

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9743 OF 2024

Buniya Devi Chauhan Through Power of
Attorney Holder Dharmendra Shambhunath
Chauhan .. Petitioner

Versus

The General Manager, Central Bank of India and
Ors. .. Respondents

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- Mr. Chhangur S. Chauhan, Advocate for Petitioner.
- Mr. T.N. Tripathi a/w. Ms. Somya Tripathi, Advocates i/by TN Tripathi & Co. for Respondent Nos. 1 and 2.
- Mr. Vipul Patil i/by Mr. Prashant Aher, Advocates for Respondent No. 3.

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CORAM	: MILIND N. JADHAV, J.
RESERVED ON	: SEPTEMBER 30, 2025.
PRONOUNCED ON	: OCTOBER 15, 2025.

JUDGMENT:

1. Heard Mr. Chauhan, learned Advocate for Petitioner, Mr. Tripathi, learned Advocate for Respondent Nos.1 and 2 and Mr. Patil, learned Advocate for Respondent No. 3.

2. Petitioner Buniya Devi Chauhan is original complainant before the State Consumer Dispute Redressal Commission, Maharashtra. Complaint is filed against Respondent No. 1 – Bank. By order dated 14.09.2016, the State Consumer Dispute Redressal Commission, Maharashtra allowed the Complaint directing the Bank to refund Rs. 25,28,515/- alongwith 6% interest per annum from

complaint date and directed payment of compensation of Rs. 2,00,000/- for mental harassment alongwith litigation cost of Rs. 25,000/- to Petitioner. The Bank being aggrieved appealed before National Consumer Disputes Redressal Commission, New Delhi. The Appellate Authority by order dated 03.01.2022 allowed the Appeal filed by Respondent No.1 – Bank and set aside the order passed by the State Consumer Dispute Redressal Commission, Maharashtra. Buniya Devi therefore filed Review Application before the National Consumer Disputes Redressal Commission, New Delhi which stood dismissed by order dated 12.04.2022. Hence, being aggrieved, Buniya Devi approached this Court by present Writ Petition to challenge the orders dated 31.01.2022 and 12.04.2022 passed by National Consumer Disputes Redressal Commission, New Delhi.

2.1. Briefly stated, Petitioner is an illiterate widow entitled to compensation of USD \$55,000 (Rs. 25,28,515/-) from the employer of her husband who died on 10.01.2003 in an accident in Tzanjin Port, China. Respondent No. 3 i.e. Gulab Chand A. Chauhan with hand in glove with the officer of Respondent - Bank played fraud on Petitioner by surreptitiously adding her name jointly with him in his existing Savings Bank Account No.26589 in Wadala Branch and converted it into a joint account with “either or survivor” basis on a formal application made by Respondent No. 3 without signature of any witness when the Petitioner approached the branch of Respondent

Bank to open her separate individual Savings Account. The inevitable happened and entire money was withdrawn by Respondent No.3 fraudulently. He was convicted for this offence.

2.2. It is Petitioner's case that she was under the impression that her separate Savings Account was opened in Respondent – Bank. Pursuant to opening of account she deposited cheque of USD \$55,000 (about Rs. 25,28,515/-) in the Joint Account and returned back to her native place in Deoriya (U.P.) and stayed there from September 2004 to 24th August, 2005. In the interregnum, Respondent No. 3, i.e. Gulab Chand A. Chauhan withdrew the entire amount from the Joint Account by cheque and by filling withdrawal slip form without informing Petitioner and most importantly Respondent - Bank allowed him to withdraw the entire amount ignoring all Rules of procedure laid down by the Indian Banks' Association/ Reserve Bank of India.

2.3. On 29.08.2016, Respondent No.3 was convicted for offences punishable under Section 248(iii) of Criminal Procedure Code, 1973 read with Sections 406, 420, 467, 468 and 471 of Indian Penal Code, 1860 for his above acts.

2.4. On 14.09.2016, State Consumer Dispute Redressal Commission, Maharashtra in CC/08/37 held Respondent Nos. 1 to 3 responsible and directed them to refund the amount of Rs. 25,28,515/- by crossed payee pay order together with 6% interest per annum from

the date of filing of Complaint till realization alongwith compensation of Rs. 2,00,000/- for mental harassment of Petitioner and litigation costs of Rs. 25,000/- payable within 2 months to Petitioner.

