

Chapter 12 : Consumer Protection Act, 2019

An Act to provide for protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto.

"Advertisement"

- means any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print, electronic media, internet or website and
- includes any notice, circular, label, wrapper, invoice or such other documents;

"Complainant" means—

- i. a consumer; or
- ii. any voluntary consumer association registered under any law for the time being in force; or
- iii. the Central Government or any State Government; or
- iv. the Central Authority; or
- v. one or more consumers, where there are numerous consumers having the same interest; or
- vi. in case of death of a consumer, his legal heir or legal representative; or
- vii. in case of a consumer being a minor, his parent or legal guardian;

"complaint" means any allegation in writing, made by a complainant for obtaining any relief provided by or under this Act, that—

- i. any trader or service provider has adopted:
 - an unfair contract or
 - unfair trade practice or
 - a restrictive trade practice;
- ii. the **goods** bought by him or agreed to be bought by him **suffer from one or more defects**;
- iii. the **services** hired or availed of or agreed to be hired or availed of by him **suffer from any deficiency**;
- iv. a trader or a service provider has charged for the goods or for the services a price in excess of the price—
 - (a) fixed by or under any law for the time being in force; or
 - (b) displayed on the goods or any package containing such goods; or
 - (c) displayed on the price list exhibited by him by or under any law for the time being in force; or
 - (d) agreed between the parties;
- v. the goods, which are hazardous to life and safety when used, are being offered for sale to the public—
 - (a) in contravention of standards relating to safety of such goods as required to be complied with, by or under any law;
 - (b) where the trader knows that the goods so offered are unsafe to the public;

- vi. the services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by a person who provides any service and who knows it to be injurious to life and safety;
- vii. a claim for product liability action lies against:
 - the product manufacturer,
 - product seller or
 - product service provider;

"consumer" means any person who—

- i.
 - buys any goods
 - for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and
 - includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but
 - does not include a person who obtains such goods for resale or for any commercial purpose; or
- ii.
 - hires or avails of any service
 - for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and
 - includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but
 - does not include a person who avails of such service for any commercial purpose.

Here,

- "commercial purpose" does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;
- "buys any goods" and "hires or avails any services" includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing;

"consumer rights" includes —

- i. **the right to be protected** against the marketing of goods, products or services which are hazardous to life and property;
- ii. **the right to be informed** about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;
- iii. **the right to be assured** access to a variety of goods, products or services at competitive prices;
- iv. **the right to be heard** and to be assured that consumer's interests will receive due consideration at appropriate forum;

- v. **the right to seek redressal** against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and
- vi. **the right to consumer awareness;**

"defect" means any

- fault,
- imperfection or
- shortcoming
- in the quality, quantity, potency, purity or standard which is required to be maintained
- by or under any law or
- under any contract, express or implied or
- as is claimed by the trader in any manner whatsoever in relation to any goods or product.

"deficiency" means any

- fault,
- imperfection,
- shortcoming or
- inadequacy
- in the quality, nature and manner of performance which is required to be maintained
- by or under any law or
- has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and
- includes—
 - any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and
 - deliberate withholding of relevant information by such person to the consumer;

"direct selling" means

- marketing,
- distribution and
- sale of goods or provision of services
- through a network of sellers,
- other than through a permanent retail location;

"e-commerce" means buying or selling of goods or services including digital products over digital or electronic network;

"electronic service provider" means

- a person who provides technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer and
- includes any online market place or online auction sites;

"endorsement", in relation to an advertisement, means—

- i. any message, verbal statement, demonstration; or
- ii. depiction of the name, signature, likeness or other identifiable personal characteristics of an individual; or
- iii. depiction of the name or seal of any institution or organisation,

which makes the consumer to believe that it reflects the opinion, finding or experience of the person making such endorsement;

"express warranty" means

- any material statement, affirmation of fact, promise or description relating to a product or service warranting that it conforms to such material statement, affirmation, promise or description and
- includes any sample or model of a product warranting that the whole of such product conforms to such sample or model;

"goods"

- means every kind of movable property and
- includes "food" as defined in Section 3(1)(j) of the Food Safety and Standards Act, 2006;

"food"

- means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and
- includes primary food, to the extent defined in clause (ZK) genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment
- but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances:

"primary food" means an article of food, being a produce of agriculture or horticulture or animal husbandry and dairying or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching in the hands of a person other than a farmer or fisherman;

"harm", in relation to a product liability, includes—

- damage to any property, other than the product itself;
- personal injury, illness or death;
- mental agony or emotional distress attendant to personal injury or illness or damage to property; or
- any loss of consortium or services or other loss resulting from a harm referred to above 3 points;

Mobile.
Battery Blast

but shall not include any harm caused to a product itself or any damage to the property on account of breach of warranty conditions or any commercial or economic loss, including any direct, incidental or consequential loss relating thereto;

"**manufacturer**" means a person who—

- i. makes any goods or parts thereof; or
- ii. assembles any goods or parts thereof made by others; or
- iii. puts or causes to be put his own mark on any goods made by any other person;

"**misleading advertisement**" in relation to any product or service, means an advertisement, which—

- i. falsely describes such product or service; or
- ii. gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service; or
- iii. conveys an express or implied representation which would constitute an unfair trade practice if made by the manufacturer or seller or service provider thereof; or
- iv. deliberately conceals important information;

"**person**" includes—

- i. an individual;
- ii. a firm whether registered or not;
- iii. a HUF;
- iv. a co-operative society;
- v. an AOP whether registered under the Societies Registration Act, 1860 or not;
- vi. any corporation, company or a body of individuals whether incorporated or not;
- vii. any artificial juridical person, not falling within any of the preceding sub-clauses;

"**product**"

- means any article or goods or substance or raw material or any extended cycle of such product,
- which may be in gaseous, liquid, or solid state
- possessing intrinsic value which is capable of delivery either as wholly assembled or as a component part and is produced for introduction to trade or commerce,
- but does not include human tissues, blood, blood products and organs;

"**product liability**"

- means the responsibility of a product manufacturer or product seller, of any product or service,
- to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto;

"**product liability action**" means a complaint filed by a person before a

- District Commission or

- State Commission or
- National Commission

for claiming compensation for the harm caused to him;

Product

"product manufacturer" means a person who—

- i. makes any product or parts thereof or *Makes of product / Maker of parts of product*
- ii. assembles parts thereof made by others; or *Assembler.*
- iii. puts or causes to be put his own mark on any products made by any other person; or
- iv. makes a product and sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains such product or is otherwise involved in placing such product for commercial purpose; or
- v. designs, produces, fabricates, constructs or re-manufactures any product before its sale; or
- vi. being a product seller of a product, is also a manufacturer of such product;

"product seller", in relation to a product,

- means a person who, in the course of business, imports, sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains, or otherwise is involved in placing such product for commercial purpose and
- includes—
 - a manufacturer who is also a product seller; or
 - a service provider,
- but does not include—
 - a seller of immovable property, unless such person is engaged in the sale of constructed house or in the construction of homes or flats;
 - a provider of professional services in any transaction in which, the sale or use of a product is only incidental thereto, but furnishing of opinion, skill or services being the essence of such transaction;
 - a person who—
 - acts only in a financial capacity with respect to the sale of the product;
 - is not a manufacturer, wholesaler, distributor, retailer, direct seller or an electronic service provider;
 - leases a product, without having a reasonable opportunity to inspect and discover defects in the product, under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

"product service provider", in relation to a product, means a person who provides any service in respect of such product;

"restrictive trade practice" means a trade practice which tends to bring about

- manipulation of price or
- its conditions of delivery or

- to affect flow of supplies in the market relating to goods or services
- in such a manner as to impose on the consumers unjustified costs or restrictions and
- shall include—
 - delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;
 - any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent for buying, hiring or availing of other goods or services;

Tie-in
arrangement

"service"

- means service of any description which is made available to potential users and
- includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information,
- but does not include the rendering of any service free of charge or under a contract of personal service;

original.

