRANCH MANAGER, STATE BANK OF PATIALA

BATHINDA CANTT, BRANCH

BHATINDA

PUNJAB

.....Respondent(s)

**REVISION PETITION NO. 334 OF 2013**

(Against the Order dated 21/08/2012 in Appeal No. 115/2011 of the State Commission Punjab)

1. AMARJIT SINGH & ANR.

S/O SH. SAMPURAN SINGH, R/O 162221-A, STREET  
NO-10/5 GURU GOBIND SINGH NAGAR,

BATHINDA

PUNJAB

2. SHAMSHER SINGH, S/O SH. AMARJIT SINGH

R/O 162221-A, STREET NO-10/5 GURU GOBIND

SINGH NAGAR,  
BATHINDA  
PUNJAB

3. SHAMSHER SINGH, S/O SH. AMARJIT SINGH  
R/O 162221-A, STREET NO-10/5 GURU GOBIND  
SINGH NAGAR,  
BATHINDA  
PUNJAB

.....Petitioner(s)

Versus

1. STATE BANK OF PATIALA & 4 ORS.  
THROUGH ITS GENERAL MANAGER, ZONAL  
OFFICE, AMRIK SINGH ROAD,  
BATHINDA  
PUNJAB

2. BRANCH MANAGER, STATE BANK OF PATIALA  
BATHINDA CANTT, BRANCH  
BATHINDA  
PUNJAB

3. KULWINDER KAUR, WD/O SH VIKRAMJIT  
SINGH,  
15486, MATA JIWI NAGAR  
BATHINDA  
PUNJAB

4. MANJOT SINGH MINIO S/O SH. VIKRAMJIT  
SINGH,  
15486, MATA JIWI NAGAR  
BATHINDA  
PUNJAB

5. RANJIT KAIR, W/O SH AMARJIT SINGH & M/O  
SH. VIKRAMJIR SINGH.,  
15486, MATA JIWI NAGAR  
BATHINDA  
PUNJAB

.....Respondent(s)

**REVISION PETITION NO. 335 OF 2013**

(Against the Order dated 21/08/2012 in Appeal No. 1447/2010 of the State Commission Punjab)

1. KULWINDER KAUR & 2 ORS.  
WD/O SH VIKRAMJIT SINGH, R/O HOUSE  
NO-15486 MATA JIWI NAGAR  
BATHINDA  
PUNJAB

2. MANJOT SINGH, S/O SH VIKRAMJIT SINGH,

R/O HOUSE NO-15486 MATA JIWI NAGAR  
BATHINDA  
PUNJAB

3. RANJIT KAUR , W/O SH AMARJIT SINGH & M/O  
SH VIKRAMJIT SINGH

R/O HOUSE NO-15486 MATA JIWI NAGAR  
BATHINDA  
PUNJAB

.....Petitioner(s)

Versus

1. STATE BANK OF PATIALA & ANR.  
THROUGH ITS GENERAL MANAGER, ZONAL  
OFFICE, AMRIK SINGH ROAD,  
BATHINDA  
PUNJAB

2. BRANCH MANAGER, STATE BANK OF PATIALA  
,  
BATHINDA CANTT BRANCH  
BATHINDA  
PUNJAB

.....Respondent(s)

**BEFORE:**

**HON'BLE MRS. JUSTICE DEEPA SHARMA,PRESIDING MEMBER  
HON'BLE MR. C. VISWANATH,MEMBER**

**For the Petitioner :** Mr. Sanjeev Kumar, Advocate

**For the Respondent :** Mr. S.K. Tyagi, Advocate

Mr. Sirish Varma, Advocate

**Dated : 19 Aug 2019**

**ORDER**

1. All these three revision petitions will be disposed of by the common order as the same arise out of a common order of the State Commission dated 21.8.2012 by which appeals of the petitioners were dismissed.

