

# RIGHT TO CONSUMER, 1986

The development of consumer protection laws in India is mainly concerned with or related to some basic issues like - enforcement of correct weights & measurements for protection against deceit in weights and measures; fair trading practices for protection against malpractices in the area of business and trade and protection against malnutrition and deterioration and degradation of the quality of products etc.

**CONSUMER** - Somebody who consumes certain goods or avails for the services for which he pays he is a consumer.

Every citizen of the country is a consumer of goods or services or both. Consumers have also occupied a place of high importance of distribution of channel of a country.

Human being which consumes anything for survival is a consumer.

**Longman Dictionary** defines consumer 'one who purchases goods or services'. **Oxford English Dictionary** a consumer is one who purchases goods or pays for services.

One who does not pay for the goods one consumes or for the services one avails is **not a consumer**.

⇒ Is a patient undergoing treatment a consumer?

# A patient who is availing of a medical services of a doctor or a hospital is a consumer. But a doctor cannot be held guilty of negligence if he acts in good health and in accordance with the established medical practice.

- Patients in pay wards are consumers.
- Hiring of a services of a doctor on a payment is service.
- Patient in private nursing home is a consumer.
- On payment to hospital patient is a consumer.
- A person getting free service at hospital is not a consumer.

⇒ Is student a consumer?

# A candidate who pay fee to university for appearing examination is a consumer.

# A candidate applying reevaluation of examination paper is a consumer.



- # Students of an educational institutions are consumers.
- # Student paying tuition fee is a consumer.

>> What are the rights of a consumer?

- Right to be protected against the marketing of good and services which are hazardous to life and property.

- Right to be informed about the quality, quantity, purity and prices of good and services.

- Right to be heard and to be assured that consumer's interest that received your consideration at appropriate forums.

- Right to Consumer Education.

>> Right to Seek Redressal -

- Every consumer has the right to get relief against unfair trade practices or exploitation. The right 'to seek redressal against unfair trade practices or unscrupulous exploitation of consumers' is defined as the right to redressal in the Consumer Protection Act, 1986.

## >> Right to Education -

Every consumer has a right to consumer education. The right to each Indian citizen to be educated on matters related to consumer protection and about his rights is the last right given by the Protection Act 1986. This simply means that every consumer must be made conscious of his rights as well as the legal remedies.

## >> Right to be heard and receive due considerations at appropriate forums -

Every consumer has the right to be heard and assured that consumer interests will receive due consideration at appropriate forums. According to the Consumer Protection Act, 1986 the right to be heard and to be assured that consumers' interest will receive due considerations at appropriate forums is referred to as the right to be heard.

## >> Right to Protection Against Hazardous Goods and Services

This Act gives every consumer the right to be protected against marketing of goods and services which are hazardous to life and property. The consumer right is defined as the right to be protected against marketing of goods and services which are hazardous to life and property.



⇒ Who can make a complaint?

According to Clause (b) Section 2 (1) of the Act, a complaint can be made by any of the following:

- i) a consumer.
- ii) One or more consumers where there are numerous consumers having the same interest. In case of death of a consumer his legal heir or representative.
- iii) Where a young child is taken to a hospital by his parents & the doctor treats the child the parents of such a minor child can file a minor child can file a complain under the act.
- iv) Legal heirs of the diseased consumer.
- v) Husband of the consumer in conditions where a woman may be illiterate or educated women may be unaware of her legal rights.
- vi) A husband can file a complaint on behave on his spouse.
- vii) Relative of a consumer.

### PROVISIONS—

- Physical presence in the consumer redressal forum is not required.
- Instead of appearing himself the complainant authorises some person to appeal on his behalf.

- The procedures of the consumer forum are easily understandable even by a layman.
- No need for advocate.
- No fees is very nominal.
- Its presiding officers are not required to wear uniforms.

### >> What is Consumer dispute?

It is a dispute in which a consumer makes a complaint of deficiency against the good or services that one buys or pays for.

### >> What is deficiency in service?

It means any fault, imperfection, shortcoming or inadequacy in the quality nature and manner of performance which is required to be maintained by the service provider.

