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**Rights of consumer in the present scenario**

**Ritu malik (Assistant prof.)  
Chandigarh University**

**Abstract**

In a business ecosystem, Consumer is the king, and play the most valuable existence. Given such high level of importance that a consumer has in a business network. So, in order to give the status of king, consumer can also be subject of protection from infringe activity. Legal framework gives knowledge and protection from exploitation.

Hence, if the rights of the consumer being infringed, then there is six rights provided to every individual that is , Right to information, Right to choose, Right to heard, Right to safety, Right to seek redressal, Right to education. Above rights gives immense power to consumer, to fight for justice, if there's right being infringed. Protection of consumer can create movement against, fraud, misrepresentation, undue influence and even the agreement between parties is not under lawful means and the consumer is grievously disturb then, it will consider as matter of concern for seeking redressal.

21<sup>st</sup> century, is the generation of development and growth. All the advance technology and upliftment is part of this generation. So, consumer are more active in knowing their rights, even if they got exploited they know how to seek redressal from the court.

Consequently, special of consumer gives speedy justice as it also divided into three more court, that means one on National level which is called National Consumer Disputes Redressal Commission, second on state level which is State Consumer Disputes Redressal Commission and last one is District Consumer Disputes Redressal Forum.

**Keywords: Consumers rights, protection to consumers, Rights of consumers**

**Who is consumer ?**

Consumer is an individual, who made subscription for general products and services and in return he gave a required amount after availing or consuming specific product or services. Buying and selling of product and services exist through ancient times which signifies the existence of Trade, Businesses, Industry and so on. Which indirectly gave birth to various other sector in order to raise employment in nation, Set up of manufacturing units, Assistance to Economy, which gradually involve the better standard of living of an human being. So to run all of these “consumer”, plays a vital role and consider as the king of businesses. “Consumer” is defined in the section 2(d) of Consumer Protection Act, 1986 – which says:

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 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 [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 services of any commercial purpose;)

[Explanation- For the purpose 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;]



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**Expression “Consumer” – As interpreted by the Supreme Court**

**Springs Meadows Hospital V. Harjol Ahuwalia**

**Decided on:** 25-03-1998; **Hon’ble judges:** Mr. Justice S. Saghir Ahmed & Mr. Justice G.B. Pattanaik

A Complaint petition was filed by the minor Harjot Ahluwalia through his parents Mrs. Harpreet Ahluwalia and Mr. Kamaljit Singh Ahluwalia before the commission stating that the minor was being treated at a nursing home in Noida. As there was no improvement in his health minor was shifted to the other hospital which was Spring Meadows Hospital.

In the hospital, Minor who was patient was examined by Senior Consultant Paediatrician, Dr. Promila Bhutani. After diagnosis, patient was suffering from Typhoid, soon medicine was prescribed for the treatment of typhoid. On the 30<sup>th</sup> of December, 1993, around 9.00 a.m. Miss Bina Mathew, a nurse of the springs hospital informed the parents about the injection which she has to inject in the body of minor. Later, as soon she injected the injection, minor collapsed while still in the lap of his mother. Immediately, parents called for help And the Resident Doctor, Dr. Dhananjay told the child had suffered from Cardiac arrest; an then by manually pumping the chest, the doctor attempted to revive the heartbeat. Then, An Anaesthetist was being summoned, Dr. Anil Mehta started a procedure of manual respiration by applying the oxygen cylinder and manual respirator.

In the meaning time, Dr. Promila Bhutani, reached. Manual respirator was not making any improvement on child’s body. In the course of treatment as the minor’s platelet count fell; a blood transfusion was given but still, no improvement could be observed. Then Dr. Mehta advised parents, due to not having proper tools in the hospital, child need to shift to the other Intensive Care unit of the all Indian institute of medical science. After being shifted, Doctor examined the child thoroughly and inform the parents that the child condition is in danger. Even after, if he survived, he would be in vegetative state through out his life as because irreparable damage had been caused to his brain. They also informed that, there’s no use of keeping the child in the hospital.

