



[Academic Script]

Consumer Protection ACT, 1986 Part - 2

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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. **1. Introduction**

Hello students, in today's lecture we have discussion on brief of complaint, how it can filled into the court, procedure of receipt of complaint, and redressal agencies. Consumer protection act provides a physical safety like consumers economic right, quality of goods and services, measures enabling safety and quality of consumers good and services, consumer education and programme etc. In this session we have discussion on various

steps of regarding complaint and its procedure and redressal agencies.

2. Complaint

An aggrieved consumer seeks redressal under the Act through the instrumentality of complaint. It does not mean that the consumer can complain against his each and every problem. The Act has provided certain grounds on which complaint can be made. Similarly, relief against these complaints can be granted within the set pattern.

1 What constitutes a complaint [Section 2(1)(c)] - Complaint is a statement made in writing to the National Commission, the State Commission or the District Forum by a person competent to file it, containing the allegations in detail, and with a view to obtain relief provided under the Act.

2 Who can file a complaint [Sections 2(b) & 12] - At the outset it is clear that a person who can be termed as a consumer under the Act can make a complaint.

To be specific on this account, following are the persons who can file a complaint under the Act : (a) a consumer; or (b) any voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force, or (c) the Central Government or any State Government, (d) one or more consumers, where there are numerous consumers having the same interest.

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 Forum, by –

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

(b) any recognized consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(d) the, Central or the State Government.

Explanation : For the purposes of this section, "recognized consumer association" means any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force. 33]

What a complaint must contain [Section 2(1)(c)] –

A complaint must contain any of the following allegations:

(a) An unfair trade practice or a restrictive trade practice has been adopted by any trader;

Example : A sold a six months old car to B representing it to be a new one. Here B can make a complaint against A for following an unfair trade practice.

(b) The goods bought by him or agreed to be bought by him suffer from one or more defects;

Example : A bought a computer from B. It was not working properly since day one. A can make a complaint against B for supplying him a defective computer.

(c) The services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect.

Example : A hired services of an advocate to defend himself against his landlord. The advocate did not appear every time the case was scheduled. A can make a complaint against the advocate.

(d) 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.

Example : A bought a sack of cement from B who charged him Rs. 100 over and above the reserve price of the cement declared by the Government. Here A can make a complaint against B.

Under the Consumer Protection Act, 1986, a complaint means any allegation in writing made by a complainant/consumer against the cheated company.

One can file a consumer complaint under Consumer Protection Act, 1986 for any of the following reasons.

- When a company cheats a consumer after purchasing a product. Cheating by giving false promises.
- Not delivering the goods and services for which payment is made.
- Consumer has suffered loss or damage as a result of any unfair Trade Practice.
- Any unfair trade practice as defined in the Act or restrictive trade practices like tie-up sales adopted by any trader
- The goods purchased suffer from one or more defects
- The trader charging excess of amount of the price displayed on goods or on any packet containing such good or fixed by any law for the time being in force

- The goods hazardous to life and safety, when used, are being offered for sale to public in contravention of provisions of any law for the time being in force
- Deficiencies in services
- Misleading advertisements and false representation.
- Any other factors that affected the consumer.

There are some procedures to follow before filing a complaint.

Firstly, send a notice in writing to the company asking to rectify the faults, defects etc or to replace the goods within one month.

If there is no respond from the company within the notice period, the consumer can file the complaint. A complaint can be filed on a plain paper. In addition to the complaint 3 to 5 copies of the complaint to be submit (as there are many respondents).

The complaint affidavit should be attested by a notary. The court will send a notice with the complaint copy to the opposite party seeking reply within 30 days, and asking it to attend the hearing.

The complaint is to be filed within two years from the date on which cause of action has arisen. If there are reasonable causes for delay in filing the Complaint, complainant can always request the Consumer Forum to condone the delay. An Application for condonation of delay with the reasons for the delay should be duly affirmed before a notary public.

A complaint should contain the following information: -

- (a) The name, description and the address of the complainant
- (b) The name, description and address of the opposite party or parties, as the case may be, as far as they can be ascertained
- (c) The facts relating to complaint and when and where it arose
- (d) Documents, if any, in support of the allegations contained in

the complaint (Copies of all documents duly signed by the complainant)

(e) The relief, which the complainant is seeking.

The complainant or his authorized agent /advocate can present the complaint in person. The complaint should sign by the complainant. In the event of the death of a complainant, his/her legal heir or representative can continue as a complainant. The complaint can be sent by post to the appropriate Forum / Commission.