"spurious goods" means such goods which are falsely claimed to be genuine;

"trader", in relation to any goods,

- means a person who sells or distributes any goods for sale and
- includes the manufacturer thereof, and
- where such goods are sold or distributed in package form, includes the packer thereof;

"unfair contract" means a contract between a manufacturer or trader or service provider on one hand, and a consumer on the other, having such terms which cause significant change in the rights of such consumer, including the following, namely: —

- i. requiring manifestly excessive security deposits to be given by a consumer for the performance of contractual obligations; or
- ii. imposing any penalty on the consumer, for the breach of contract thereof which is wholly disproportionate to the loss occurred due to such breach to the other party to the contract; or
- iii. refusing to accept early repayment of debts on payment of applicable penalty; or
- iv. entitling a party to the contract to terminate such contract unilaterally, without reasonable cause; or
- v. permitting or has the effect of permitting one party to assign the contract to the detriment of the other party who is a consumer, without his consent; or
- vi. imposing on the consumer any unreasonable charge, obligation or condition which puts such consumer to disadvantage;

"unfair trade practice" means a trade practice which,

- for the purpose of promoting the sale,
- use or supply of any goods or for the provision of any service,

adopts any unfair method or unfair or deceptive practice including any of the following practices: —

- i. making any statement, whether orally or in writing or by visible representation including by means of electronic record, which—
 - (a) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;
 - (b) falsely represents that the services are of a particular standard, quality or grade;
 - (c) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;
 - (d) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
 - (e) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;
 - (f) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
 - (g) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof;
 - (h) makes to the public a representation in a form that purports to be—
 - A. a warranty or guarantee of a product or of any goods or services; or
 - B. a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;
 - (i) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;
 - (j) gives false or misleading facts disparaging the goods, services or trade of another person.
- ii. permitting the publication of any advertisement, whether in any newspaper or otherwise, including by way of electronic record, for the sale or supply at a bargain price of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

Explanation — For the purpose of this sub-clause, "bargain price" means —

- A. a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise; or
- B. a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

iii. permitting—

- (a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged, in the transaction as a whole;
- (b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;
- (c) withholding from the participants of any scheme offering gifts, prizes or other items free of charge on its closure, the information about final results of the scheme.

Explanation — For the purpose of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time published, prominently in the same newspaper in which the scheme was originally advertised;

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- iv. permitting the sale or supply of goods intended to be used, or are of a kind likely to be used by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by the competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;
 - v. permitting the hoarding or destruction of goods, or refusal to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services;
 - vi. manufacturing of spurious goods or offering such goods for sale or adopting deceptive practices in the provision of services;
 - vii. not issuing bill or cash memo or receipt for the goods sold or services rendered in such manner as may be prescribed;
 - viii. refusing, after selling goods or rendering services, to take back or withdraw defective goods or to withdraw or discontinue deficient services and to refund the consideration thereof, if paid, within the period stipulated in the bill or cash memo or receipt or in the absence of such stipulation, within a period of thirty days;
 - ix. disclosing to other person any personal information given in confidence by the consumer unless such disclosure is made in accordance with the provisions of any law for the time being in force.

CHAPTER-II

CONSUMER PROTECTION COUNCILS

Central Consumer Protection Council or named as Central Council

- The Central Council shall be an advisory council and consist of the following members: —
 - (a) **Chairperson:** The Minister-in-charge of the Department of Consumer Affairs in the Central Government; and
 - (b) such number of other official or non-official members representing such interests as may be prescribed.
- At least 1 meeting of the Council shall be held every year.

State Consumer Protection Councils or State Council

- The State Council shall be an advisory council and consist of the following members: —
 - (a) **Chairperson:** The Minister-in-charge of Consumer Affairs in the State Government;
 - (b) such number of other official or non-official members representing such interests as may be prescribed;
 - (c) such number of other official or non-official members, not exceeding 10, as may be nominated by the Central Government.
- At least 2 meetings of the council shall be held every year.

District Consumer Protection Council or District Council

- The District Council shall be an advisory council and consist of the following members: -
 - (a) **Chairperson:** The Collector of the district; and
 - (b) such number of other official and non-official members representing such interests as may be prescribed.
- At least 2 meetings of the council shall be held every year.

Objects of Central Council, State Council and District Council

The objects of the Central Council and state council shall be to render advice on promotion and protection of the consumers' rights under this Act at national level, within the respective state and district concerned.

CHAPTER-III

CENTRAL CONSUMER PROTECTION AUTHORITY

(SECTION 10 TO SECTION 27)

Establishment of Central Consumer Protection Authority or Central Authority

- The Central Government shall establish a Central Consumer Protection Authority to regulate matters relating to
 - violation of rights of consumers,
 - unfair trade practices and
 - false or misleading advertisements
 - which are prejudicial to the interests of public and consumers and
 - to promote, protect and enforce the rights of consumers as a class.
- The Central Authority shall consist of a Chief Commissioner and such number of other Commissioners as may be prescribed, to be appointed by the Central Government to exercise the powers and discharge the functions under this Act.

Vacancy, etc., not to invalidate proceedings of Central Authority

No act or proceeding of the Central Authority shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Central Authority; or
- (b) any defect in the appointment of a person acting as the Chief Commissioner or as a Commissioner; or
- (c) any irregularity in the procedure of the Central Authority not affecting the merits of the case.

Appointment of officers, experts, professionals and other employees of Central Authority

- The Central Government shall provide the Central Authority such number of officers and other employees as it considers necessary for the efficient performance of its functions under this Act.
- The Central Authority may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and ability, who have special knowledge and experience in the areas of consumer rights and welfare, consumer policy, law, medicine, food safety, health, engineering, product safety, commerce, economics, public affairs or administration, as it deems necessary to assist it in the discharge of its functions under this Act.

Section 15: Investigation Wing

- The Central Authority shall have an **Investigation Wing headed by a Director- General for the purpose of conducting inquiry or investigation under this Act as may be directed by the Central Authority.**
- The Central Government may appoint a Director-General and such number of Additional Director-General, Director, Joint Director, Deputy Director and Assistant Director,

from amongst persons who have experience in investigation and possess such qualifications, in such manner, as may be prescribed.

- Every Additional Director-General, Director, Joint Director, Deputy Director and Assistant Director shall exercise his powers, and discharge his functions, subject to the general control, supervision and direction of the Director-General.
- The Director-General may delegate all or any of his powers to the Additional Director-General or Director, Joint Director or Deputy Director or Assistant Director, as the case may be, while conducting inquiries or investigations under this Act.

Power of District Collector

The District Collector may,

- on a complaint or
- on a reference made to him by the Central Authority or the Commissioner of a regional office,
- inquire into or investigate complaints
 - regarding violation of rights of consumers as a class,
 - on matters relating to violations of consumer rights, unfair trade practices and false or misleading advertisements, within his jurisdiction and
 - submit his report to the Central Authority or to the Commissioner of a regional office.

Complaints to authorities

A complaint relating to violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class, may be forwarded either in writing or in electronic mode, to any one of the authorities

- the District Collector or
- the Commissioner of regional office or
- the Central Authority.

