

Roll No. ....

OPEN BOOK EXAMINATION

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 8

**NOTE :** Answer **ALL** Questions.

1. Read the following case study and answer the questions that follow :

**Consumer Protection and Banks**

The Consumer Protection Act was enacted in India in the year 1986 to protect the interest of the consumers of goods and services. The basic thrust of the Act is on speedy and inexpensive redressal consumer's grievances. For this purpose, the Act provides for establishment of Special Tribunals at three levels namely the District, the State and the Nation. The Act applies to both Goods and Services, Banking, Financing, and Insurance are included amongst the services, in respect of which a complaint can be filed by a consumer. Over the period of time different sections of consumers as well as the providers of goods services brought under its scope. Post liberalization of economic reforms in the year 1991 and fall out over trade and commerce in India, necessitated amendments into Consumer Protection Act 1986 and which is done in the year 2002. In the past two decades seen tremendous in e-commerce and online based delivery of goods and services necessitated to repeal and replace by Consumer Protection Act 2019. The New Act aims at safeguarding and reinforcing the rights of the consumers by establishing regulatory authorities, spelling out strict liabilities and penalties on manufacturers and various service providers including electronic service providers, misleading advertisers, and by providing additional settlements consumer disputes through mechanism such as mediation. The New Consumer Protection Act, 2019 had received the assent of the President

of India on 9th August 2019. However, while exercising power conferred by sub-section (3) of section 1 of the Consumer Protection Act 2019, the Central Government had fixed 20th day of July, 2020 as the appointed date that is the date on which provisions of the said Act came into force. The Act was applicable to the whole of India.

Banker renders various services to his customers as well as general public. The act applies to all the services rendered by a banker to both the categories of persons. Provided the service is rendered for a consideration that is a fee, commission or like. So far, the main functions of the banker are concerned with acceptance of deposits and lending of funds to the customers, the banker-customer relationship is that of debtor-creditor or creditor-debtor. Any deposit received from depositor is legally speaking a loan taken by the banker from the customer and when a customer draws a cheque on his deposit account, it deemed as repayment of the loan taken by the banker. Similar is the legal position of banker in relation to loans granted to the account holders. Hence in such transaction with the customers, a banker does not render a service for a consideration as envisaged in the Act. However, any negligence on the part of the banker in such cases do attract the provisions of the Act.

(A) Redressal of Customer Grievances :

There are many types of grievances felt by the bank customers. Some of them may relate to minor mistakes or irregularities or acts of omission or commission on the part of the bank employees. Other grievances may be in connection with serious irregularities or wrong decisions/steps taken by the bank, resulting losses to the customer. The customer has the following options available for redressal of his complaints. There are two levels of grievances which can be filed with bank concerned and at Reserve Bank of India level. In 2006 Reserve Bank of India set up a separate customer department includes administering Banking Ombudsman Scheme, acting as nodal department for Banking Codes and Standard Board of India and ensuring redressal of complaints directly by Reserve Bank of India.

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(B) Various Authorities Under Consumer Protection Act 2019 :

The following is a list of various authorities created under Consumer Protection Act 2019 as advisory bodies includes :

National Consumer Protection Council,

State Consumer Protection Council and

District Consumer Protection Council protecting the interest of consumers.

(C) Deficiency in Service Rendered by Banker :

Various deficiencies in service namely Unlawful dishonour of cheque, Negligence in collection of cheques, Negligence in case of Safe Deposit Lockers, Negligence in issuing drafts, Negligence in case of guarantee, Negligence in case of Granting Advances and Negligence in remitting premium to Insurance Company.

Unlawful Dishonour of Cheque :

In this case the cheque of an applicant for convertible debenture on right basis was unlawfully dishonoured by the payee banker on the ground of deficiency of funds. Consequently, no debentures could be allotted to him. The Consumer forum awarded him compensation based on the market price of the shares that the applicant has got on conversion of debentures, if the same were allotted to him.