### >> What is defect?

It means any fault imperfection or shortcomings in the quality, quantity, purity or standard which is required to be maintained by a manufacturer, producer or trader of a good.



1) What is unfair trade practice?

A trade which for the purpose for promoting the sale used or supply of any goods or for the provision of any service adopts unfair method or unfair or deceptive in unfair trade practice.

### CONSUMER PROTECTION ACT, 1986 -

The objective of this law is to provide for better protection of the interest of consumers.

Whenever a consumer finds that goods what or services availed by the person suffered from some defect or deficiency the person can use this law and file a complaint before the appropriate forum.

### CONSUMER PROTECTION ACT, 2019 -

The Consumer Protection Act, 2019 received the assent of the president on the 9<sup>th</sup> August, 2019.

# Key highlights of the New Act are the following:-

- i) Establishment of Central Consumer Protection Authority
- ii) Product Liability
- iii) Unfair Contracts

- iv) Unfair Trade Practices
- v) Penalties for Misleading Advertisement
- vi) Celebrity Endorsement.
- vii) E-commerce Transactions Covered
- viii) E-Filing of Complaints
- ix) Provision for Alternate Dispute Resolution
- x) Enhancement of Pecuniary Jurisdiction:

## >> MECHANISM AT DISTRICT LEVEL -

At the District level, each District of the State shall have a Consumer Disputes Redressal Forum to be known as the 'District Forum'. Each District Forum is to be established by the State Government by a notification to be published in the official Gazette.

→ Every district of the country there are 3 members. The head should be the district judge.

→ Complaints can be filed before the district consumer dispute redressal forum where the value of good and services and compensation if any does not exceed 20 lakh rupees.



## # Powers and Procedures, what does a district forums do with the complaint?

- It entertains consumer complaints where the value of goods or services or the compensation claimed if any is less than 20 lakhs. If such value is more than 20 lakhs then the complainant will have to approach the state consumer commission or national consumer commission as the case may be.
- The district forum should take a decision to reject or admit a complaint within 21 days of its filing.

## # Powers of district forums -

- Summoning and enforcing the attendance of any defendant or witness and examining the witness on oath.
- Discovery and Production of any document or other material object producible as evidence.
- Requisitioning of report of the concerned analysis or test from the appropriate laboratory or from any other relevant source.
- Non-compliance of its order the forum has the power of judicial magistrate.
- It can pass interim orders during the tendency of the case if it is necessary.



## # Provision of Appeal-

- An appeal against the decision of district forum can be filed before its respective state consumer dispute redressal commission.
- Any person who aggrieved of any order of a district forum may file an appeal against such order.
- Such an appeal should be filed within a period of 30 days of the order.
- State Commission can entertain an appeal after the expiry of the period of 30 days. If it is satisfied that there was the sufficient cause for not filing it within that period.

# District Consumer Protection - Council is a body established by state government in every district. Objective of every district Council is to protect and promote the rights of consumers within its respective districts. Such a body at the district level is created to provide a forum for promoting and protecting the rights of consumers at the grass root level.

## → STATE LEVEL -

- State Commission hear the cases involving the amount but upto ₹ Crore.



→ State Commission has jurisdiction to has appeal against the order forum.

**# Composition** - It consist of a president and ~~2~~ 2 members. One of has to be a woman. President is a person who is or has been the judge of a high court.

**>> National Commission** -

It is on top of hierarchy on Consumer Court. It is only one for whole of India and is situation in Delhi. It can hear cases involving an amount above Rs 1 Cr. It can also hear appeals against the order of a State Commission. It consist of a president and 4 other members. One whom is to be a woman.

**>> Conclusion** -

As clear from the study, the consumer protection has social, ethncial and economic dimensions. The Act was effective and purposeful. But, in order to make it more effective, certain amendments were proposed. It protects the consumer as it covers all types of consumer transactions. It protects the consumers

from the burden of restrictive and unfair trade practice and services. It also protects the consumer from deficient services.

The judiciary has played a very important role in balancing the interests of the providers and users of service. Thus it can be said that the Consumer Protection Act, too, had its teething problems & has had its crop of amendments in 1991 and 1993.