2. Brief facts of the case are that three persons, namely, Amarjit Singh, Shamsher Singh and Vikramjeet Singh (hereinafter called as loanees) applied for sanction house loan. An amount of Rs.8,13,789/- was sanctioned to them. The sanctioned amount was to be disbursed in three installments of Rs.2,40,000/-, Rs.3,20,000/- and Rs.2,40,000/- and was to be credited in the joint account of the loanees. Two installments of sanctioned loan amount of Rs.2,40,000/- and Rs.3,20,000/- were disbursed to the loanees. The respondent also sanctioned Rs.13,789/- in their loan account as premium of SBI insurance policy which was calculated on the basis of youngest loanee. At the time when the loan was sanctioned the premium was calculated on the total amount of Rs.8,13,789/-, means that it also calculated the amount sanctioned as a premium of SBI

insurance policy. One of the loanee i.e. Vikramjit Singh, the youngest among the loanee, expired on 13.1.2009 during the loan repayment period. As

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per the terms & conditions of the loan sanctioned, the contention of the loanees was that the balance EMI had become payable by the insurance company. The EMI which was fixed @ Rs.10,257/- was payable in 168 monthly installments. The claim of this effect was filed with the respondent but the respondent rejected the claim vide their letter dated 20.8.2009.

3. Aggrieved by it, the LRs of the deceased Vikramjit Singh filed complaint being CC/278/2009 and the remaining two loanees filed C/524/2010.

4. The District Forum vide order dated 31.3.2010 in CC/278/2009 issued following directions: -

*“i) Make reverse entry of Rs.13,789/-.*

*ii) The amount of EMI received by the opposite parties on account of this account so far is directed to be credited to the account of the loanees.*

*iii) Next EMI should be rescheduled on the house/building loan of the loanees as per the disbursed loan amount.*

*The compliance of this order be made within 30 days from the date of receipt of copy of this order.*

*A copy of this order be sent to the parties concerned free of cost and file be consigned.”*

5. Vide order dated 6.2.2010 CC/524/2010 was dismissed. Three appeals by the complainants and the respondent were filed before the State Commission. All the three appeals were dismissed by the State Commission vide the

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impugned order. The complainants by way of these three revision petitions have impugned the said order.

6. The claim of the loanees and the LRs of the deceased loanee in their claim petition was that at the time when the loan was sanctioned and they filed all the relevant documents, they had also signed the proposal form and on the basis of which the insurance premium amount was calculated @ Rs.13,789/- and therefore, the repudiation letter whereby their claim was rejected by the respondent was illegal and this amounts to deficiency in service on the part of the respondent because once the proposal form has been filled by them and the premium has also been sanctioned

by them, it was their duty either to deposit the said amount with SBI life insurance so that the policy could be obtained or to release the said money to the loanees so that they could pay the premium for buying the SBI insurance policy. It is submitted that since it has not been done, it amounts to deficiency in service and hence there is a patent illegality in the impugned order. It is submitted that the impugned order is based on presumptions and assumptions. It is submitted that there is no evidence on record to substantiate the contention of the respondent that the proposal form was not filled at the time of sanction of the loan and that the loanees were asked several times to come and sign the proposal form by the respondent, on record. It is submitted that despite the fact that no evidence had been produced by the

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respondent to substantiate their contention and justify the repudiation, on the basis of presumption of fact, the Fora below had concluded otherwise. It is submitted that since all the documents had been in the possession of the respondent, in order to escape their liability they have taken false plea in the repudiation letter that the proposal form was not filled. It is argued that the very fact that the premium had been calculated taking into account the youngest member of the joint loanees, clearly establish that the proposal form was duly filled at that time. It is submitted that the impugned order is therefore liable to be set aside.

7. It is argued on behalf of the respondent that the burden is upon the petitioners to prove that they had signed the proposal form. It is submitted that all the witnesses of the respondent including the Branch Manager who had sanctioned the loan and had been examined as R-1 before the District Forum has clearly stated that the proposal form was not filled by the loanees but they took time to discuss among themselves as to in whose name the policy was to be purchased. It is submitted that since they did not submit any proposal form, the sanctioned money was not released to the SBI insurance company. It is also argued that issuance of the policy is in favour of the respondent because that ensures the due payment of the premium in case of any causality of loanees and they would have certainly ensured the issuance of the policy had the proposal

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form been filled by the borrowers/loanees. It is submitted that there is a concurrent finding of the fact that the proposal form was not filled by the borrowers/loanees and therefore they have been absolved of the liability and the repudiation of the claim was justified.

