



# Are Your ATM Transactions Safe?

Automatic teller machines (ATM) across the country are going through a shock right now. First they got a two-day break and then were put through this unending cycle of getting loaded and dispensing cash until the last note. In the last couple of weeks, ATMs have become the lifeline for people who need to deal in cash on an everyday basis. However, is it safe to use ATMs on a regular basis? Do banks cooperate and help in case you lose money due to some or the other technical snag (connection loss, software error, stuck notes, etc.)? Also, can you seek the consumer forum's help in case of a conflict? These and more such questions concern almost each one of you.

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**W**hile it is recommended that one be alert while using ATMs and preferably use their own bank's ATMs, consumers must also note that consumer forums stand by them in case they suffer due to bank's negligence or deficiency in extending services.

### The Scene

Consumer forums across India have been receiving ATM-related complaints – machine malfunctioning, account debited without dispensing cash, fraudulent

withdrawals, debit card blocked without notice, card sucked in by the machine, etc. In most cases, especially in the case of fraudulent withdrawals, banks have a standard reply: *Since the card is in possession of customer and only s/he knows the passcode/pin, it becomes their liability to take care of it and bank has nothing to do with it.* Hence, so far as the bank is concerned, the loss is all of the account holder and the bank cannot be booked for deficiency in services before the consumer court. Moreover, in many cases, banks turn a blind eye and refuse to accept complaints in cases of fraud and ask the aggrieved customer to go to the police instead.

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### Forums Come to Rescue

One notable case is that of Vidyawanti versus State Bank of India. It came before the National Commission in 2015. On a single day, several unauthorised transactions happened at one of the bank's ATMs. It was later found out that some manipulation had been done in the ATM machine by a third party. The bank was made liable to make good the loss of the complainant. It was found that in the official noting of the bank the ATM system was reported 'out of order' due to malfunctioning for the previous two days. However, the bank had neither locked the system as non-functional nor did they take any action to repair or rectify it, making it vulnerable to fraud.

Similarly, in the matter of State Bank of India versus Sansar Chand Kapoor, another case from 2015, the National Commission received a complaint on multiple fraudulent withdrawals of Rs 10,000 each from Sansar Chand Kapoor's account. The accountholder visited the bank but his complaint was not accepted. His demand for CCTV footage was also turned down.

The National Commission upheld the award of compensation and cost of litigation, holding the bank deficient in services for not providing CCTV footage, which was an important evidence to find out the fraudulent user of the machine.

In the case of State Bank of India (SBI) and Others versus J Nagaih, decided in 2014 by Tamil Nadu State Commission, SBI was found to be at fault for not cancelling the old card after issuing the new card to the customer. Apparently, a sum of Rs 3,900 was withdrawn from J Nagaih's account by an unknown person using the old card, which was officially invalid and had to be destroyed/cancelled by the bank.

The bank not only had to refund the Rs 3,900 in question, but was also directed to pay Rs 20,000 as compensation along with Rs 1,000 as cost of litigation.

### Cases where Forums May Not Be of Help

There can be many situations where fraudulent transactions happen because of your carelessness; the bank may not be at fault. In such cases, the consumer forum cannot help and you will have to find alternative methods like pursuing a police investigation.

a) One such case is of Sunita. She had an ATM card that was not used for many days and one day she found out that Rs 20,000 had been debited from her account through ATM. After reviewing the CCTV footage, it was revealed that one of her office colleagues had stolen her ATM card from her purse and after withdrawing the amount slipped the card back into the purse, all within half an hour. The





mistake done by Sunita was that she had disclosed her ATM pin once and never changed it. In such cases, all one can do is pursue a criminal case against the culprit – one cannot complain against the bank or move to a consumer redressal forum.

b) State Bank of India versus KK Bhalla is another case to note. The case was decided in favour of the bank in 2011 as the complainant could not prove before the National Consumer Disputes Redressal Commission that the supposed fraudulent transaction was not done by him. The possibility in this case was that the complainant left the ATM machine after withdrawing the amount, but forgot to end/cancel the transaction. As the pin had already been entered, the person who came in next managed to withdraw money from Bhalla's account. Although Bhalla could not establish this fact, it would anyway not have favoured him as it was carelessness on his part –the bank was not supposed to be held liable for his mistake.

The bank maintained that it could not be said that there was a fraudulent transaction from the account of the complainant, as the transaction could not take place without the use of the ATM card, which was in the exclusive possession of the complainant.

c) Sometimes you feed your password but money does not come out due to a technical snag – do not leave the machine without cancelling the transaction or letting the screen come to the homepage.

One must note that CCTVs in all ATMs are focused on the person and not on the keyboard of the ATM. So, one cannot really tell if someone is transacting on their own account or on the account of the person who has just left, unless a thorough

investigation is done on the time of transaction and the time of one's presence before the ATM.

There have been instances where consumers have filed a false case. For instance, in the matter of Raghavendra Nath Sen and Others versus Punjab National Bank and Others, it was alleged by the consumer that Rs 54,500 in the bank was reduced to Rs 49,500 (debit of Rs 5,000), while he had withdrawn only Rs 1,000 through an ATM. He stated that while he had made only one transaction, he received two text messages. He directly moved the consumer forum with his complaint.

However, Sen did not appear to make submission before the court and sent a letter stating that the commission may decide the case on merit. The fact that he had received two text messages for two transactions and even then did not report it to the bank was a question of concern, and the court was not convinced that money had not been taken out by complainant when card was in his possession. Hence, the ruling went in favour of the bank.

d) If transaction done with the ATM of a bank other than own bank is faulty, customers cannot make a claim with that bank as they do not have an account with that particular bank. Recently, dealing with the case of Chenaram versus Oriental Bank of Commerce, the National Commission made it clear that customers need to contact their own bank. It is the duty of customer's own bank to obtain details from the contracting bank and provide the same to the customer. Hence, if you lose money or have an issue with an ATM of a bank with which you do not have an account, you do not have any right to question that particular bank.