



[Academic Script]

Consumer Protection ACT, 1986 Part - 1

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1. Introduction

Hello students, to we having discussion on consumer protection act, 1986, this act is very beneficial to the consumer for their day to day activities in the market. Subtopics are mainly pointing out on the how consumer protection act established, its jurisdiction system, objectives, rights of consumers and jurisdiction of district and state council. We will discuss on objectives of central council also.

2. What is meant of Consumer Protection?

Consumer protection is a group of laws and organizations designed to ensure the rights of consumers as well as fair trade, competition and accurate information in the marketplace. The laws are designed to prevent businesses that engage in fraud or specified unfair practices from gaining an advantage over competitors.

Structure and Jurisdiction of the Act:

Govt. of India has made consumer protection act in 1986. The main aim is to protect consumers from immoral practice of business organizations.

The Consumer Protection Act, 1986 was enacted to provide a simpler and quicker access to redress of consumer grievances. The Act seeks to promote and protects the interest of consumers against deficiencies and defects in goods or services. It also seeks to secure the rights of a consumer against unfair trade practices, which may be practiced by manufacturers and traders. Main features of Consumer protect Act 1986. Under this act, consumers have right to get information of quality, quantity and price of products.

The set-up of consumer forum is geared to provide relief to both parties, and discourage long litigation. In a process called 'informal adjudication', forum officials mediate between the two parties and urge compromise. The Act applies to all goods and services unless specifically exempted by the Central Government. It covers all the sectors whether private, public or cooperative.

This Act has provided machinery whereby consumers can file their complaints which will be heard by the consumer forums with special powers so that action can be taken against erring suppliers and the possible compensation may be awarded to consumer for the hardships he has undergone.

The consumer under this law is not required to deposit huge court fees, which earlier used to deter consumers from approaching the courts. The rigours of court procedures have been replaced with simple procedures as compared to the normal courts, which helps in quicker redressal of grievances. The provisions of the Act are compensatory in nature.

Please remember, consumer courts provide redress only in cases of products or services for personal use, defects in products used for commercial purposes are not entertained.

Philosophy of ACT

According to legal analysis on philosophy behind consumers from being unfairly exploited by businesses and individuals. Areas of regulation in the CPA that focus on hazards to health and property are at the top of law's priority list. The law also specifies the consumer's right to be heard in an appropriate settings. The structure of the hearing system included redressal forums at national, state and district levels. If the issue reaches

the national level the settlement includes higher cost that have not been settled at the level close to home. The CPA lists consumer education is very important so as to prevent future disputes.

The United Nations has passed a resolution in April 1985, indicating certain guidelines under which the government could make law for better protection of the interest of the consumers. Such laws were more necessary in the developing countries to protect the consumers from hazards to their health and safety and to make them available speedier and cheaper redress. This was the great step of movement of consumerism.

STATEMENT OF OBJECTS AND REASONS

1. The Consumer Protection Bill, 1986 seeks to provide for better protection of the interests of consumers and for the purpose, to make provision for the establishment of Consumer councils and other authorities for the settlement of consumer disputes and for matter connected therewith.

2. It seeks, inter alia, to promote and protect the rights of consumers such as-

(a) The right to be protected against marketing of goods which are hazardous to life and property;

(b) The right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices;

(c) The right to be assured, wherever possible, access to an authority of goods at competitive prices;

(d) The right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums;

(e) The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers: and

(f) Right to consumer education.

3. These objects are sought to be promoted and protected by the Consumer Protection Council to be established at the Central and State level.

4. To provide speedy and simple redressal to consumer disputes, a quasi-judicial machinery is sought to be set up at the district, State and Central level. These quasi-judicial bodies will observe the principles of natural justice and have been empowered to give relief of a specific nature and to award, wherever appropriate, compensation to consumers. Penalties for non-compliance of the orders given by the quasi-judicial bodies have also been provided.

5. The Bill seeks to achieve the above objects.

ACT 68 OF 1986

The Consumer Protection Bill, 1986 was passed by both the Houses of Parliament and it received the assent of the President on 24th December, 1986. It came on the Statutes Book as the Consumer Protection Act, 1986 (68 of 1986).