Section 18: Powers and functions of Central Authority

- (1) The Central Authority shall—
 - (a) protect, promote and enforce the rights of consumers as a class and prevent violation of consumers rights;
 - (b) prevent unfair trade practices and ensure that no person engages himself in unfair trade practices;
 - (c) ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of this Act or any of its rule and regulations;
 - (d) ensure that no person takes part in the publication of any advertisement which is false or misleading.
- (2) The Central Authority may, for any of the purposes aforesaid —
 - (a) inquire or cause an inquiry or investigation to be made into violations of consumer rights or unfair trade practices, either suo moto or on a complaint received or on the directions from the Central Government;
 - (b) file complaints before the District Commission, the State Commission or the National Commission under this Act;

- (c) intervene in any proceedings before the District Commission or the State Commission or the National Commission in respect of any allegation of violation of consumer rights or unfair trade practices;
- (d) recommend adoption of international covenants and best international practices on consumer rights to ensure effective enforcement of consumer rights;
- (e) undertake and promote research in the field of consumer rights;
- (f) spread and promote awareness on consumer rights;
- (g) encourage non-Governmental organisations and other institutions working in the field of consumer rights to co-operate and work with consumer protection agencies;
- (h) issue safety notices to alert consumers against dangerous or hazardous or unsafe goods or services;
- (i) advise the Ministries and Departments of the Central and State Governments on consumer welfare measures;
- (j) issue necessary guidelines to prevent unfair trade practices and protect consumers' interest.

Power of Central Authority to refer matter for investigation or to other Regulator

- (1) The Central Authority may
 - after receiving any information or complaint or directions from the Central Government or
 - of its own motion,
 - conduct or cause to be conducted a preliminary inquiry as to whether there exists a prima facie case of violation of consumer rights or any unfair trade practice or any false or misleading advertisement, by any person, which is prejudicial to the public interest or to the interests of consumers and
 - if it is satisfied that there exists a prima facie case, it shall cause investigation to be made by the Director- General or by the District Collector.
- (2) Where, after preliminary inquiry, the Central Authority is of the opinion that the matter is to be dealt with by a Regulator established under any other law for the time being in force, it may refer such matter to the concerned Regulator along with its report.

Section 20: Power of Central Authority to recall goods, etc.

Where the Central Authority is satisfied on the basis of investigation that there is sufficient evidence to show violation of consumer rights or unfair trade practice by a person, it may pass such order as may be necessary, including—

- (a) recalling of goods or withdrawal of services which are dangerous, hazardous or unsafe;
- (b) reimbursement of the prices of goods or services so recalled to purchasers of such goods or services; and
- (c) discontinuation of practices which are unfair and prejudicial to consumers' interest:

Section 21: Power of Central Authority to issue directions and penalties against false or misleading advertisements

- Where the Central Authority is satisfied after investigation that any advertisement is false or misleading and is prejudicial to the interest of any consumer or is in contravention of consumer rights, it may, by order, issue directions to the concerned trader or manufacturer or endorser or advertiser or publisher *to discontinue such advertisement or to modify the same in such manner and within such time as may be specified in that order.*
- If the Central Authority is of the opinion that it is necessary to impose a penalty in respect of such false or misleading advertisement, by a manufacturer or an endorser, it may, by order, impose on manufacturer or endorser a penalty which may extend to Rs. 10,00,000:

However, the Central Authority may, for every subsequent contravention by a manufacturer or endorser, impose a penalty, which may extend to Rs. 50,00,000.

- where the Central Authority deems it necessary, it may, by order, prohibit the endorser of a false or misleading advertisement from making endorsement of any product or service for a period which may extend to 1 year:

However, the Central Authority may, for every subsequent contravention, prohibit such endorser from making endorsement in respect of any product or service for a period which may extend to 3 years.

No endorser shall be liable to a penalty if he has exercised due diligence to verify the veracity of the claims made in the advertisement regarding the product or service being endorsed by him.

- Where the Central Authority is satisfied after investigation that any person is found to publish, or is a party to the publication of, a misleading advertisement, it may impose on such person a penalty which may extend to Rs. 10,00,000.
- While determining the penalty under this section, regard shall be had to the following, namely: —
 - (a) the population and the area impacted or affected by such offence;
 - (b) the frequency and duration of such offence;
 - (c) the vulnerability of the class of persons likely to be adversely affected by such offence; and
 - (d) the gross revenue from the sales effected by virtue of such offence.
- The Central Authority shall give the person an opportunity of being heard before an order under this section is passed.

Section 22: Search and seizure

- For the purpose of conducting an investigation after preliminary inquiry the Director-General or any other officer authorised by him in this behalf, or the District Collector may, if he has any reason to believe that any person has violated any consumer rights or committed unfair trade practice or causes any false or misleading advertisement to be made, shall —

- (a) enter at any reasonable time into any such premises and search for any document or record or article or any other form of evidence and seize such document, record, article or such evidence;
 - (b) make a note or an inventory of such record or article; or
 - (c) require any person to produce any record, register or other document or article.
- Every document, record or article seized shall be returned to the person, from whom they were seized or who produced the same, within a period of 20 days of the date of such seizure or production after copies thereof or extracts therefrom certified by that person have been taken.
 - Where any article seized are subject to speedy or natural decay, the Director-General or such other officer may dispose of the article in such manner as may be prescribed.

Appeal

A person aggrieved by any order passed by the Central Authority may file an appeal to the National Commission within a period of 30 days from the date of receipt of such order.

Accounts and audit

- The Central Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in manner as may be prescribed in consultation with the CAG of India.
- The accounts of the Central Authority shall be audited by the CAG.
- The accounts of the Central Authority as certified by the CAG with the audit report thereon shall be forwarded annually to the Central Government which shall cause the same to be laid before each House of Parliament.

Furnishing of annual reports, etc.

- (1) The Central Authority shall prepare once in every year an annual report giving full account of its activities during the previous year and such other reports and returns, as may be directed, and copies of such report and returns shall be forwarded to the Central Government.
- (2) A copy of the annual report mentioned above shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER IV

CONSUMER DISPUTES REDRESSAL COMMISSION

District Commission (Section 28 to 41)

Section 28: Establishment of District Consumer Disputes Redressal Commission or District Commission

- The State Government shall establish a District Commission, in each district of the State:
However, the State Government may, if it deems fit, establish more than one District Commission in a district.
- Each District Commission shall consist of—
 - a President; and
 - not less than 2 members in consultation with the Central Government.

Transitional Provision

Any person appointed as President or a member of the District Commission immediately before the commencement of this Act shall hold office as such as President or as member till the completion of his term for which he has been appointed.

Vacancy in office of member of District Commission

If, at any time, there is a vacancy in the office of the President or member of a District Commission, the State Government may, by notification, direct—

- any other District Commission specified in that notification to exercise the jurisdiction in respect of that district also; or
- the President or a member of any other District Commission specified in that notification to exercise the powers and discharge the functions of the President or member of that District Commission also.

Section 34: Jurisdiction of District Commission

- The District Commission shall have **jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed Rs. 1 Crore:**
- A complaint shall be instituted in a District Commission within the local limits of whose jurisdiction —
 - the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily or actually resides or carries on business or has a branch office or personally works for gain; or
 - the cause of action, wholly or in part, arises; or
 - the complainant resides or personally works for gain.