8. We have heard the learned counsels of both the parties at length and have perused the trial court record which has been summoned by us. The claim of the loanees/borrowers was repudiated by the respondent. The repudiation letter reads as under: -

*"Please refer to your letter dated 3.8.2009 regarding claim of SBI Life Insurance of your husband Sh. Vikramjit Singh who expired on 13.1.2009.*

*In this regard, we advise that matter on the above subject was already taken up by Sh. Shamsher Singh (brother of Sh. Vikramjit Singh) vide his letter dated 3.2.2009 and reply in this regard was sent vide our No.AGM-I(B) STAFF/171 dated 28.3.2009 (copy enclosed. However, we may again inform you that as advised by us the Branch Manager of our Bathinda Cantt. Branch they repeatedly called the borrowers to sign the proposal for SBI Life Insurance and to specifically mention the name of the borrower in whose*

*name the SBI Life Insurance Policy was to be issued out of all the three joint borrowers, but you did not turn up for the same whereby insurance could not be effected in the House Loan Amount.*

*Moreover, had the insurance policy been issued, as per rules and regulations of the SBI Life Insurance Policy, the insurance claim was not payable if the borrower died within 45 days of commencement of insurance cover except for a claim arising out of death due to accident. Unfortunately, Sh. Vikramjit Singh died of cardiac arrest on 13.1.2009 i.e. within 41 days from the date of 1<sup>st</sup> distribution of House Loan in terms of your letter dated 27.1.2009 (enclosed), the insurance claim was not eligible therein otherwise also.*

*Assuring you our best services.”*

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9. The main ground for repudiation is that the borrowers did not furnish the proposal form for SBI life insurance policy and this is the main issue between the parties. While the petitioners state that they did file the proposal form, the stand of the respondent is that proposal form was not filled at the time when they signed all the papers relevant to sanction of loan on the ground that they will discuss it at home and decide as to in whose name the policy should be issued. In the repudiation letter the respondent has also taken up the plea that the borrowers were repeatedly called to sign the proposal form for SBI life insurance but they did not turn up.

10. Both the parties have only led oral testimonies in support of their contentions. The issue before this Court is as to whose testimony is to be accepted as correct and whose testimony is to be rejected. There is no doubt that bank is an institution which acts as per norms and rules. The bank always communicates through letters or emails or otherwise. When we analyze the oral testimony of both the parties, it is apparent that the oral testimony of the respondent is also supported by their contention in the repudiation letter that the borrowers/loanees did not turn up to sign the proposal form for SBI life insurance policy despite repeated information to them. This positive plea of the respondent requires to be proved by them. The burden under the law is on the respondent to prove that they had sent several communications asking the

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loanees to sign the proposal form as alleged by them in their repudiation letter. Once they succeed in doing so then the oral testimony of the petitioners becomes unreliable. In the present case learned counsel for the respondent has failed, after perusing the trial court record, to bring to our notice any communication sent by the respondent to the petitioners asking them to furnish/sign the proposal form for SBI life insurance. Neither in the written version nor in the letter of repudiation the date of which such communication was sent finds mention. In the light of these, there is no reason to discard the oral testimony of the petitioners wherein they stated that they did fill the proposal form alongwith all the other papers which they sent at the time when the loan was sanctioned. In the absence of any communication calling upon the borrowers/loanees to come and sign the proposal form for SBI life insurance, this statement of the borrower/loanee, coupled with the fact that the premium amount of Rs.13,789/- was also calculated and sanctioned by the respondent, supports their contention that they did sign the proposal form. In view of these observations of ours, it is clear that the Fora below have failed to take into consideration the vital element of the evidence which is non-production of relevant documents by the respondent.

Certainly it was the duty of the respondent to produce all those communications. Non-production of the important and necessary document by the respondent certainly weakens their

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stand. The Fora below therefore have acted perversely and they have neglected the important piece of evidence.

11. Since it stands approved that the respondent bank despite sanctioning the premium amount neither had deposited the same with the SBI insurance company for issuance of the insurance policy, nor had informed the loanees/borrowers to do the needful for getting the policy, there is certainly deficiency in service on their part.

12. We, therefore, set aside the impugned order. For this deficiency in service, we award a compensation of Rs.4 lakhs alongwith litigation cost of Rs.10,000/-. It is also directed that the respondent shall make reverse the entry of Rs.13,789/- and readjust the EMI and the interest charged on this amount accordingly and next EMI shall be rescheduled after making such adjustment. Petitioners shall continue to make payment as per rescheduled amount. This rescheduling be done by the respondent within eight weeks. The compensation amount shall be used by the petitioners in payment of the EMIs.

13. With these directions, all the three revision petitions stand disposed of.

.....J  
**DEEPA SHARMA**  
**PRESIDING MEMBER**  
.....  
**C. VISWANATH**  
**MEMBER**