

Customers Obligation towards Banker-An

Analysis

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Banker- Section 5(b) and 5(c) of the Banking Regulation Act, 1949 describes about Banking and Banking business respectively. Common approach of a bank is known as banking business and a person who does banking business is known as a Banker. Section 3 of the Negotiable Instrument Act, 1881 also interprets the term 'Banker'. It describes that any person who is acting as a banker and any post office savings bank.

Customer- The term 'Customer' is not defined in the Act in India or in England. But two theories are related to the concept of Customer.

They are;

- The Old Theory (The Duration Theory)
- The Modern Theory (The Duration Theory Exploded)

According to the old theory of customer, a person to become a customer, there must be some recognizable habit of dealing in the nature of the regular course of the banking business. It means only opening of an account in the bank is not sufficient to become a customer and it did not establish the relation of banker and customer and there must be some measure of continuity and customs in the banking transaction.

But the modern theory of customer defined the term customer in a different way. It describe that a single transaction can also make a person customer in the bank and it also establishes the relation of banker and customer. Therefore, to become a customer it is not essential that there must be regularity in the operating of the account. A single transaction is also suffice for becoming a customer in the bank. To become a customer two conditions are necessary.

They are;

- Opening of a bank account- Saving, current, recurrent or fixed deposit must be opened in the name of the customer
- The transaction between the banker and customer must be of the nature of banking business.

The relationship of banker and customer are divided into two types. They are;

- General Relationship and
- Special Relationship

The special relationship between the banker and customer are further divided into three categories. They are;

- The general obligations of a banker Towards Customer
- The rights of the banker
- The obligation and rights of the banker

The Obligation of Customer towards the Banker

There are no specific statutory provisions mentioned in the Act regarding the customer's obligation towards the banker. But by opening an account in the bank in the name of the customer, there will be some rights and duties conferred upon the customer towards the banker.

The obligations are;

- Not to draw cheques without sufficient fund in the account
- Drawing cheques with reasonable care
- To repay overdrawing
- To pay reasonable charges for service which is provided by the banker
- To inform and communicate facts which are affecting the genuineness of the transaction
- To make a demand for repayment of deposits
- Termination of relationship between them or closing of an account
- Submissions of required documents to the bank

Not to draw cheques without sufficient fund in the account – It is the duty of the customer to undertake to draw cheques within the balance available to him in his account in the bank. But in case when the balance in the customer's account is not sufficient to meet the requirement

of drawings, it is expected from the customer to make some arrangement to meet the required amount of his cheque. In the absence of any kind of arrangement by the customer, the banker is justified in returning the cheques at the cost and consequences of his customer.

Drawing cheques with reasonable care- It is expected from a customer, he undertakes to exercise utmost care while drawing his cheques in order to avoid misleading the banker or causing material alteration. But due to the customer's fault, if the banker pays more amount than he needs to, then in this situation it is not the fault of the banker and the banker will not be held liable. The writings in the cheque by the customer must be clear or visible properly in order to avoid any confusions like alteration or addition after the issue of the cheque.

There was a case named *Young v. Grote*. In this case it was decided that the customer should take utmost care while drawing a cheque and if he fails the bank will not be held liable in this case. In the case of *Young v. Grote*, the customer by negligent drawn the cheque by leaving some gap between the figures and words which was resulted in the alteration of the cheque. The court decided that the bank will not be liable in this situation because these consequences were raised by the negligent act of the customer.

To repay overdrawing- A banker usually allows his customer the overdraft facility in his account. This facility is providing to the customers in order to keep the reputation of its customer by the dishonour of cheque. But it's the duty and responsibilities of the customer to repay the overdraft amount. Example- Credit card facility. Banker allows this facility having in view the credit worthiness and market reputation of his customer.

To pay reasonable charges for service which is provided by the banker- It is the duty of the customer to pay all the reasonable charges which the banker has incurred by providing the required facilities to his customer and the customer is bound to pay all the incidental charges. Facilities are; locker facility, issues of demand draft, travel cheques MICR cheques, credit cards facility, ATM facility and etc.

To inform and communicate facts which are affecting the genuineness of the transaction-

It is the responsibility of a customer that he should immediately notify his banker about the forgery of his cheques or missing of his cheque book or pass book etc. The customer should notify about the forgery activities drawn on his account and it will help both the customer and the banker. And it can help the banker and he will not pay to honour the cheques drawn by the forged signature.

To make a demand for repayment of deposits- Banks generally borrow money from the public but they are known as the privileged debtors. According to the Limitation Act, a debt which is payable on demand is time-barred after the period of three years, irrespective of the fact that whether the demand is made by the creditor on the debtor. But in case of bank deposits, the limitation starts running from the date the customer makes a demand on the bank. A deposit may remain more than three years like 10 or 11 years, but the deposit amount can still be claimed by the depositor from the bank. Generally, the period of limitation starts running from the date of such a demand.

Termination of relationship between them or closing of an account- The relationship between the banker and customer can be terminated and there are two conditions attached to it.

The conditions are;

- Voluntarily by the parties at customer will
- By the operation of law

When the termination of relationship is made by the customer-

- When the customer is not satisfied by the service of the bank.
- If the customer will not able to get the required or essential facilities by the bank.
- If the bank has no reputation or no economic stability, then the customer will automatically lose his confidence in the bank.
- If the customer does not agree with the required terms and conditions of the bank which is essential for it.

When the termination of relationship is made by the banker-

- Death of the customer
- Insanity of the customer
- Insolvency of the customer
- Winding up of the firm
- Closing of partnership firm
- Customer of an enemy country

Death of the customer- When the banker receives the news about the death of the customer then he should immediately stop the transaction related to the customer's account and would notify that information in the ledger and others.

Insanity of the customer- also in the case of insanity of the customer, as soon as the bank receives the information about the customer's condition, the banker would immediately stop the transaction related to the customer's account and will close the account.

Insolvency of the customer- it is also same as in the case of death and insanity of the customer.

Winding up of the company- When a company is wound up, in that case the banker should act according to the instruction of the court.

Closing of Partnership firm- In case the partnership firm is closed by the consent of partners or due to death of a partner then the bank should stop the transaction related to account of the firm.

Customer of an enemy country- if the customer belongs to the enemy country during the period of war, then the bank is justified in closing his account.

There are also three conditions are presented for which the bank will close the account of the customers. The conditions are;

- If the customer is engaged in fraudulent activities and turns to be a cheater.
- If the customer abuses or harasses or abuse any staff of the bank and behave in a very indecent manner.
- If the customer spreads bad reputation about the bank.

Conclusion

Some other obligations of customers towards the banker are mentioned below;

The customer with due obligation must carefully check all the documents provided by the bank when obtaining in any service and he must be honest about all the information which he provided to the bank. The customer must aware about the risk that may result from using a product or service which is offered by the bank and also aware about the impact of those risks which must be avoided whenever possible. It is the statutory obligation of the customer to keep a copy of the bank's transaction documents in a safe place that is easily accessed for reference

whenever needed and also ensure accuracy and validity of all the documents provided by the bank.