Section 35: Manner in which complaint shall be made

- A complaint, in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided, may be filed with a District Commission by —

- the consumer —
 - to whom such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided; or
 - who alleges unfair trade practice in respect of such goods or service;
- any recognised consumer association;
- one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Commission, on behalf of, or for the benefit of, all consumers so interested; or
- the Central Government, the Central Authority or the State Government, as the case may be:

Section 36: Proceedings before District Commission

- Every proceeding before the District Commission shall be conducted by the President of that Commission and at least one member thereof, sitting together:
- On receipt of a complaint made under section 35, the District Commission may, by order, admit the complaint for being proceeded with or reject the same:

However, complaint shall not be rejected unless an opportunity of being heard has been given to the complainant and the admissibility of the complaint shall ordinarily be decided within 21 days from the date on which the complaint was filed and if not decided the issue of admissibility of the complaint within this 21 days period it shall deemed to have been admitted.

Section 37: Reference to mediation

- At the first hearing of the complaint after its admission, or at any later stage, if it appears to the District Commission that there exists elements of a settlement which may be acceptable to the parties it may direct the parties to give in writing, within 5 days, consent to have their dispute settled by mediation.
- Where the parties agree for settlement by mediation and give their consent in writing, the District Commission shall, within 5 days of receipt of such consent, refer the matter for mediation, and in such case the provisions relating to mediation, shall apply.

Section 38: Procedure on admission of complaint

- (1) The District Commission shall, on admission of a complaint, or in respect of cases referred for mediation on failure of settlement by mediation, proceed with such complaint.
- (2) Where the complaint relates to any goods, the District Commission shall —
 - (a) refer a copy of the admitted complaint, within 21 days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of 30 days or such extended period not exceeding 15 days as may be granted by it;
 - (b) if the opposite party on receipt of a complaint referred to him denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Commission, proceed to settle the consumer dispute;

- (c) if the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, obtain a sample of the goods from the complainant, seal it and authenticate it and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory to make an analysis or test with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereon to the District Commission within a period of 45 days of the receipt of the reference or within such extended period as may be granted by it;
 - (d) before any sample of the goods is referred to any appropriate laboratory require the complainant to deposit to the credit of the Commission, fees for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;
 - (e) remit the amount deposited to its credit to the appropriate laboratory to enable it to carry out the analysis or test and on receipt of the report from the appropriate laboratory, it shall forward a copy of the report along with such remarks as it may feel appropriate to the opposite party;
 - (f) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, require the opposite party or the complainant to submit in writing his objections with regard to the report made by the appropriate laboratory;
 - (g) give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto and issue an appropriate order.
- (3) If the complaint relates to any services, the District Commission shall: —
- (a) refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of 30 days or such extended period not exceeding 15 days as may be granted by the District Commission;
 - (b) if the opposite party, on receipt of a copy of the complaint, referred to him denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Commission, it shall proceed to settle the consumer dispute—
 - i. on the basis of evidence brought to its notice by the complainant and the opposite party, if the opposite party denies or disputes the allegations contained in the complaint, or
 - ii. ex parte on the basis of evidence brought to its notice by the complainant, where the opposite party omits or fails to take any action to represent his case within the time given by the Commission;
 - (c) decide the complaint on merits if the complainant fails to appear on the date of hearing.
- (4) Every complaint shall be heard by the District Commission on the basis of affidavit and documentary evidence placed on record:
- (5) Every complaint shall be disposed of as expeditiously as possible and endeavour shall be made to decide the complaint within a period of 3 months from the date of receipt of

notice by opposite party where the complaint does not require analysis or testing of commodities and within 5 months if it requires analysis or testing of commodities:

However, in the event of a complaint being disposed of after the period so specified, the District Commission shall record in writing, the reasons for the same at the time of disposing of the said complaint.

- (6) Where during the pendency of any proceeding before the District Commission, if it appears necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.
- (7) Here, the District Commission shall have the same powers as are vested in a civil court under the CPC, 1908 while trying a suit in respect of the following matters: —
 - (a) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;
 - (b) requiring the discovery and production of any document or other material object as evidence;
 - (c) receiving of evidence on affidavits;
 - (d) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
 - (e) issuing of commissions for the examination of any witness, or document; and
 - (f) any other matter which may be prescribed by the Central Government.

Section 39: Findings of District Commission

- (1) Where the District Commission is satisfied that:
 - the goods complained against suffer from any of the defects specified in the complaint or
 - any of the allegations contained in the complaint about the services or any unfair trade practices, or claims for compensation under product liability
 - are proved,
 - it shall issue an order to the opposite party directing him to do one or more of the following, namely: —
 - (a) to remove the defect pointed out by the appropriate laboratory from the goods in question;
 - (b) to replace the goods with new goods of similar description which shall be free from any defect;
 - (c) to return to the complainant the price, or the charges paid by the complainant along with such interest on such price or charges as may be decided;
 - (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party;
 - (e) to pay such amount as may be awarded by it as compensation in a product liability action;
 - (f) to remove the defects in goods or deficiencies in the services in question;
 - (g) to discontinue the unfair trade practice or restrictive trade practice and not to repeat them;
 - (h) not to offer the hazardous or unsafe goods for sale;

- (i) to withdraw the hazardous goods from being offered for sale;
- (j) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;
- (k) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently:

However, the minimum amount of sum so payable shall not be less than 25% of the value of such defective goods sold or service provided to such consumers;

- (l) to issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;
- (m) to provide for adequate costs to parties; and
- (n) to cease and desist from issuing any misleading advertisement.

- (2) In any proceeding conducted by the President and a member and if they differ on any point or points, they shall state the point or points on which they differ and refer the same to another member for hearing on such point or points and the opinion of the majority shall be the order of the District Commission:

However, the other member shall give his opinion on such point or points referred to him within a period of 1 month from the date of such reference.

- (3) Every order made by the District Commission here shall be signed by the President and the member who conducted the proceeding and where the order is made as per majority opinion above, such order shall also be signed by the other member.

Review by District Commission in certain cases

The District Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within 30 days of such order.

Section 41: Appeal against order of District Commission

- Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of 45 days from the date of the order.
- State Commission may entertain an appeal after the expiry of the said period of 45 days, if it is satisfied that there was sufficient cause for not filing it within that period:
- No appeal by a person, who is required to pay any amount in terms of an order of the District Commission, shall be entertained by the State Commission unless the appellant has deposited 50% of that amount in the manner as may be prescribed:

STATE COMMISSION (SECTION 42 TO 52)

Section 42: Establishment of State Consumer Disputes Redressal Commission or State Commission

- The State Commission shall ordinarily function at the capital of the State and perform its functions at such other places as the State Government may in consultation with the State Commission notify in the Official Gazette:
- Each State Commission shall consist of—
 - a President; and
 - not less than 4 members in consultation with the Central Government.

Section 47: Jurisdiction of State Commission

- The State Commission shall have jurisdiction—
 - (a) to entertain —
 - i. complaints where the value of the goods or services paid as consideration, exceeds Rs. 1 crore, but does not exceed Rs. 10 crores;
 - ii. complaints against unfair contracts, where the value of goods or services paid as consideration does not exceed Rs. 10 Crores;
 - iii. appeals against the orders of any District Commission within the State; and
 - (b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the State, where it appears to the State Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.
- Where the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it:
- A complaint shall be instituted in a State Commission within the limits of whose jurisdiction —
 - (a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily or actually resides or carries on business or has a branch office or personally works for gain; or
 - (b) the cause of action, wholly or in part, arises; or
 - (c) the complainant resides or personally works for gain.

Transfer of cases

On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before a District Commission to another District Commission within the State if the interest of justice so requires.

Review by State Commission in certain cases

The State Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.

Section 51: Appeal to National Commission

- Any person aggrieved by an order made by the State Commission may prefer an appeal against such order to the National Commission within a period of 30 days from the date of the order in such form and manner as may be prescribed:

Provided that the National Commission shall not entertain the appeal after the expiry of the said period of 30 days unless it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited 50% of that amount.