2.5. Respondent – Bank filed Appeal against the order of State Consumer Disputes Redressal Commission, Maharashtra dated 14.09.2016 in CC/08/37.

2.6. By order dated 03.01.2022, National Consumer Disputes Redressal Commission, New Delhi, quashed the order dated 14.09.2016 and allowed the Appeal filed by Respondent - Bank

2.7. Buniyadevi filed Review which is dismissed by order dated 12.04.2022. Hence the present Petition.

3. Mr. Chauhan, learned Advocate appearing for Petitioner would submit that the National Consumer Disputes Redressal Commission, New Delhi erred in setting aside the order of the State Commission. He would submit that Petitioner being an illiterate widow received compensation of USD \$55,000 (Rs.25,28,515/-) from her husband's employer after his death in an accident at Tzanjin Port, China on 10.01.2003 which belonged to her. He would submit that Petitioner approached Respondent-Bank, Wadala Branch, Mumbai to open a separate Savings Account however Respondent No. 3, Gulab Chand A. Chauhan in connivance with Bank Officials fraudulently added Petitioner's name to Respondent No.3's existing Savings Account

No.26589 and converted it into a Joint “Either or Survivor” Account without any witness or proper authorization.

3.1. He would submit that Petitioner being an illiterate person presumed the Join Account to be her own account and deposited the compensation amount cheque received in that account and returned back to her native place, Deoriya (U.P.) from September 2004 to 24 August 2005. He would submit that, in the meanwhile, Respondent No. 3 withdrew the entire amount by several cheques and withdrawal slips. He would submit that it is surprising that Bank Officers permitted several withdrawals which was in clear violation of Rules framed by the Indian Banks’ Association and the Reserve Bank of India “Know Your Customer norms”.

3.2. He would submit that there are clear guidelines wherein in case of an Account where one holder is an illiterate person then operation by cheque and “Either or Survivor” facility is not permissible. He would submit that in contravention of the said guidelines and Rules, the Bank allowed not only allowed converting the single Account of Respondent No.3 into a Joint Account but also subsequently allowed several transactions using cheques and withdrawal slips by Respondent No. 3 to clear the account.

3.3. He would submit that the State Consumer Disputes Redressal Commission, Maharashtra, by order dated 14.09.2016 in CC/08/37

held Respondents No. 1 to 3 liable and directed them to refund Rs. 25,28,515/- with 6% interest per annum from the complaint date till realization, along with Rs.2,00,000/- compensation for mental harassment and litigation costs of Rs. 25,000/- payable within two months. He would submit that Respondent No. 3 was convicted for offences punishable under Section 248(iii) of Criminal Procedure Code, 1973 read with Sections 406, 420, 467, 468 and 471 of Indian Penal Code, 1860 in the present case. He would therefore persuade the Court to allow the Petition and set aside the twin impugned orders by the National Commission.

4. Mr. Tripathi, learned Advocate for Respondent Nos. 1 & 2 Bank has drawn my attention to the Affidavit dated 11.12.2024 of Mr. Sanad Kumar which is appended at Page No. 127 to 139. I have perused the same. Respondent No. 1 & 2 Bank in support of the impugned order passed by the National Consumer Disputes Redressal Commission, Delhi have stated that Petitioner suppressed the further development that she received various amounts from Respondent No. 3 aggregating to Rs.6,90,000/- which is admitted by her in the criminal proceedings. Bank has stated that Petitioner further admitted receipt of Rs. 2,42,000/- and Rs. 1,50,000/- from Respondent No.3 in lieu of the fraud committed on her.

4.1. Bank has stated that on 30.08.2004 Respondent No.3 visited Bank along with Petitioner and requested the bank to add Petitioner as second holder in the already existing Saving Account with operating instruction “either or survivor”. Bank has stated that Petitioner gave her thumb impression as an acknowledgment to the same and also submitted two passport size photos along with a photocopy of her ration card. Bank has stated that Petitioner admitted that Respondent No. 3 was her close relative and trusted person and was informed about the procedure and effect of operation as “either or survivor” for joining as a Joint Account Holder along with Respondent No.3.

4.2. Bank has stated that Petitioner did not raise any objection in CC/08/37 in respect of the mandate of “either or survivor” as well as the operation of account by cheque. Bank has stated that Petitioner herself received Rs. 2,42,000/- by cheque signed by Respondent No. 3.