Documents required

- Relevant documents of the product purchased.
- Details of payments made by complainant (cheque number/cash, etc.)
- Details of the price of goods and services.
- Details of the bill/invoice as evidence of purchase (bill number and date, item and amount)
- Copy of advertisement and catalogue that promised the concerned goods and service
- Other documents such as agreement copies, bounced cheques, opposite parties' letters.

Copy of letters sent to the opposite party to request for rectification of fault and settlement of the grievance

Procedure on receipt of complaint

(1) The District Forum shall, on receipt of a complaint, if it relates to any goods-

(a) refer a copy of the complaint to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;

(b) where the opposite party on receipt of a complaint referred to him under clause (a) 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 Forum, the District Forum shall proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);

(c) where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the District Forum shall obtain a sample of the goods from the complainant, seal it and authenticate it in the manner prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory make an analysis with a view to finding out whether such goods suffer from any defect alleged in the complaint or suffer from any other defect and to report its findings thereon to the District Forum within a period of forty-five days of the receipt of the reference or within such extended period as may be granted by the District Forum;

(d) before any sample of the goods is referred to any appropriate laboratory under clause (c), the District Forum may require the complainant to deposit to the credit of the Forum such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;

(e) the District Forum shall remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, the District Forum shall forward a copy of the report along with such

remarks as the District Forum 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, the District Forum shall require the opposite party or the complainant to submit in writing his objections in regard to the report made by the appropriate laboratory;

(g) the District Forum shall thereafter 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 under clause (f) and issue an appropriate order under section 14.

(2) The District Forum shall, if the complaint received by it under section 12 relates to goods in respect of which the procedure specified in sub-section (1) cannot be followed, or if the complaint relates to any services,-

(a) refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;

(b) where the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) 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 Forum, the District Forum shall proceed to settle the consumer dispute,-

(i) on the basis of evidence brought to its notice by the complainant and the opposite party, where the opposite party denies or disputes the allegation contained in the complaint, or

(ii) 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 Forum.

(3) No proceedings complying with the procedure laid down in sub-sections (1) and (2) shall be called in question in any court on the ground that the principles of natural justice have not been complied with.

(4) For the purposes of this section, the District Forum shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely,-

(i) the summoning and enforcing attendance of any defendant or witness and examining the witness on oath;

(ii) the discovery and production of any document or other material object producible as evidence;

(iii) the reception of evidence on affidavits;

(iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;

(v) issuing of any commission for the examination of any witness; and

(vi) any other matter which may be prescribed.

(5) Every proceeding before the District Forum shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860), and the District Forum shall be deemed to be a civil court for the purposes of

section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

2[(6) Where the complainant is a consumer referred to in sub-clause (iv) of clause (b) of subsection (1) of section 2, the provisions of Rule 8 of Order I of Schedule I to the Code of Civil Procedure, 1908 (5 of 1908) shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Forum thereon.]

To file the complaint

- Complaint is to be filed within two years of buying the product or using the service.
- Complaint needs to be in writing. Letters should be sent by registered post, hand-delivered, by email or fax. Don't forget to take an acknowledgment.
- The complaint should mention the name and address of the person who is complaining and against whom the complaint is being filed. Copies of relevant documents must be enclosed.
- The consumer must mention details of the problem and the demand on the company for redressal. This could be replacement of the product, removal of the defect, refund of money, or compensation for expenses incurred and for physical/mental torture. Please ensure that the claims are reasonable.
- You should preserve all bills, receipts and proof of correspondence related to the case. Avoid using voice mail or telephone because such interactions are normally difficult to prove.
- The complaint can be in any Indian language, but it is better to use English.

- There is no compulsion to hire a lawyer. Main cost consists of correspondence and travelling to the consumer forum for the hearing
- Maintain a complete record of the emails and documents sent by you.

Appeal

Appeal is a legal instrumentality whereby a person not satisfied with the findings of a court has an option to go to a higher court to present his case and seek justice. In the context of consumer forums:

1. An appeal can be made with the state commission against the order of the district forum within 30 days of the order which is extendable for further 15 days. (Section 15)
2. An appeal can be made with the National Commission against the order of the state commission within 30 days of the order or within such time as the National Commission allows. (Section 19)
3. An appeal can be made with the Supreme Court against the order of the National Commission within 30 days of the order or within such time as the Supreme Court allows. (Section 23)

Penalties

The consumer courts (district court, state commission and National Commission) are given vast powers to enforce their orders. If a defaulter does not appear in court despite notices and reminders, the court may decide the matter in his absence. The forum can sentence the defaulter to a maximum of three years' imprisonment and impose a fine of Rs. 10,000. Forums can issue warrants to produce defaulters in court. They can use the police and revenue departments to enforce orders.