- An appeal shall lie to the National Commission from any order passed in appeal by any State Commission, if the National Commission is satisfied that the case involves a substantial question of law.
- An appeal may lie to the National Commission under this section from an order passed ex parte by the State Commission.

Section 52: Hearing of appeal

An appeal filed before the State Commission or the National Commission, as the case may be, shall be heard as expeditiously as possible and every endeavour shall be made to dispose of the appeal within a period of 90 days from the date of its admission:

NATIONAL COMMISSION (SECTION 53 TO 73)

Section 53: Establishment of National Consumer Disputes Redressal Commission

The Central Government shall establish a National Consumer Disputes Redressal Commission, to be known as the National Commission.

The National Commission shall consist of—

- President; and
- not less than four and not more than such number of members as may be prescribed.

Section 55: Qualifications, etc., of President and members of National Commission

The President and members of the National Commission shall hold office for such term as specified in the rules made by the Central Government but not exceeding 5 years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided further that no President or members shall hold office as such after he has attained such age as specified in the rules made by the Central Government which shall not exceed —

- in the case of the President, the age of 70 years;
- in the case of any other member, the age of 67 years.

Section 58: Jurisdiction of National Commission

➤ The National Commission shall have jurisdiction—

(a) to entertain—

- i. complaints where the value of the goods or services paid as consideration exceeds Rs. 10 crores;
- ii. complaints against unfair contracts, where the value of goods or services paid as consideration exceeds Rs. 10 crores;
- iii. appeals against the orders of any State Commission;
- iv. appeals against the orders of the Central Authority; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

Section 60: Section Review by National Commission in certain cases

The National Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within 30 days of such order.

Section 61: Power to set aside ex parte orders

Where an order is passed by the National Commission ex parte, the aggrieved party may make an application to the Commission for setting aside such order.

Transfer of cases

On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Commission of one State to a District Commission of another State or before one State Commission to another State Commission.

Section 65: Service of notice, etc.

- All notices, required by this Act to be served, shall be served by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service, approved by the District Commission, the State Commission or the National Commission, as the case may be, or by any other mode of transmission of documents including electronic means.
- The notice required by this Act may be served on an electronic service provider at the address provided by it on the electronic platform from where it provides its services as such and for this purpose, the electronic service provider shall designate a nodal officer to accept and process such notices.
- All notices required to be served on an opposite party or to complainant, as the case may be, shall be deemed to be sufficiently served, if addressed in the case of the opposite party, to the place where business or profession is carried on, and in case of the complainant, the place where such person actually and voluntarily resides.

Section 66: Experts to assist National Commission or State Commission

Where the National Commission or the State Commission, as the case may be, on an application by a complainant or otherwise, is of the opinion that it involves the larger interest of consumers, it may direct any individual or organisation or expert to assist the National Commission or the State Commission, as the case may be.

Section 67: Appeal against order of National Commission

Any person, aggrieved by an order made by the National Commission may prefer an appeal against such order to the Supreme Court within a period of 30 days from the date of the order:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited 50% of that amount in the manner as may be prescribed.

Limitation period

- The District Commission, the State Commission or the National Commission shall not admit a complaint unless it is filed within 2 years from the date on which the cause of action has arisen.
- A complaint may be entertained after the above period if the complainant satisfies the District Commission, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period:

Section 70: Administrative control

- (1) The National Commission shall have the authority to lay down such adequate standards in consultation with the Central Government from time to time, for better protection of the interests of consumers and for that purpose, shall have administrative control over all the State Commissions in the following matters, namely: —
- (a) monitoring performance of the State Commissions in terms of their disposal by calling for **periodical returns regarding the institution, disposal and pendency of cases;**
 - (b) **investigating into any allegations against the President and members of a State Commission** and submitting **inquiry report** to the State Government concerned along with copy endorsed to the Central Government for necessary action;
 - (c) issuance of instructions regarding:
 - adoption of uniform procedure in the hearing of matters,
 - prior service of copies of documents produced by one party to the opposite parties,
 - furnishing of English translation of judgments written in any language,
 - speedy grant of copies of documents;
 - (d) overseeing the functioning of the State Commission or the District Commission either by way of inspection to ensure that the objects and purposes of the Act are best served and the standards set by the National Commission are implemented without interfering with their quasi-judicial freedom.
- (2) There shall be a monitoring cell to be constituted by the President of the National Commission to oversee the functioning of the State Commissions from the administrative point of view.
- (3) The State Commission shall have administrative control over all the District Commissions within its jurisdiction in all matters referred above.

Section 72: Penalty for noncompliance of order

- Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission shall be punishable with imprisonment for a term which shall not be less than 1 month, but which may extend to 3 years, or with fine, which shall not be less than Rs. 25,000, but which may extend to Rs. 1,00,000 or with both.
- The District Commission, the State Commission or the National Commission shall have the power of a Judicial Magistrate of first class for the trial of offences referred above.

Appeal against order issued under Section 73

Where an order is passed under section 72, an appeal shall lie, both on facts and on law from—

- (a) the order made by the District Commission to the State Commission;
- (b) the order made by the State Commission to the National Commission; and
- (c) the order made by the National Commission to the Supreme Court.

Every appeal under this section shall be preferred within a period of 30 days from the date of order of a District Commission or a State Commission or the National Commission.

CHAPTER-V

MEDIATION (Section 74-81)

Establishment of consumer mediation cell

- The State Government shall establish a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of that State.
- The Central Government shall establish a consumer mediation cell to be attached to the National Commission and each of the regional Benches.
- Every consumer mediation cell shall maintain—
 - i. a list of empanelled mediators;
 - ii. a list of cases handled by the cell;
 - iii. record of proceeding; and
 - iv. any other information as may be specified by regulations.
- Every consumer mediation cell shall submit a quarterly report to the District Commission, State Commission or the National Commission to which it is attached.

Empanelment of mediators

- For the purpose of mediation, the National Commission or the State Commission or the District Commission shall prepare a panel of the mediators to be maintained by the consumer mediation cell attached to it, [on the recommendation of a selection committee consisting of the President and a member of that Commission](#).
- The panel of mediators shall be valid for a period of **5 years**, and the empanelled mediators shall be eligible to be considered for re-empanelment for another term, subject to certain conditions.

Duty of mediator to disclose certain facts

It shall be the duty of the mediator to disclose—

- any personal, professional or financial interest in the outcome of the consumer dispute; and
- the circumstances which may give rise to a justifiable doubt as to his independence or impartiality.

Replacement of mediator in certain cases

Where the District Commission or the State Commission or the National Commission is satisfied,

- on the information furnished by the mediator or
- on the information received from any other person including parties to the complaint and after hearing the mediator,

it shall replace such mediator by another mediator.

Procedure for mediation

- Where a consumer dispute is referred for mediation by the District Commission or the State Commission or the National Commission, as the case may be, the mediator nominated by such Commission shall have regard to:
 - the rights and obligations of the parties,
 - the usages of trade, if any,
 - the circumstances giving rise to the consumer dispute and
 - such other relevant factors, as he may deem necessary and
 - shall be guided by the principles of natural justice while carrying out mediation.

Settlement through mediation

- Pursuant to mediation, if an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the terms of such agreement shall be reduced to writing accordingly, and signed by the parties to such dispute or their authorised representatives.
- The mediator shall prepare a settlement report of the settlement and forward the signed agreement along with such report to the concerned Commission.
- Where no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to the concerned Commission.