3. List of Amending ACTS

1. The Consumer Protection (Amendment) Act, 1991 (34 of 1991).

2. The Consumer Protection (Amendment) Act, 1993 (50 of 1993).

THE CONSUMER PROTECTION ACT, 1986

(68 of 1986)

An Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the

settlement of consumer' disputes and for matters connected therewith. The Consumer protection act 1986 extends to the whole India except Jammu and Kashmir.

Basic rights of consumers include:

1. Right to be protected against marketing of goods and services which are hazardous to life and property.
2. Right to be informed about the quality, quantity, standard and price of goods or services so as to protect the consumer against unfair trade practices.
3. Right to be assured, wherever possible, access to variety of goods and services at competitive prices.
4. Right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums.
5. Right to seek redressal against unfair trade practices.
6. Right to consumer education.

JURISDICTION

If the cost of goods or services and compensation asked for is up to rupees twenty lakh, then the complaint can be filed in the District Forum which has been notified by the State Government for the district where the cause of action has arisen or where the opposite party resides. A complaint can also be filed at a place where the branch office of the opposite party is located.

If the cost of goods or services and compensation asked for is more than rupees twenty lakh , but less than rupees one crore then the complaint can be filed before the State Commission notified by the State Government or Union Territory Concerned.

If the cost of goods or services and compensation asked for exceed rupees one crore then the complaint can be filed before the National Commission at New Delhi

Jurisdiction of District Forum

1. Subject to the other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed does not exceed rupees twenty lakhs.
2. A complaint shall be instituted in a District Forum within the local 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, actually and voluntarily resides or carries on business or has a branch office or personally works for gain, or
 - b) – any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office, or personally works for gain, provided that in such case either the permission of the District Forum is given, or the opposite parties who do not reside, or carry on business or have a branch office, or personally work for gain, as the case may be, acquiesce in such institution; or
 - c) – the cause of action, wholly or in part, arises.

By amendment act 1993, state government may establish more than one district forum in a district. (S. 9 (a) Proviso)

The provision of section 12,13 and 14, and the rules made thereunder for the disposal of complaint by the district forum shall , with such modification is necessary , be applicable to the disposal of disputes by the state commission.

Jurisdiction of state council

Subject to the other provisions of this Act, the State Commission shall have jurisdiction:-

a) – to entertain

i) – complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees twenty lakhs but does not exceed rupees one crore (R10 million); and

ii) – appeals against the orders of any District Forum 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 Forum within the State, where it appears to the State Commission that such District Forum 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.

2. Definitions

(1) In this Act, unless the context otherwise requires,-

1[(a) “appropriate laboratory” means a laboratory or organisation-

(i) Recognised by the Central Government;

(ii) recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf; or

(iii) any such laboratory or organisation established by or under any law for the time-being in force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;

2[(aa) "branch office" means-

(i) any establishment described as a branch by the opposite party, or

(ii) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment;

(b) "complainant" means-

(i) a consumer; or

(ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956), or under any other law for the time being in force; or

(iii) the Central Government or any State Government,

2[(iv) one or more consumers, where there are numerous consumers having the same interest;] who or which makes a complaint;

(c) "complaint" means any allegation in writing made by a complainant that-

1[(i) an unfair trade practice or a restrictive trade practice has been adopted by any trader;]

(ii) 1[the goods bought by him or agreed to be bought by him] suffer from one or more defect;

(iii) 1[the services hired or availed of or agreed to be hired or availed of by him] suffer from deficiency in any respect;

(iv) a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods;

2[(v) goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring

traders to display information in regard to the contents, manner and effect of use of such goods. with a view to obtaining any relief provided by or under this Act;

(d) "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) 1[hires or avails of] any services 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 services other than the person who 1[hires or avails of] the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payments, when such services are availed of with the approval of the first-mentioned person;

2[Explanation: For the purposes of sub-clause (i), "commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;]

(e) "consumer dispute" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;

(f) "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 for the time being in force or 2[under any contract, express or] implied, or as is claimed by the trader in any manner whatsoever in relation to any goods;

(g) "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 for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;

(h) "District Forum" means a Consumer Disputes Redressal Forum established under clause (a) of section 9;

(i) "goods" means goods as defined in the Sale of Goods Act, 1930 (3 of 1930);

(j) "manufacturer" means a person who-

(i) makes or manufactures any goods or parts thereof; or

(ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others and claims the end product to be goods manufactured by himself; or

(iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer and claims such goods to be goods made or manufactured by himself.

