**Dogra v Barclays Bank**

**Division:** High Court of Kenya at Nairobi

**Date of judgment:**

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**Case Number:** 481/1965

**Before:** Rudd J

**Sourced by:** LawAfrica

*[1] Defamation – Libel – Cheque – Refer to drawer – Words not defamatory.*

*[2] Banking – Banker and customer – Negligence – Failure to credit account – Whether negligence.*

*[3] Damages – Contract – Breach of – Failure by banker to credit customer’s account – Nominal damages.*

**Editor’s Summary**

The plaintiff banked with the defendant bank. His salary was paid to the bank by the police for whom he worked on a composite list on which his name was incorrectly recorded. For some time the salary was in fact credited to his account but one month the defendant’s employee did not know where to credit the payment, put it into a suspenses account and made enquiries. Before the enquiries had been successful, the plaintiff drew two cheques which were returned marked “refer to drawer”. After rectification of the mistake both recipients accepted the plaintiff’s explanation. The plaintiff sued the defendant for general damages, alleging breach of contract and libel. No special damages were pleaded. It was alleged that the bank was negligent in failing to credit the account and that “refer to drawer” meant that the plaintiff had drawn a cheque which he knew would not be met and that he was not worthy of credit.

**Held –**

(i) on the facts the defendant had not been negligent;

( ii) the words “refer to drawer” did not bear a defamatory meaning;

(iii) the words were not published of the plaintiff in his capacity of a police officer;

(iv) nominal damages only would have been awarded.

Case dismissed.

**No cases referred to in judgment**