Recording settlement and passing of order

- The District Commission or the State Commission or the National Commission, as the case may be, shall, within 7 days of the receipt of the settlement report, pass suitable order recording such settlement of consumer dispute and dispose of the matter accordingly.
- Where the consumer dispute is settled only in part, the District Commission or the State Commission or the National Commission shall record settlement of the issues which have been so settled and continue to hear other issues involved in such consumer dispute.
- Where the consumer dispute could not be settled by mediation, the District Commission or the State Commission or the National Commission, as the case may be, shall continue to hear all the issues involved in such consumer dispute.

CHAPTER-VI

PRODUCT LIABILITY

Product liability action

A product liability action may be brought by a complainant against

- a product manufacturer or
- a product service provider or
- a product seller

for any harm caused to him on account of a defective product.

Liability of product manufacturer

A product manufacturer shall be liable in a product liability action, if—

- the product contains a manufacturing defect; or
- the product is defective in design; or
- there is a deviation from manufacturing specifications; or
- the product does not conform to the express warranty; or
- the product fails to contain adequate instructions of correct usage to prevent any harm or any warning regarding improper or incorrect usage.

Liability of product service provider

A product service provider shall be liable in a product liability action, if—

- (a) the service provided by him was faulty or imperfect or deficient or inadequate in quality, nature or manner of performance which is required to be provided by or under any law for the time being in force, or pursuant to any contract or otherwise; or
- (b) there was an act of omission or commission or negligence or conscious withholding of any information which caused harm; or
- (c) the service provider did not issue adequate instructions or warnings to prevent any harm; or
- (d) the service did not conform to express warranty or the terms and conditions of the contract.

Liability of product sellers

A product seller who is not a product manufacturer shall be liable in a product liability action, if—

- (a) he has exercised substantial control over the designing, testing, manufacturing, packaging or labelling of a product that caused harm; or
- (b) he has altered or modified the product and such alteration or modification was the substantial factor in causing the harm; or
- (c) he has made an express warranty of a product independent of any express warranty made by a manufacturer and such product failed to conform to the express warranty made by the product seller which caused the harm; or

- (d) the product has been sold by him and the identity of product manufacturer of such product is not known, or if known, the service of notice or process cannot be effected on him; or
- (e) he failed to exercise reasonable care in assembling, inspecting or maintaining such product or he did not pass on the warnings or instructions of the product manufacturer regarding the dangers involved or proper usage of the product while selling such product and such failure was the proximate cause of the harm.

Exceptions to product liability action

- (1) A product liability action cannot be brought against the product seller if, at the time of harm, the product was misused, altered, or modified.
- (2) In any product liability action based on the failure to provide adequate warnings or instructions, the product manufacturer shall not be liable, if—
 - (a) the product was purchased by an employer for use at the workplace and the product manufacturer had provided warnings or instructions to such employer;
 - (b) the product was sold as a component or material to be used in another product and necessary warnings or instructions were given by the product manufacturer to the purchaser of such component or material, but the harm was caused to the complainant by use of the end product in which such component or material was used;
 - (c) the product was one which was legally meant to be used or dispensed only by or under the supervision of an expert or a class of experts and the product manufacturer had employed reasonable means to give the warnings or instructions for usage of such product to such expert or class of experts; or
 - (d) the complainant, while using such product, was under the influence of alcohol or any prescription drug which had not been prescribed by a medical practitioner.
- (3) A product manufacturer shall not be liable for failure to instruct or warn about a danger which is obvious or commonly known to the user or consumer of such product or which, such user or consumer, ought to have known, taking into account the characteristics of such product.

CHAPTER VII

OFFENCES AND PENALTIES

Penalty for noncompliance of direction of Central Authority

Section 88 provides that whoever, fails to comply with any direction of the Central Authority under sections 20 and 21, shall be punished with imprisonment for a term which may extend to 6 months or with fine which may extend to Rs. 20,00,000, or with both.

Punishment for false or misleading advertisement

Section 89 provides that any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished:

- with imprisonment for a term which may extend to 2 years and
 - with fine which may extend to Rs. 10,00,000; and
- for every subsequent offence, be punished
- with imprisonment for a term which may extend to 5 years and
 - with fine which may extend to Rs. 50,00,000.

Punishment for manufacturing for sale or storing, selling or distributing or importing products containing adulterant

Section 90 provides that whoever, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any product containing an adulterant shall be punished, if such act—

- (a) does not result in any injury to the consumer:
 - with imprisonment for a term which may extend to 6 months and
 - with fine which may extend to Rs. 1,00,000;
- (b) causing injury not amounting to grievous hurt to the consumer:
 - with imprisonment for a term which may extend to 1 year and
 - with fine which may extend to Rs. 3,00,000;
- (c) causing injury resulting in grievous hurt to the consumer:
 - with imprisonment for a term which may extend to 7 years and
 - with fine which may extend to Rs. 5,00,000; and
- (d) results in the death of a consumer:
 - with imprisonment for a term which shall not be less than 7 years, but which may extend to imprisonment for life and
 - with fine which shall not be less than Rs. 10,00,000.

The offences under clauses (c) and (d) mentioned above shall be cognizable and non-bailable.

Apart from above provision the court may, in case of first conviction, suspend any licence issued to the person referred above, under any law for the time being in force, for a period up to 2 years, and in case of second or subsequent conviction, cancel the licence.

"adulterant" means any material including extraneous matter which is employed or used for making a product unsafe;

Punishment for manufacturing for sale or for storing or selling or distributing or importing spurious goods

Section 91 provides that whoever, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any spurious goods shall be punished, if such act —

- (a) causing injury not amounting to grievous hurt to the consumer:
 - with imprisonment for a term which may extend to 1 year and
 - with fine which may extend to Rs. 3,00,000;
- (b) causing injury resulting in grievous hurt to the consumer:
 - with imprisonment for a term which may extend to 7 years and
 - with fine which may extend to Rs. 5,00,000;
- (c) results in the death of a consumer:
 - with imprisonment for a term which shall not be less than 7 years, but may extend to imprisonment for life and
 - with fine which shall not be less than Rs. 10,00,000.

The offences under clauses (b) and (c) above shall be cognizable and non-bailable.

Apart from above provision the court may, in case of first conviction, suspend any licence issued to the person referred to in that sub-section, under any law for the time being in force, for a period up to 2 years, and in case of second or subsequent conviction, cancel the licence.

Vexatious search

The Director General or any other officer who knowingly and without any reasonable grounds does —

- (a) search, or causes to be searched any premises; or
- (b) seize any record, register or other document or article,

shall, for every such offence, be punished with imprisonment for a term which may extend to 1 year, or with fine which may extend to Rs. 10,000 or with both.

CHAPTER VIII

MISCELLANEOUS

Presidents, members, Chief Commissioner, Commissioner and certain officers to be public servants

- The Presidents and members of the District Commission, the State Commission and the National Commission, and officers and other employees thereof,
- The Chief Commissioner and the Commissioner of the Central Authority, the Director General, the Additional Director General, the Director, the Joint Director, the Deputy Director and the Assistant Director and all other officers and employees of the Central Authority and
- Other persons performing any duty under this Act, while acting or purporting to act in pursuance of any of the provisions of this Act,

shall be deemed to be public servants.

Compounding of offences

- Section 96 provides that any offence punishable under sections 88 and 89, may, either before or after the institution of the prosecution, be compounded.

However, no compounding of such offences shall be made without the leave of the court before which a complaint has been filed under section 92:

- The Central Authority or any officer as may be specially authorised by him in this behalf, may compound above offences.
- Above provisions will not apply to person who commits the same or similar offence, within a period of 3 years from the date on which the first offence, committed by him, was compounded.