Later on, Dr. Anil Mehta as well as Dr. Naresh Juneja, chief administrator of Spring Meadows hospital, accepted to keep the child in their hospital and put all effort to help the child.

On account of negligence and deficiency on the part of the hospital authorities suffered irreparable damages and could survive only as mere vegetative and according claimed competition to the tune of Rs. 28 lakh.

**Conclusion :** The apex court stated that extent of persons covered by the expression “consumer” for claiming compensation, a liberal approach is desirable. Where a child was taken to private hospital by his parents, court said, child as well as parents could be covered by the expression “consumer” and both of them has the right to claim for damages on account of un tolerated negligence and deficiency on the part of hospital, it’s staff and by doctors. The National Consumer Disputes Redressal Commission held that since the resident doctor and nurse were employees of the hospital and subject to put aside everything in times of emergency, nurse and doctors were not playing there part efficiently. Soon later , Court awarded compensation of Rs. 12.51 Lakh to the child and of Rs. 5 Lakh to the parents for acute mental agony. Hon’ble supreme Court dismissed the appeal with the cost of Rs. 5000.

In this landmark judgement, interpretation of clause ii of section 2(1) (d) was included. In the said clause a consumer would mean a person who hires or avail of any services and includes any beneficiaries of such services other than person who hires or avails of the services. When a young child is taken to the hospital by his parents and the child is treated by the doctor, parents would come within the definition of “**consumer**” having hired the services and the young child would also a consumer.

**Consumer Protection Act 1986**

The Consumer Protection Act, 1986 was replaced by Consumer Protection Act, 2019, decided by Parliament of India and put into effect from 8 July 2019 by Minister of Consumer Affairs, Food and public Distribution, Ram Vilas Paswan. It was passed by Lok Sabha on 6 August 2019.



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The bill was then received to the President Ram Nath Govind for his assent on 9 August, and then it was notified in “The Gazette of India” on the same date itself. The Act came into force from 20<sup>th</sup> July 2020, while certain other provision of the Act like establishing the central consumer Protection Authority came into effect from 24<sup>th</sup> July 2020.

The Act provide immense protection to consumer who’s rights has been infringed by some way or the other. Purpose of the establishment of this act is to safeguard the interest of the consumer and resolve their disputes by proper method of trial through different established section given in this act. The Act feature focuses on giving customer more power by taking transparency to another level. Evolution of trading, businesses and manufacturing unit and industries lead the nation to grow and develop.

Consequently, With immense growth and development comes problem, fraud, misrepresentation, undue influence which is also mentioned in the law of contract. In addition, the production of the same items by many factories has led the consumer, to choose product from various other option displayed by next firm or the other, so it take very less time to choose the best before they can purchase. Adulteration is also subject to fall into the category of fraud, so the Monopolies and Restrictive Trade Practices Act, 1969 arises the Prevention of Food Adulteration Act, 1954 which provide relief and protection to the consumer and also from exploitation. So, in order to be safe and not being infringed, Consumer Protection Court gives us platform or solution to redress our mishappening and occurrence of any unlawful activity.

Primarily, In order to save and provide protection to consumer “Consumer Protection Bill”, 1986 was introduced in the Lok Sabha on the 5<sup>th</sup> December, 1986. Which was again being changed and put into effect from 2019 which defines the following Consumer rights.

- (i) Protection against marketing of goods and services which life threatening and can injure human body and life.
- (ii) Information regarding quality, quality, potency, purity, standard and price of goods and services.
- (iii) Put an eye before, accessing to a variety of goods and services at competitive prices.
- (iv) Redressal against unfair and restrictive trade practices.

**Some landmark judgment related to Consumer rights**

1. Corporate bodies are also within the purview of Consumer Protection Act:

**Karnataka power transmission corporation V. Ashok Iron Works Limited**

The Supreme Court address the issue regarding whether a private company, if purchasing electricity for commercial purpose can be included within the ambit of term consumer under the consumer protection act?