Negligence in Collection of Cheque :

In case of collection of cheques, drafts, bills etc. from outstations, the bankers render this service for a consideration. Hence any negligence on the part of the banker resulting in loss to the customer will make the banker liable for compensation under the Act. Reserve Bank of India has already directed the banks to pay interest in case of undue delays in the collection of cheques. The compensation payable under the Act will be in addition to the interest payable under Reserve Banks directive, provided negligence in the collection of cheque and the resultant loss to the customer are proved.

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Negligence in case of Safe Deposit Locker :

Negligence in taking all the necessary precautions by the banker in ensuring the safety of the safe deposit lockers/safe custody lockers is another ground for action by the customer under the Act. The Consumer Disputes Redressal Commission in Maharashtra indicted one of the nationalized banks of negligence to render service to safeguard the custody of ornaments locked in its safe deposit vaults. The bank was ordered to pay ₹ 1.26 lakh towards cost of ornaments. Bank plea that the relationship between the banker and the customer was that landlord and tenant was rejected by the Commission and it was found guilty of gross negligence.

Negligence in Issuing Demand Drafts :

Banks issue demand drafts for a commission. At some of the branches, the staff ask the customer to collect draft after some time. The customer might miss some important transactions in the meanwhile and thus make the banker liable for compensation. If the drafts are issued without the signature of bank manager or his code number and the draft is dishonoured by the drawee branch on this ground, the customer may take recourse against the banker under the Act. If he suffers loss due to such dishonour.

Negligence in case of Guarantee :

In case of a bank guarantee, the bank charges a service charge from the customer and thus renders a service for a fee. If the customer does not fulfil his obligation, banker is bound to comply with the provisions of the guarantee given by him. The banker must be conscious of his additional obligations and liabilities under the Act.

In case of Granting Advances :

While granting an advance, banker undertakes to lend money to his customer. He does not render any service for a consideration. A banker may justifiably apply his discretion in such cases, which will not fall within the purview of the Act.

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Negligence in Remitting Premium to Insurance Company :

If the bank has debited the account of the borrower (Customer) with insurance premium in respect of his assets, but has not remitted the same to the insurance company in time, and in the meanwhile customers assets are damaged due to natural calamity, the bank shall be liable to pay compensation to the borrower.

Reserve Bank of India and Consumer Protection :

The Reserve Bank of India have come long way since then recognised the significance of customer service and consumer protection in banking sector early on. The Reserve Bank of India taken measures in the area of Consumer Protection. Consumer confidence and trust in a well-functioning market for financial services promotes financial stability, growth, efficiency and innovation over the long term. Effective customer protection regulations together with an easily accessible mechanism to resolve disputes between customers and the regulated entities in a timely manner are essential for promoting consumer confidence. Further awareness measures for customers on financial matters instils in them knowledge about their rights and responsibilities and helps them to make right decisions.

Specifically, in its pursuit of the objective of consumer protection, the Reserve Bank of India introduced the Banking Ombudsman Scheme on June 14, 1995, for the customers of banks which has been reviewed periodically so that it retains relevance as an apex level complaint redressal mechanism for customer of banks. Reserve Bank has launched this Ombudsman Schemes to include the customers of non-banking financial companies and Prepaid Payment Instrument, Mobile/Electronic Fund Transfers, System providers to System Participants on payment transactions through Unified Payment Interface, Bharat Bill Payment Systems, Bharat QR Code, UPI QR Code. These schemes have evolved over time as apex level complaint redressal mechanisms for customers of entities regulated by Reserve Bank. This Schemes provide a cost free and expeditious redressal of complaints relating to deficiency in the services by eligible entities covered under respective Schemes.

**Based on the above information, answer the following questions :**

- (a) What is the main objective of Consumer Protection Act ?
- (b) What is Product Liability ? Discuss the grounds the Product Liability arises.
- (c) What is various Deficiency in services defined under the Consumer Protection Act ?
- (d) What are various Authorities created under Consumer Protection in protection of consumers ?
- (e) What are various levels for redressal of Customer Grievances ?
- (f) Enumerate the types of complaints which may be referred to Banking Ombudsman ?
- (g) Give some examples of negligence on the part of banker in respect of services rendered, in respect of which a complaint can be filed with a consumer forum.
- (h) What do you understand by Banking Ombudsman ? Who appoint him and why ?