For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of 3 years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

- Where an offence has been compounded above no proceeding or further proceeding shall be taken against the offender in respect of the offence so compounded.

Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Presidents and members of the District Commission, the State Commission and the National Commission, the Chief Commissioner, the Commissioner, any officer or employee and other person performing any duty under this Act, **for any act which is in good faith done or intended to be done in pursuance of this Act or under any rule or order made thereunder.**

Power of Central Government to make rules

The Central Government may make rules for carrying out any of the provisions contained in this Act and such rules may provide for —

- the manner of issuing bill or cash memo or receipt for goods sold or services rendered;
- the number of Commissioners in the Central Authority;

- the qualifications for appointment, method of recruitment, procedure of appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chief Commissioner and other Commissioners of the Central Authority;
- the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Central Authority;
- the qualifications for appointment of Director General, Additional Director General, Director, Joint Director, Deputy Director and Assistant Director and the manner of appointment;
- the form and manner for preparing annual statement of accounts by the Central Authority in consultation with the CAG of India;
- the qualifications for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of President and members of the District Commission and State Commission;
- the manner of electronically filing complaint;
- the fee, electronic form and the manner of payment of fee for filing complaint;
- the cases which may not be referred for settlement by mediation;
- the form and the manner in which appeal may be preferred to the State Commission;
- the form and manner of filing appeal to the National Commission, and the manner of depositing 50% of the amount before filing appeal;
- the number of members of the National Commission;
- the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the President and members of the National Commission;
- the salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the National Commission;
- the persons in the consumer mediation cell;
- the measures to be taken by the Central Government to prevent unfair trade practices in e-commerce and direct selling;
- any other matter which is to be, or may be, prescribed, or in respect of which provisions are to be, or may be, made by rules.

CASE STUDIES RELATING TO CONSUMER PROTECTION ACT

<p>Laxmi Engineering Works v. P.S.G. Industrial Institute</p>	<p>Supreme Court held that if a person purchased a machine to operate it himself for earning his livelihood, he would be a consumer. If such person took the assistance of one or two persons to assist him in operating the machine, he would still be a consumer. But if a person purchases a machine and appoint or engage another person exclusively to operate the machine, then such person would not be a consumer.</p>
<p>Bhupendra Jang Bahadur Guna v. Regional Manager and Others,</p>	<p>The National Commission held that a tractor purchased primarily to till the land of the purchaser and let out on hire during the idle time to till the lands of others would not amount to commercial use.</p>
<p>A Narasamma v. LIC of India</p>	<p>It was held that the widow being the beneficiary of services is a 'consumer' under the Act and is entitled to be compensated for the loss suffered by her due to negligence of the LIC.</p>
<p>Spring Meadows Hospital v. Harjot Ahluwalia</p>	<p>The Supreme Court held that parents who bring the child to hospital and the child, both are consumers.</p>
<p>Morgan Stanley Mutual Fund v. Kartik Das</p>	<p>The Supreme Court held that shares before allotment cannot constitute goods because at the stage of application there is no purchase of goods for consideration.</p>
<p>(General Manager v. Anand Prasad Sinha)</p>	<p>Passengers travelling by trains on payment of the stipulated fare charged for the ticket are 'consumers' and the facility of transportation by rail provided by the railway administration is a 'service' rendered for consideration as defined in the Act.</p>
<p>(Dist. Manager, Telephones Patna v. Lalit Kumar Bajla)</p>	<p>Subscribers of telephones would also be 'consumer' under the Act</p>
<p>Consumer Unity and Trust Society v. State of Rajasthan)</p>	<p>It was held that complaints against government hospitals cannot be entertained under the Act on the ground that a person receiving treatment in such hospital is not a 'consumer as the patient does not 'hire the services of the hospital'. Moreover, the treatment provided is free of charge, and therefore, it does not amount to service.</p>
<p>(Centre for Research & Industrial Development v. Madan Lal Sahni)</p>	<p>It was held that Professors of Universities or Civil Servants are not covered under Act as they are appointed under Contract of Personal Service.</p>
<p>(J. Rebello v. Vice Chancellor, Bangalore University)</p>	<p>It was held that the University in conducting examination, evaluating answer sheets and publishing the result was not performing any service for consideration and a candidate who appeared for the examination cannot be regarded as a consumer.</p>

(Consumer Unity and Trust Society)	It was held that in order to be 'deficiency in service' loss or injury must be coupled with negligence .
(Punjab National Bank v. K.B. Shetty)	In ornaments kept in the banks locker were found lost though the certificate recorded by the custodian of the bank on the day the customer operated the locker stated that all lockers operated during the day have been checked and found properly locked. Bank was held guilty of negligence.
(Lucknow Development Authority v. Roop Kishore Tandon)	Failure of a Housing Board to give possession of the flat after receiving the price and after registering it in favour of the allottee was held to be 'deficiency in service'
(Skypack Couriers Pvt. Ltd. & Another v. Ms. Anupama Bagla)	Non-delivery of a video cassette by a courier service company resulting in the complainant losing admission to the desired college was held to be 'deficiency in service'
(Special Machines v. Punjab National Bank,)	Failure to provide nursing and financing facilities to a small scale industry which consequently became sick cannot be said to constitute 'deficiency in service'.
(Pradeep Kumar Jain v. Citi Bank)	If the appellant purchased a car by taking a loan from the respondent bank, and gave post-dated cheques to the bank not only in respect of repayment of loan instalments but also of premium of insurance policy for succeeding years. On the expiry of the policy the bank failed to get the policy renewed. In the meantime the car met with an accident. The Supreme Court held that there is no deficiency in service because the obligation to renew the policy was on the appellant alone.

SOME IMPORTANT CASES

J.K. Puri Engineers v. Mohan Breweries & Distilleries Ltd	<p>In this case, the company maintained a guest house for use of its managing director, and other executives. It entered into a contract with the appellants for the installation of central air-conditioning system. The allegation was that the system installed did not function, developed snags, and that there was leakage of water from dusting system.</p> <p>Supreme Court held that guest house was intended only for the residence of the directors, including the Managing Director and other executives of the company during their visits to the city. The system was installed only to provide comfort of these persons and therefore it was not used for a commercial purpose as it had no close or direct nexus with the commercial activity carried on by the company.</p> <p><i>Even where the goods are purchased for commercial purpose, if there is a warranty, for its maintenance, the purchaser becomes a consumer in respect of the services rendered or to be rendered by the manufacturer or supplier during the warranty period.</i></p>
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Kerela State Electricity Board v. Raveendran	It was held that fall in electricity voltage damaging the machine in a plastic factory and affecting production would amount to deficiency in service.
Poonam Verma v. Ashwin Patel	<p>In this case the respondent was a qualified medical practitioner in homoeopathic system of medicine. The appellant, was the widow of a person who, it was alleged, had died because of the negligence of the respondent in administering allopathic medicines in which he was not qualified to practise. It was alleged that the deceased was treated to begin with, for viral fever on allopathic medicines and since his condition had not improved antibiotics were used without conducting proper tests. When his condition further deteriorated he was removed to a nursing home and after four days he was removed to a hospital in an unconscious state. Within a few hours thereafter he died.</p> <p>Her complaint to the National Consumer Disputes Redressal Commission for damages for the negligence and carelessness of respondent in treating her husband was dismissed. Allowing the appeal the Supreme Court held that the respondent who had practised in allopathy without being qualified in that system was guilty of negligence per se. A person is liable at law for the consequences of his negligence.</p> <p>Jurisdiction of the Commission: The Supreme Court observed that it is beyond doubt now that disputes regarding applicability of the Act to persons engaged in medical profession either as private practitioners or as Government doctors working in hospitals or Government dispensaries come within the purview of the Consumer Protection Act, 1986. It is also settled that a patient who is a consumer has to be awarded compensation for loss or injury suffered by him due to negligence of the doctor by applying the same tests as are applied in an action for damages for negligence.</p>
Gopi Ram Goyal and others v. National Heart Institute and others	In this case the National Commission held that where the record and evidence shows that the conduct of the opposite parties i.e. doctors was more than reasonable and the level of care was as could be expected from professional in exercising reasonable degree of skill and knowledge. The complainant however failed to prove any case of negligence on the part of doctors, therefore the doctor cannot be held liable for death of patient.