The Supreme Court of India delivering Judgment in the favor of Ashok Iron Works Limited as court legit stated that the company is a consumer within the definition of section 2(1) (d) of Consumer Protection Act 1986. In this Landmark case, Supreme Court Of India diversify the definition of consumer and included within it’s ambit the corporate bodies.

2. Medical Services are also within the scope of Consumer Protection Act:

**Indian Medical Association V. V.P Shantha**

The case was marked and presented by Three bench judge to Hon’ble Supreme Court and the matter was whether the services of a medical practitioner and their services are within the boundary of Consumer Protection Act? Then, The Hon’ble Supreme Court stated and held that the services of the medical profession are within the boundary of the word “services” as defined under section 2(1) (o) of the Consumer Protection Act, and also was notified that if in any case, practitioner held liable for negligence, then the practitioner needs to pay compensation for the damage suffered by victim.

3. Can More than one Consumer Institute A complaint under he Consumer Protection Act:

**Brigade Enterprise Ltd V. Anil Kumar**



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During Lockdown, online Supreme Court, was led to the question that whether more than one consumer can institute a complaint under the Act?

The Supreme Court answered the question by presenting certain examples “ a case where a residential apartment were being purchased by a couple jointly or by a parent and child jointly. An if they, find grievance against the builder, both of them are entitled to file a complaint jointly. Such a complaint will not fall under section 35(1)(c) but fall under section 35(1) (a). Person filing such complaint cannot be exclude from section 2(5) (i) on the ground that it is not by a single consumer.

**Importance of Consumer Protection Act**

It's crystal clear, every individual cannot be a always a provider of goods and services. Every person is some way or the consume goods and services in day to day life. Earlier the approach towards consumer was “caveat emptor” which means “let the buyer be aware” but it has changed by the change in time, no it consider “caveat venditor” which means “let the seller be aware” but still consumer are subject to mislead advertisement, adulteration etc to increase their sale. This means that the consumer Might be endanger and exploitation, so in this case, Protection of Consumer is subject to utmost consideration. Protecting the consumer Rights requires judicial machinery and also consumer needs to form consumer association for the protection and promotion of their interests.

**Ways of Consumer Protection**

**Consumer awareness** : Awareness among buyers is important , as it give information about basic rights and relief. Government should initiates campaign and proper information about individual rights.

**Legal Framework**: With the change of time, new problematic situation may arise, so in order to deal with that dynamic consequences, it's important in the part of judiciary to look for various other means to ensure consumer safety against exploitation.

**Some of the legal Protection for consumer can be considered below:**

**1.The consumer Protection Act, 2019:**

Main aim to protect the interest of the consumers. Safeguard consumers from defective goods, services, unfair trade practices and other malpractices. This act provide 3<sup>rd</sup> tier machinery which includes District forum, state commission and national commission.

**11. The contract Act 1982:**

This act always lays down conditions which parties to the contract have to be binding on them. It enforces the parties to fulfill their promises and also provides remedies to parties whose breach of contract is happened.

**111. The Sales of Goods Act 1930:**

Buyers are protected against any kind of fraud, misrepresentation etc. If the goods purchased by the buyer do not comply with the express or implied conditions or warranties.

**1V. The prevention of Food and Adulteration Act 1954:**

Aims to check the adulteration of food articles and ensures their purity to maintain public health.

**V. The Trade Mark Act, 1999:**

Prevent the use of Fraudulent marks on products and provides protection to the consumer from such kinds of products.

**V1. The Standards of Weights and Measures Act, 1978:**

Quantity cannot be subject to cause harm against any individual, so this act aims to aims to check whether goods, sold or distributed by weight, measure, or number to the consumer are correct and they do not malpractice by selling underweight or under measure goods.

**V11. The Essential Goods and Commodities Act:**



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Production, supply, and Distribution of goods that are mentioned in the essential goods and commodities act. Equal and specified quantity as prescribed during should be distributed to consumer.

