

GOVERNMENT
SHIVALIK
COLLEGE NAYA
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BANKER AND CUSTOMER



INTRODUCTION

Law relating to banking in India is contained in following status

1. Indian contract act
2. Negotiable instruments act
3. Companies act
4. Banking regulation act

The first two acts contain to the rules regulations the relationship between the bankers and customer they deal with the matter related to collect cheque, bills, hundis, and other negotiable instruments.

The last two acts deal with the organisation aspects of banking rules regarding the structure, constitution and control of banks

DEFINITION OF BANKER AND CUSTOMER

- **Banker**

The negotiable instruments act defines a banker as including any person acting as a banker. the banker in ordinary course consist in receiveing money from ar on account of a customer and repaying the same on demand or when drawn by cheques .

The banking regulation act ,1949 defines a banking company as a company which transacts the business of banking in India and the term banking has been defined as accepting for the purpose of lending or investment of deposits of money from the public repayable on demand or otherwise and withdrawal by cheque, draft,order or otherwise. The act provides that banking companies must take out a licence from rbi of india

- **Customer**

The term customer of a bank has not been defined in the banking regulation act,1949or in the negotiable instruments act ,1881 or in any other act .there are conflicting judicial decisions on the definition of the term , customer of a bank . The prevailing opinion is that a customer is one who has an account with the bank in question or one who uses the service of the Bank

LEGAL RELATIONSHIP BETWEEN BANKER AND CUSTOMER

the relationship between the bank and customer is reversed. Then the bank takes the position as a creditor of the customer and the customer becomes a debtor of the bank. Borrower executes documents and offer security to the bank before utilizing the credit facility. Therefore, the general relationship between bank and its customer is that of a debtor and a creditor.

Obligation of a banker

The banker is legally obligated to follow the customer's instructions. This is so because there is a contractual relationship between the bank and the customer

The relationship between the banker and customers creates some obligations on the part of a bank.

WHEN BANKER MAY DISHONOUR A CUSTOMER CHEQUE

1. Where the customer has not got sufficient funds with the bank and there is no overdraft arrangements
2. Where the cheque is post dated and is presented before the ostensibly date
3. Where the form of the cheque is of doubtful legality
4. Where the cheque is not presented during the banking hours
5. Where the cheque has become stale
6. Where some person have joint account and the cheque is not signed by all jointly
7. Where the cheque is not properly drawn

WHEN BANKER MUST DISHONOUR CUSTOMER CHEQUE

1. When the drawer countermands payment
2. When the customer has died and the bank has notice of his death
3. When the customer has become insolvent or an order of adjudication has been passed against him .
4. When the bank has received an order from a court prohibiting payment out of the funds belonging to the customer.
5. When a customer become a lunatic and the banker has got notice of his insanity.
6. Where the drawer informs the bank that the cheque is lost .
7. Where the banker suspects that the title of the persons presenting the cheque is defective.
8. When the customer inform the banker that he has assigned the balance to his credit in his account.
9. When the banker has knowledge that the customer intends to use the funds in breach of trust .
10. When the customer of the banker gives notice to the other party to close the account.

PROTECTION TO THE PAYING BANKER

- The banker upon whom duty to pay the amount of the cheque is imposed, is called the paying banker the paying banker is the banker to whom the order to pay, where the order takes the form of a cheque, is addressed. When a person opens an account with a particular branch of bank, the contractual relationship of banker and the customer starts. The relationship is mutual and contractual in nature, and is effected by legal obligation from both sides.
- Section 85 of the act deals with the protection given to the paying banker in the context of the order cheque and the bearer cheque
 1. In the case of an order cheque, this section implies that the payment must be in due course; otherwise, the banker will be deprived of statutory protection, and the banker must confirm the endorsements are regular
 2. This is the protection in the case of bearer cheque; this section implies that even if any endorsements restrict further negotiation, the cheque will retain the bearer character if it is originally issued as a bearer cheque

PROTECTION TO A COLLECTION BANKER

- Section 131 in The Negotiable Instruments Act, 1881
- 131. Non-liability of banker receiving payment of cheque.—A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment. 1[2[Explanation I.]—A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.] 3[Explanation II.—It shall be the duty of the banker who receives payment based on an electronic image of a truncated cheque held with him, to verify the prima facie genuineness of the cheque to be truncated and any fraud, forgery or tampering apparent on the face of the instrument that can be verified with due diligence and ordinary care.]



THANK YOU EVERYONE!