*(5 marks each)*

2. (a) Discuss in brief the important aspects of Payments and Settlement Act 2007 in day-to-day banking activities and lending process of Banks.

*(6 marks)*

- (b) Suppose you as a Banker entered into a Forward Purchase Contract for US \$ 50,000 on 5th March with an export customer for 3 months at the rate of ₹ 59.6000. On the same day you also covered yourself in the market at ₹ 60.6025. However, on 5th May your customer comes to you and requests extension of the contract to 5th July. On this date (5th May) quotation for US\$ in the market is as follows :
 

Spot	₹ 59.1300/1400 Per US\$
Spot/June	₹ 59.2300/2425 Per US\$
Spot/July	₹ 59.6300/6425 Per US\$

Assuming a margin 0.10% on buying and selling, determine the extension charges payable by the customer and arrive the New Rate quoted to the customer.

Note : Rates to be rounded off to 4 decimals in multiples of 0.0025.

*(3+3=6 marks)*

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3. (a) The details Current Assets and Current Liabilities of M/s Shine & Company is as follows :
- |  |          |
|--|----------|
| Total Current Assets required by the borrower  | ₹ 50,000 |
| Current Liabilities (Excluding Bank Borrowing) | ₹ 10,000 |
| Core Current Assets (Assumed)                  | ₹ 4,000  |
- Work out permissible bank borrowing as per Tandon Committee I, II and III methods of lending.
- (2+2+4=8 marks)
- (b) What is meant by Off-Balance Sheet exposures of Banks ?
- (2 marks)
- (c) Bankers' Lien is called Implied Pledge. Comment.
- (2 marks)
4. (a) Vivek deposited some amount in the bank for 7.5 years at the rate of 6 per cent per annum at Simple Interest. Vivek received ₹ 1,01,500 at the end of the term, Compute the initial deposit of Vivek.
- (3 marks)
- (b) Arun invests ₹ 10,000 every year starting from today for next 10 years. Suppose interest rate is 8 per cent per annum compounded annually. Calculate the Future value of Annuity.
- Given that  $(1 + 0.08)^{10} = 2.15892500$
- (3 marks)
- (c) Cash Credit and Overdraft classified as Non-Performing Assets if it is "Out of Order" as per New guidelines of Reserve Bank of India. Discuss.
- (6 marks)
5. (a) Discuss the 'Credit Risk Assessment Approach' in Credit Risk Weighted Assets.
- (b) Discuss the New Guidelines issued by Reserve Bank of India on 'Risk Assessment' procedure in 'Know Your Customer' norms.
- (6 marks each)

6. (a) Discuss the compliance functions and role of 'Chief Compliance Officer' in Non-Banking Financial Companies in Upper Layer and Middle Layer.
- (b) Customer Mr. X of Branch Y deposited an outstation cheque of ₹ 2.50 lakh to the branch for collection. The cheque was not sent for collection instead it was stitched with the voucher. During the 'Voucher Verification Report' checking the concerned person observed the mistake. He was to leave the branch as it was already late. He kept the voucher in the drawer for the disposal on next day. Next day he forgot about the cheque. After 15 days Mr. X visited the branch to check if it was collected. Then the concerned staff immediately recollected about the cheque. The customer was told to wait for some more days and the staff promised that he would follow up. It took further 10 days in collection of the cheque. He gave complaint to the bank bank citing that he had incurred a loss of ₹ 3 lakhs due to the delay in collection as he could finalize a deal to purchase a property. Earnest Money given by him was lapsed due to the delay. He also provided evidence to that. The aggrieved customer filed a complaint in District Consumer Court Complain Online. Customer demanded a compensation of ₹ 5 lakh for the loss and mental anguish suffered by him. Discuss the position of Banker and quote the case.

*(6 marks each)*

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