**Consumer Court**

Consumer court is a court where it give justice to those section of people who's rights has been infringed due to various different factors, such as adulteration, misrepresentation , fraud, undue influence or by any other factor, then the aggrieved party can claim his right and ask for justice.

Consumer court considered as special court in India, as it has specific purpose to deal. The court holds hearing regarding consumer related disputes, conflicts, and grievances. In connection to this, various other courts has been established for speedy justice and for lack of dependencies of cases in the court.

**List of Consumer Courts:**

1. National Consumer Disputes Redressal Commission:

National Consumer Disputes Redressal Commission (NCDRC) of India is a quasi-judicial commission, which was established in 1988 under the consumer Protection Act, 1986. The commission is headed by a sitting of retired judge of the Supreme Court of India. The present leading authority is Justice R.K Agrawal, former Judge of Supreme Court of India.

This court operates nationally and deals with cases where compensation exceeds one crore (Rs. 10 million). It's a apex body of consumer courts.

11. State Consumer Disputes Redressal Commission (SCDRC):

This court works at state level in cases where compensation claimed is between twenty lakh (Rs. 2 million) and one crore. The sate commission has appellate jurisdiction over the district forum.

111. District Consumer Disputes Redressal Forum (DCDRF):

A court that works at the district level in cases where the claimed compensation is below twenty lakhs.

**Rights provided by consumer courts**

The rights provided by the court are listed below:

1. Rights to safety : Right to protected against life threatening exploitation of goods and services.
2. Right To Information: Product detail and knowledge of the goods and services should be the first priority before selling or buying.
3. Right to choose: Freely make an attempt to choose any Goods and Services.
4. Right To be Heard: The right to be heard in all decision making processes relating to consumer interest.
5. Right to seek Redressal: Seeking of compensation, in case of infringement as the case may be.
6. Right to consumer Education: The knowledge about goods and service should be in subject and matter of concern before making any decision regarding, whether to buy or not .

**Landmark case related to Consumer rights :**

1. **Sapeint Corporation Employees Vs Hdfc Bank Ltd. & Ors.**

**Hon'ble judges:** M. Justice J.M. Malikmr, Vinay Kumar, Member

The complainant had stated that HDFC Bank, founded deficient of service being provided. Section 2(1) (g) of the consumer protection act, 1986 defines as “ 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 about any service.”

So, the complainant file case under this section , in case when loss occurred directly due to the acts of an individual who is hired for his service.



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According to the complainant, on 21.08.2010, the manager of HDFC bank informed the official company that bank has received order on 20.08.2010 from employee provident fund organization for recovery of Rs. 147,52,766/- against the company and also prevented the company to make any transaction which lying in the credit of M/S. Sapient corporation Pvt. Ltd. Moreover, on 23<sup>rd</sup> August the company need to bring stay order by noon to make an account which has put an hold on operation.

Later on, M/S. Sapient corporation Employees Provident Fund Trust thus filed a consumer complaint against the default party that is the HDFC bank and it's two managers. Reason of disputes arises due to, whether the bank has performed a lack in service by debiting the account of the complainant though the demand of recovery was from the company which is considered to be separate legal entity and therefore has two different sect in the case. Moreover, complainant also added that there was willful negligence on the part of manager which made false transaction of Rs. 1,47,52,766/- , without asking for such transaction to be executed. Consequently, complainant asked for refund along with interest and damages beard during this incident.

Later on, Court held that “ given details put into consideration of the facts and circumstance of these case before us we hold that action implemented by OP bank was proper, legal and after reasonable notice to complainant. Deficient of services was not found, therefore court rejected the complainant appeal. The court also found that the complainant lacked seriousness and was filed without a proper cause and wasted the court's time. The EPFO already received the refund as per EPFAT' order.

The court thus declared the complaint to be without merit an imposed a cost of Rs. 25000 on the complainant, to be paid within months of receiving the order.

**Process to file a complaint in consumer court**

Before filing a complain under act, consumer need to obtain a copy of consumer Protection Act. Then format of filing is simple, with the guideline provided for reference. It is generally advisable to describe the facts and support the claim with comprehensive documentation.