The rights of consumers needs to be protected since they avail services given by the service providers based on trust and faith and thus it's a necessity to keep a check on the service providers for the sake of service recipient.

3. Consumer Disputes Adjudicatory Bodies

There are different adjudicatory bodies and consumer disputes redressal agencies under the consumer protection Act, 1986.

Advisory Bodies:- The Consumer Protection Councils are the advisory bodies under the Consumer Protection Act and they have been charged with promotion and protection of the rights of the consumers. They play an important role in giving publicity to the matters of consumer concern, furthering consumer education and protecting consumers from unscrupulous exploitation. Consumer Protection Councils comprising of official and nonofficial members have been established at the district, state and centre levels. The councils meet periodically to deal with consumer problems and take corrective measures for protecting the rights of the consumers.

The following are the three types of Consumer Protection Councils: (a) The Central Consumer Protection Council,

(b) The State Consumer Protection Council

(c) The District Consumer Protection Council

(a) The Central Consumer Protection Council :Central Government has established a council known as Central Council by notification, headed by Minister, in charge of consumer affairs in the Central Government as Chairman of the Central Council. The Central Council is to meet at least once every year.

(b) The State Consumer Protection Councils: The State Governments have established councils known as State Councils

by notification, headed by Minister incharge of consumer affairs in the State Government as Chairman of the State Council. The State Council is to meet at least twice every year.

(c) The District Consumer Protection Councils: the State Governments have established for every district a council known as District Consumer Protection Council by notification, headed by Collector of the district as Chairman of the District Council. The District Council has to meet twice every year. The objects of the Central Council, State Council and District Council are the same which are of the Act allowed by the Forum

Terms and conditions of members of the Central Council:

The term of the council shall be three years. Any member may, by writing under his hand to the chairman of the central council, resign from the council.

Objectives of the Central Council:-The main objectives of Central consumer protection council are as follows:-

1. The right to be protected against the making 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 as the case may be so as to protect against unfair trade practices.
3. The right to be assured, wherever possible, access to a variety of goods and services at competitive prices.
4. The right to be heard, and to be assured that consumers' interest will receive due consideration at appropriate forums.
5. The right to seek redressal against unfair trade practices or restrictive trade practices
6. The right to consumer education.

Meetings:

The meetings of the central council shall be presided over by the Chairman. In the absence of the chairman, the vice chairman shall preside over the function. The central council shall meet as and when necessary, but at least one meeting of the council shall be held every year. The central council shall meet at such time and place as the Chairman may think fit and shall observe such procedures in regard to the transaction of the business as may be prescribed.

The state Consumer Protection Council: - The state government shall by notification establish with effect from such date as it may specify in such notification, a council to be known as the State Consumer Protection Council.

Members of the Council:-The State consumer Protection Council shall consist of the following members:

1. The minister in charge of consumer affairs in the state government, who shall be its Chairman.
2. Such member of other officials or non-official members representing such interest as may be prescribed by the State Government.
3. Such member of other official or non-official members, not exceeding ten, as may be nominated by the Central Government.

Meeting of the Council: - The State Council shall meet as and when necessary, but not less than two meeting shall be held every year. The state council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government

PECUNIARY JURISDICTIONS: Section-11(1) of the Act provides pecuniary jurisdiction of the District Forum. It states

that the District Forum has the jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed does not exceed rupees twenty lacs. The pecuniary jurisdiction depends upon the amount of relief claimed and not upon the value of the subject-matter, nor upon relief granted.

Section 11(2) of the Act provides that 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 has a branch office or personally work for gain as the case may be, acquiesce in such institution:

(c) the cause action, wholly or in part, arises. These provisions are more or less identical with the provisions of section 20 of the Code of Civil Procedure. One major point of departure is the deletion of explanation of Section 20 of the Code which provides that a Corporation shall be deemed to carry on business at its sole or principal office in India, or in respect of any cause of action arising where it has also a subordinate office, at such place. This explanation has given a privileged position to Corporations which ordinary traders do not enjoy. A suit against

an ordinary trade can be brought not only at the principal office but at any place, where it has a branch office.

A provision to this effect has also been inserted by the Consumer Protection (Amendment) Act, 1993 by introducing clause (aa) in section 2(1) of the Act. It provides that a branch office means (i) any establishment described as a branch by the opposite party; (ii) any establishment carrying on either the same or substantially the same activities as that carried on by the head office of the establishment. It is, thus, clear that all giant corporations which have branch offices in all nooks and corners of the country may be reached for redressal of grievances by filing of complaints in Consumer Disputes Redressal Agencies which is close to the place of stay of the consumer.

