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NEED OF CONSOLIDATED RBI GUIDELINES ON BANK'S LIABILITY REGARDING LOCKER SAFETY ISSUES

1. In layman language, 'Lockers' are safe deposit boxes, located inside the branches of Banks and popular used in India for safe keeping of Jewellery and other valuables items.

2. The Reserve Bank of India (RBI) has rules regarding the bank's liability to ensure locker safety however the existing rules are not adequate to ensure locker safety.

3. The RBI in 2007 had issued certain directions to banks covering the issue of safe custody of articles placed inside the locker and Bank's duty to take care, which inter-alia included the following:-

- a. Banks should take due care and precautions to protect lockers;
- b. It should review the system of safe deposit vaults;
- c. There should be well-documented security procedures, etc.

4. With regard to the legal relationship between the locker holder and the bank, there is no clause in the RBI guidelines and it also failed to specify the bank's liability in case of locker thefts or default on part of banks in this regard.

5. On 1 July 2015, the RBI had again issued a circular regarding 'customer service in banks' that comprised of modified guidelines on locker protection but they were also similar to the regulation of 2007 and was full of lacunas.

6. In **Mahender Singh Siwach v. Punjab Sind Bank, 2006 (4) CPJ 231**-The bank had negligently allowed a third party to break open the locker of a customer. The bank had failed to record the details regarding the allotment of the locker to the appellant and it was reflecting in its record that the locker was in the name of a third party. The National Consumer Dispute Redressal Commission held that the bank has caused gross-negligence and it amounts to deficiency in service.

7. **National Bank of Lahore Ltd. v Sohan Lal Saigal, AIR 1962 PH 534**-In this case, the High Court held that the Manager had exclusive control over the lockers and hence would be held liable in case of any default.

8. In **Jagdish Chandra Trikha v. Punjab National Bank, AIR 1998 Delhi 266**- The High Court of Delhi held that the bank shall be held liable in the

capacity of a bailee for loss of contents from the locker.

9. Recently the Hon'ble Supreme Court in **Amitabha Dasgupta v. United Bank of India, Civil Appeal No. 3966 of 2010** discussed in detail the bank's liability to ensure locker safety and it also directed the RBI to formulate consolidated and exhaustive guidelines within 6 months.

10. In **Amitabha Dasgupta Case (Supra)** Mr. Amitabh Dasgupta (appellant) held a joint locker with his deceased mother in the United Bank of India (Respondent/ Bank).

11. The bank informed him that it had to break the locker due to non-payment of locker rent dues and it was allocated to another customer.

12. The appellant protested and alleged that it was illegal as he cleared all dues before breaking the locker.

13. He filed a complaint before the District Consumer Forum, which directed the bank to return the entire contents of the locker or pay Rs. 3,00,000/- for missing jewelry and, Rs. 50,000/- as compensation for mental agony, harassment.

14. On appeal, the State Commission reduced the compensation awarded and stated that it has no power to decide the dispute regarding the missing contents of the locker.

15. The National Commission upheld the decision of the State Commission.

16. An appeal was filed before the Supreme Court, which dealt with the issue regarding the bank's duty to take care of the contents placed in the locker and its' independent duty of diligent management and operation of the locker.

17. The Supreme Court in **Amitabh Dasgupta Case (Supra)** directed the RBI to formulate new guidelines; discussed the liability of the banks regarding locker safety and passed a detailed judgment comprising the following highlights-

- a. The value of content placed inside the locker is immaterial to hold the bank liable.
- b. A bank is under a separate obligation to ensure that the procedures have properly complied with while allotting and operation the lockers.
- c. Regarding the issue of bailment or application of any other law, it leaves open for the Civil Court-



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to decide on the merits of the case on the said issue.

d. Under the Consumer Protection Amended Act of 2019, the banks owe an independent duty to exercise due care and diligence in managing the locker or safety deposit system.

e. It imposed a fine of Rs. 5 lakhs on the Respondent Bank for breaking open the locker without informing the appellant.

f. It further directed that the said amount was to be recovered from officers of the bank who erred by deducting the amount from their salaries.

g. Further, directed respondents to pay Rs. 1 lakh to the appellant for litigation expenses.

18. Following are the key guidelines given by the Supreme Court regarding locker management in **Amitabh Dasgupta Case (Supra)**-

- The RBI should frame locker management rules mandating steps that are to be taken by the banks for locker facility and safe deposit facility management.
- Banks are the custodian of public property and hence cannot claim their ignorance regarding locker content.
- Bank has a separate liability to ensure proper management of the lockers and liable if the contents of the locker are found missing.
- Banks cannot break the locker without informing the locker holder.
- The locker can be broken by the bank only in presence of an authorized official and a witness.
- The bank's employees shall be obliged to check that lockers are properly closed.

- Banks must maintain a locker register and locker key register. The locker register shall be consistently updated in case of any change in the allotment.

- The bank must undertake proper verification procedures to ensure that no unauthorized party gains access to the locker.

- Copy of locker hiring agreement shall be given to the locker holder.

- Banks cannot impose unilateral or unfair terms and conditions on their customers.

19. The decision of the Court as discussed above may be interpreted to lead to the following conclusions regarding the bank's liability to ensure locker safety-

a. We lack substantive guidelines regarding banks' liability in ensuring locker safety against theft or otherwise, hence the RBI should issue suitable rules with respect to the banks' responsibility for any loss or damage to the contents of the lockers.

b. Banks cannot wash off the hands and claim that they bear no liability towards their customers for the operation of the locker and missing contents placed inside the locker.

c. Banks are service providers and hence they owe a duty to exercise due diligence in ensuring locker safety.

d. Banks are the custodians of public property and hence they cannot leave the customers in the lurch merely by claiming ignorance of the contents of the lockers.

The pronouncement by Hon'ble Supreme Court shall go a long way in affording protection to the locker holder and hopefully, the RBI shall subsequently frame detailed guidelines for protection of the locker holder.