- The consumer needs to attach photocopied documents (evidence references) while filing a complaint.
- A signed vakalatnama should be attached with the documents. This authorities a lawyer to represent the case in the consumer court.

**Consumer movement**

The term “Consumer movement” often described as non profit advocacy groups and activity to promote consumer interest by reforming the practices of corporations or policies of the government. It is one of the way to implement consumer protection through an organized social movement, joined by various other social community in order safeguard against deterioration. This movement ensures healthy and safety standards, honest information about products in advertising, and consumer representation in politics bodies. So “consumer movement” is a subset of the discipline of consumerism. But, “consumer movement” and “consumerism” are not equivalent. Contemporary consumers organization used to practice this traditional method, which include passing consumer protection law, educators who teach consumer policy, product teacher who measure the extent to which products meet standards, cooperative organization which supply products and services mindfully of consumers interest as well as consumer movement itself.

**E- Commerce & Consumer Protection in India**

Rapid growth of technology and development, led the commercial trading to hit online platform and be part sudden advancement. Traditional approach has completely been replaced by new modern method. So, emerging trend of e-commerce have changed human preference drastically, this lead to the study of Indian legal framework that



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protects online consumer interest. Two significant enacted law: i.e ., the consumer protection act, 2019 and consumer protection(E-Commerce) rules, 2020. Online platforms is giving remarkable services to customer, in one of the famous is cash on delivery is the priority option for online shopping; so its important to secure and make reliable system for e-business firms to work successfully. Beside such factor such as security, privacy, warranty, customer service, and website information, laws governing consumers rights protection in e-commerce influence customer's trust. Diversification in e-commerce looks trustworthy with a legal framework and consumer protecting measure.

Consumer protection is matter of concern, and E- commerce is subject of issue across globe. Members of UNCTAD, including India have adopted various laws concerning e-governance, e- business, e- society , such as e-transaction laws, consumer protection laws, cyber -crime laws, and data privacy and protection laws. The trends denotes that the law is vital in establishing trust in online transactions.

**The rights of Ancients as consumer : an ancient view**

Ancient India text describes ancient consumer rights, mainly mentioned under Brihat-trayee, Narad Smruti, and Kautilya Arthashastra in the forms of rights given to patients. The study shows that the substance of consumer rights is not a recent evolution of human kind but it's existence has been laid well beforehand in the ancient times, which were provided to the patients by medical professional as well as by the rulers. The present scenario of protection of consumer rights is the replication of ancient practices.

In Narad smruti, we find references about the formulation of bodies which had offered the right to be heard to the public. There was a body of similar to the courts which comprised of the king, Chief judge, assessors, accountant, and writer. Further more, Hierarchical bodies such as Grama sabha (village forum), Pura Sabha (city forum) and raj sabha (king's forum) provided the right to be heard of appeals. Moreover, there is provision of redressal for faulty goods as well, which can be said to be a pioneer application of the CPA. The faulty goods had to be either exchanged by the trader or the price of the goods had to be paid back to the customer. Also, this text explains about the complete judicial procedure of that time, which clearly shows that the consumers had been awarded with the right to redress.

Kautilya's Arthashastra has explained about the body consisting of 3 pradeshta (magistrate) and 3 amaatyas (government officers from the ministry) which provided the public with a right to be heard and solved the disputes. Consequently, In kautilya Arthashastra, we find the reference about penalties for the mistakes of the physicians. In addition, we also find the redressal for criminal abortion and treating an injured patient or an epidemic patient secretly without reporting to the concerned authority.

Kautilya Arthashastra has described that a serious patient should be treated only after reporting to the concerned authority, because if the patient dies, then the physician will get a mild punishment for his over-confidence. If the death of the patient occurs due to the mistake, then he will be punished moderately. In the case of a grievous injury to patient or case of loss of any body part, the physician will be given a severe punishment as the case may be.

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