In a welfare state it is responsibilities of the state to safeguard the interest of the consumers. Under the CPA in India where in protection is provided to the consumers. Three level of organizational setup national, state and district is formulated for the grievance and disputes. And this three units has a autonomous role to play.

The District Forum consist of one president and two other members (one of whom is to be a woman).The president of the Forum is a person who is, or has been qualified to be a District Judge, and other members are persons of ability, integrity and standing, and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. They can hear the case involving amount of Rs. Twenty Lacs. It is situated in the District headquarters.The

chairman of the district consumer protection council must be the Collector of the District.

State Commissions: A State Commission has jurisdiction in whole of the State for which it is constituted. It can hear the cases involving the amount more than rupees twenty lacs and up to rupees one crore. It has also jurisdiction to hear appeal against the orders of District Forum of that particular State. It is situated in the capital of the State.

State Commission consists of a president and two members one of whom is to be a woman. President is a person who is or has been a Judge of a High Court, and the members, are persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. Members of the state protection council should be ten. A sitting judge of High court can work as president in case absence of the president of state commission

The National Commission consists of a president, and four other members (one of whom is to be a woman). The president should be the one who is or has been a Judge of the Supreme Court, and the members should be the persons of ability, integrity and standing and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. Do other Courts (District Courts/High Courts) accept consumer disputes? The jurisdiction of other courts to hear consumer disputes is not excluded. This is because the Parliament of India felt it was necessary to have an efficient & convenient mechanism to address and resolve the various consumer complaints across the country. As a result it

created a three-tier remedial machinery for the inexpensive and quick disposal of consumer complaints. As these forums only deal with consumer complaints/issues and nothing else, all their time can be devoted to addressing consumers complaints.

Jurisdiction of the State Commission

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 1[five lakhs but does not exceed rupees twenty lakhs;] 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 on its jurisdiction illegally or with material irregularity.

It is important to note that all the forum and commissions appointed under the consumer protection act are not different from the ordinary civil courts at least in a substantial matter.

Court to file consumer complaint

1.**District Forum** : If the cost of goods or service and compensation asked for is up to Rs.20.00 lakhs.

2. **State Commission** :If the cost of goods or services and compensation asked for is between Rs 20 lakh and 1 crore then the complaint can be filed before the State Commission notified by the State Government or Union Territory concerned.

3.National Commission :If the cost of goods or services and compensation asked for more than 1crore then the complaint can be filed before the National Commission.

There is no fee for filing a complaint before the District Forum, the State Commission or the National Commission. A stamp paper is also not required.

4. Definition of Unfair Trade Practices

In India, pursuant to the replacement of the Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act) by the Competition Act, 2002 (the Competition Act), clarity emerged that UTPs would continue to be dealt under the Consumer Protection Act, 1986 (COPRA) which defines UTPs to mean 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, and includes, inter alia, the following:

___making any statement, whether orally or in writing or by visible representation which:

- Falsely represents about goods or services relating to its standard, quality, price, value, nature, guarantee/warranty, affiliation, sponsorship received, etc.;
- gives false or misleading facts disparaging the goods, services or trade of another person;
 - permitting the publication of any advertisement 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;
 - permitting 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 or conducting 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;

— 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;

— permitting the hoarding or destruction of goods, or refusing 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; and

— manufacturing spurious goods or offering such goods for sale or adoption of deceptive practices in the provision of services.

5. Remedies Granted

The District Forum / State Commission / National Commission may pass one or more of the following orders to grant relief to the aggrieved consumer :-

1. to remove the defects pointed out by the appropriate laboratory from goods in question;
2. to replace the goods with new goods of similar description which shall be free from any defect;
3. to return to the complainant the price, or, as the case may be, the charges paid by the complainant;
4. 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 negligence of the opposite party;
5. to remove the defects or deficiencies in the services in question;

6. to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;
7. not to offer the hazardous goods for sale:
8. to withdraw the hazardous goods from being offered for sale:
9. to provide for adequate costs to parties.
10. to discontinue to unfair trade practice or the restrictive trade practice.

6. Summary

In this session we discussed about complaint, how to fill, redressal agency like district forum, state forum and national forum. We also discussed about central council and its importance in CPA. The CPA provides a three-tier consumer grievance redressal machinery — District Forums at the base, the State Commission at the middle level and the National Commission at the apex level. The redressal machinery is quasi-judicial in nature. The redressal machinery is simply to notice the principles of natural justice. The Consumer Protection Act lays down time limits for the removal of cases so as to provide immediate redressal of complaints. The Consumer Protection Act also covers complaints relating to unfair trade practices. Thus, a consumer can protect against food infection, short weighting and overcharging, directly to the District Forums. The consumer can pick up a food sample from a shop, get it analyzed by a chemist and file a complaint on that basis.