Explanation : Where a manufacturer despatches any goods or part thereof to any branch office maintained by him, such branch office shall not be deemed to be the manufacturer even though the parts so despatched to it are assembled at such branch office and are sold or distributed from such branch office.

2[(jj) "member" includes the President and a member of the National Commission or a State Commission or a District Forum, as the case may be;]

(k) "National Commission" means the National Consumer Disputes Redressal Commission established under clause (c) of section 9;

(l) "notification" means a notification published in the Official Gazette;

(m) "person" includes-

(i) a firm whether registered or not;

(ii) a Hindu undivided family;

(iii) a co-operative society;

(iv) every other association of persons whether registered under the Societies Registration Act, 1860 (22 of 1860) or not;

(n) "prescribed" means prescribed by rules made by the State Government, or as the case may be, by the Central Government under this Act;

2[(nn) "restrictive trade practice" means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent for buying, hiring or availing of other goods or services;]

(o) "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, board or lodging or both, 6[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;

(p) "State Commission" means a Consumer Disputes Redressal Commission established in a State under clause (b) of section 9;

(q) "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;

2[(r) "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, namely,-

(1) the practice of making any statement, whether orally or in writing or by visible representation which,-

(i) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;

(ii) falsely represents that the services are of a particular standard, quality or grade;

(iii) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;

(iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;

(v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;

(vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;

(vii) 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:

PROVIDED that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

(viii) makes to the public a representation in a form that purports to be-

(i) a warranty or guarantee of a product or of any goods or services; or

(ii) 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;

(ix) 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 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;

(x) gives false or misleading facts disparaging the goods, services or trade of another person.

Explanation: For the purposes of clause (1), a statement that is-

(a) expressed on an article offered or displayed for sale, or on its wrapper or container; or

(b) expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or

(c) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement

made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

(2) permits the publication of any advertisement whether in any newspaper or otherwise, 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 purposes of clause (2), "bargaining 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;

(3) permits-

(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, games of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;

(4) permits 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 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;

(5) permits the hoarding or destruction of goods, or refuses 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.

(2) Any reference in this Act to any other Act or provision thereof which is not in force in any area to which this Act applies shall be construed to have a reference to the corresponding Act or provision thereof in force in such area.

4. Goods and Services Covered Under CPA 1986

The term 'goods' under this Act has the same meaning as under the sale of goods Act. Accordingly it covers all types of movable property other than money and includes stocks and shares, growing crops, etc. The term 'service' means service of any description made available to potential users and includes banking, financing, housing construction, insurance, entertainment, transport, supply of electrical and other energy, boarding and lodging, amusement, etc. The services of doctors, engineers, architects, lawyers etc. are included under the provisions of Consumer Protection Act

Objectives of Central Council

The objectives of the Central Council is to promote and protect the rights of the consumers such as

1. The right to be protected against the marketing of goods and services which are hazardous to life and property.

2. The right to be informed about the quality, quantity, potency, purity, standard and price of goods or services,
3. The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers; and
4. The right to consumer education.
5. The right against consumer exploitation
6. The right to choose

5. Summary

In this session we learnt about consumer protection act, its establishment and its importance in market. We discussed, various definition of consumer protection act and their meaning and their importance into act. Consumer protection laws are used to help decrease the prevalence of monopolies and ensure that the consumer is still the main concern with companies. The Act applies to all goods and services unless specifically exempted by the Central Government. It covers all the sectors whether private, public or cooperative. The Consumer Protection Act spells out the rights of the Consumer and the responsibilities of the supplier.