4.3. Bank has stated that Petitioner held a Joint Savings Account with her husband in her village and the said account was operated on “either or survivor” basis by her. Bank has stated that Petitioner herself operated and closed the said account on 25.07.2006 and withdrew closure amount of Rs. 47,350/-. Bank has stated that Respondent bank produced a statement of Saving account No.1717 before the National Commission.

4.4. Bank has stated that the Rules regarding opening of a new Joint Savings Account of an illiterate person with a literate person will not be applicable in the case of an illiterate person with a literate person on account of closely related literate person.

4.5. Bank has stated that Petitioner did not insist on opening a separate account in her name. Bank has stated that Petitioner admitted in the criminal proceedings that she held multiple accounts and amount of Rs. 2,42,000/- was transferred to her one account and Rs. 1,50,000/- to her another account.

4.6. Bank has stated that Writ Petition filed by Petitioner is misconceived and not tenable in law. Bank has stated that Petitioner suppressed material facts from the Court. Hence, Mr. Tripathi would urge the Court to uphold the impugned order and dismiss the Writ Petition filed by Petitioner.

4.7. Mr. Patil, learned Advocate for Respondent No. 3 would submit that Respondent No.3 has transferred agricultural land to Petitioner in reciprocation of the amount which he had withdrawn from the Bank Account causing loss to Petitioner. Hence, he would urge the Court to pass appropriate orders.

5. I have heard Mr. Chauhan, learned Advocate for Petitioner, Mr. Tripathi, learned Advocate for Respondent Nos.1 and 2 and Mr. Patil, learned Advocate for Respondent No. 3. Submissions made by

learned Advocates at the bar have received due consideration of the Court.

6. At the outset, it is pertinent to note that the present Writ Petition challenges the findings of the National Consumer Disputes Redressal Commission which set aside the order of the State Commission. The issue primarily revolves around whether Petitioner an illiterate widow was wrongfully deprived of the compensation amount by Respondent No.3 in connivance with the Bank officers.

7. In the facts of the present case, it is seen that Petitioner deposited USD \$55,000 (Rs. 25,28,515/-) received as compensation from her husband's employer into what she believed was her separate account. This is her consistent case on pleadings. However, Respondent No.3 withdrew the entire amount in parts while Petitioner was at her native place within one year and it is shocking and surprising that the Bank Officer allowed such withdrawals despite clear procedural and regulatory lapses including violation of Indian Banks' Association guidelines and Reserve Bank of India Know Your Customer norms.

8. It is also pertinent to note that in a joint account where one holder is an illiterate person operation by cheque and "Either or Survivor" facility is impermissible, despite which the Bank herein allowed Respondent No.3 to withdraw the amount using several

cheques and slips of his earlier single Account. It is seen that such acts constitute a clear negligence and contravention of the regulatory norms by the Bank Officer.

9. Reliance is placed on the order of the State Consumer Disputes Redressal Commission dated 14.09.2016 in CC/37/2008, wherein Respondents No.1 to 3 were held liable by returning cogent findings which cannot be faulted with. The said order is a well reasoned balanced order passed after taking into consideration all details of the case placed on record.

10. In light of the above facts and findings, I am of the opinion that the National Commission erred in setting aside the State Commission's order. The order dated 03.01.2022 and order in review dated 12.04.2022 is not sustainable as it does not consider the above facts and relies upon evidence recorded to set aside the order passed by the State Commission.

11. The reasoning given by the State Consumer Dispute Redressal Commission from paragraph Nos.9 to 11 are correct in the facts and circumstances of the present case. Consideration by the National Consumer Disputes Redressal Commission in the impugned judgment cannot be countenanced by the Court, therefore the impugned judgment deserves to be interfered with in the present case.

12. In view of the aforesaid observations and findings which, *prima facie* emanate from the record the impugned order dated 03.01.2022 passed by the National Consumer Disputes Redressal Commission in First Appeal No.1481 of 2016 and Order dated 12.04.2022 in Review Application No.76 of 2011 are both set aside. The order of the State Consumer Disputes Redressal Commission, Maharashtra, dated 14.09.2016 is upheld with modification regarding the interest rate to be paid @9% p.a. instead of 6% p.a. as awarded by the State Commission and payment of balance amount to the Petitioner. Writ Petition succeeds.

13. Writ Petition is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

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