INSURANCE CASES

L.I.C. v. Mumta ji Begam	In this case, it was held that where the date of birth of the insured was in dispute and not accepted by the insurance company, the forums under the Act had no jurisdiction to entertain any complaint against the insurance company.
Jyoti Kumar Jain and another v. United India Insurance Co. Ltd	In this case, it was held that repudiation of claim on the ground that complainant was suffering from chronic disease even before the issuance of policy, amounts to suppression of material facts, cannot be sustained unless Insurance Company proves suppression of facts amounted to fraud.

Jitendra Kumar v. Oriental Insurance Company Ltd	In this case, the Supreme Court has held that where the fire has occurred due to mechanical failure and not due to any act or omission of the driver, the insurance company cannot repudiate the claim because of lack of valid driving license.
Harshad J. Shah v. Life Insurance Corporation of India	In this case, it was held that if Premium is paid to the agent of the LIC, but the agent did not deposit the premium and during that period if the death of the insured takes place, the complainant cannot claim compensation as there is no deficiency of service on the part of the LIC. Supreme Court held that the agent had no express authority to receive the premium on behalf of the Corporation.
National Insurance Co. Ltd. v. Seema Malhotra	A cheque was issued under a contract of insurance of motor car by the insured for payment of premium to the policy. However, cheque was dishonoured for want of funds in the account. Meanwhile, the car met an accident and badly damaged, killing the insured owner. The claim for insured amount was repudiated by the company. The Supreme Court held insurer need not to perform his part of promise when the other party fails to perform his part and thus not liable to pay the insured amount.
Delhi Electric Supply Undertaking v. Basanti Devi	Premium due on each policy was collected by the employer from the salary of the employee and sent to LIC under a salary saving scheme. Employees were kept ignorant of what happens between the employer and LIC. After a few month employer started not depositing the money to LIC but continued the salary deduction. In the meantime, an employee died and payment from LIC was sought. LIC repudiated the claim on the ground of non-remittance of the premium. The Supreme Court held that since the burden of collecting the premium and remitting it to the corporation was on the employer it was not for the employee to intimate the corporation about non-remittance of the premium, the LIC is liable to pay the claim.

TRANSPORTATION CASES

Indian Airlines v. Dr. Jiteswar Ahir,	When the complainant-passenger occupied his seat in the aircraft, an announcement was made that his luggage was lying on the ground unidentified and that he should disembark to identify his luggage. Accordingly, the complainant moved towards the rear door, and finding that the step ladder was attached to the aircraft door, he stepped out on to the staircase but before he could actually put his entire body weight on the staircase the ladder was suddenly removed as a result of which he fell down on the ground and sustained bodily injuries. It was held that there was dangerous deficiency in service.
Ravneet Singh Bagga v. KLM Royal Dutch Fintimes	In this case, the complainant booked a ticket from Delhi to New York by a KLM plane. The airport authorities in New Delhi did not find any fault in his visa and other documents. However at Amsterdam, the airport authorities instituted proceedings of verification because of which the appellant missed his flight to New York. After reaching New York, the airlines tendered apology to the appellant for the inconvenience and paid as a goodwill gesture a sum of Rs. 2,500. The appellant made a complaint to the National Commission under the Consumer Protection Act which was rejected.

	The Supreme Court held that the respondent could not be held to be guilty of deficiency in service as staff of the airline acted fairly and in a bona fide manner, keeping in mind security and safety of passengers and the Aircraft.
Union of India v. Nathmal Hansaria	In this case, the daughter of the complainant, travelling by a train, fell down from the running train while she was passing through the inter-connecting passage between two compartments and died as a result of crush injuries on her head. The Railways contended that the Consumer Redressal agencies had no jurisdiction to consider a complaint of this nature in view of Railway Claims Tribunal Act. The State Commission held that a railway passenger travelling in a train on payment of consideration was a consumer and as the death didn't occur because of railway accident, but due to absence of safety device in the vestibule passage way, there was deficiency in service.
General Manager, Southern Railway v. Mrs. A Shamin	In this case, Railway was held liable for deficiency in service when some unauthorized passengers who boarded reserved compartments was not removed by T.T.E despite several complaint of passengers and later passengers were robbed during the night.

POST OFFICE CASES

Devi Engineering Co. v. Union of India	In this case, the complainant had alleged that demand drafts sent by him by registered post to an addressee were mis - delivered to someone else. The State Commission, invoking the provisions of Section 6 of the Post Office Act held that the post office could not be made liable to pay compensation ordered by the District forum.
Presidency Post Master v. Dr. U. Shankar Rao	Absolute immunity to Post Offices under Section 6 of Post Office Act . It was settled by the National Commission in Presidency Post Master v. Dr. U. Shankar Rao that in view of the clear mandate of Section 6 of the Indian Post Office Act, the Government shall not incur any liability by reason of the loss, mis - delivery or delay or damage to any postal article in course of transmission by post.
Airpack Couriers (India) Pvt. Ltd. v. S. Suresh	where a package of important documents entrusted to the courier had not been delivered causing loss to the complainant, the National Commission, on appeal against the State Commissions order awarding compensation of Rs. 1 lakh, reduced it to Rs. 100 holding that the terms incorporated in the consignment note specifically limited the couriers liability to a maximum of Rs. 100 per consignment for loss in transit. Moreover, as per (International Air Transport Association) IATA regulations, no important documents may be sent through courier service and the consignee is bound to declare the nature of contents before sending the consignment. Further, if the documents to be consigned were of great value, the consignee ought to have insured them or declared their value in the consignment note.

EDUCATION CASES

<p>Sashikant Krishnaji Dole v. Shitshan Prasarak Mandali</p>	<p>The school owned a swimming pool and offered swimming facilities to the public on payment of a fee. The complainants had enrolled their son for learning swimming under the guidance of the coach. It was alleged that due to the negligence of the coach the boy was drowned and met with his death. The school denied that it had engaged the services of a coach and also denied any responsibility on its part. The State Commission held the school and the coach deficient in rendering service to the deceased, that the coach was not fully trained, did not exercise even the basic common sense needed to counter an accident in swimming and as far as the school was concerned it did not even provide basic facilities nor did it provide any safeguards to prevent accidents. Accordingly, it was considered as deficiency in service.</p>
<p>Isabella Thoburn College v. Ms. Fatima Effendi</p>	<p>In this case the State Commission held that non-refund of admission fee is not a deficiency of service on the part of the university because admission fee is consideration for admission and respondent herself voluntarily withdrawing admission from one university to join another institute cannot claim refund of admission fee.</p>
<p>Sreedharan Nair N. v. Registrar, University of Kerala</p>	<p>In this case the University refused to provide LL.B. degree certificate on completion of course on the ground that the qualifying examination on the basis of which student was admitted in LL.B. course in Kerala law college has not been recognised by it. The National Commission held that this is a clear case of deficiency on part of University. A compensation of Rs. 50,000 was awarded to complainant.</p>