

Study on the Present Legislation Available to the Consumer in India

Komal Parshuram Khedekar

LL.M 4th Semester

School of Law, Sandip University, Nashik, Maharashtra, India

komal.teachb@gmail.com

Abstract: *A consumer is a person who purchases any goods or services or hires or avails the services of some person for his own personal use and not for manufacturing or resale of that good. For instance, a person purchasing wheat flour for his own personal use is a consumer but a person purchasing wheat flour for baking bread which he is going to sell in his bakery shape is not a consumer. The Consumer Protection Act was implemented in order to provide better protection to the rights of the consumers. Prior to the implementation of this Act, there was no special act for protecting the consumers and the only remedy available to the consumers was under the Law of Torts i.e. filing a civil suit for damages against the shopkeeper or the service provider. This act is based on the doctrine of Caveat Emptor which means that it is the responsibility of the buyer to identify the defects in the good. Online fraud has used a variety of innovative strategies and tactics to commit online crime. It includes malicious software, email, and instant messaging services to spread malware, spoofed websites that steal user data, and elaborate, wide-reaching phishing scams. The concept of consumer protection is not something new in India. It is as old as trade and commerce itself. It has its roots in our country which date back to 3200 B.C. In ancient India, human values and ethical behavior is at the core of Indian culture and ethos. Also, the welfare of the people is the primary objective of governance of the ancient rulers. Hence, those rulers kept norms and values in their minds while making rules and regulations to make them suitable for the then-Indian society.*

Keywords: Consumer Protection, Consumer Rights, Legal Framework, Regime, Research, Regulations, Online Fraud

I. INTRODUCTION

“A customer is the most important visitor on our premises; he is not dependent on us. We are dependent on him. He is not an interruption in our work. He is the purpose of it. He is not an outsider in our business. He is part of it. We are not doing him a favor by serving him. He is doing us a favor by giving us an opportunity to do so.”

Mahatma Gandhi Said- Every person in a country is a consumer because every person, whether rich or poor, purchases goods and services on any given day or for that matter at least once in a lifetime. Since ancient times, consumers have been given a higher pedestal in our economy. Protection of their interests and their welfare is regarded as the most important for a government. This led to a situation where the production of any product is made on the basis of the preferences of the consumer. Here comes the term “Consumer Sovereignty” which is a concept where the consumer in a market is treated as “king” or “supreme”.

This is where the consumer movement called “consumerism” and the concept of “consumer protection” arose. We can also witness how the United Nations (UN) contributed to the welfare of consumers. As a result, the Government of India has also made substantial efforts to preserve the rights and interests of consumers and meet their needs through various provisions in a number of laws and other regulations. This article discusses every aspect related to consumer protection laws in India and in-depth analysis.¹

¹<https://blog.ipleaders.in/consumer-protection-laws-in-india/#Introduction>

II. HISTORICAL BACKGROUND

Consumer Protection has always been a matter of great concern. In ancient India, effective measures were initiated to protect consumers from crimes in the market place. Ancient law-givers ably described various kinds of unfair trade practices and also prescribed severe punishments for wrongdoers. Mainly, acts of adulteration and false weights and measures were seriously dealt with. Today, the civil justice system is tainted with deficiencies that discourage the consumer from seeking legal recourse. However, the Consumer Protection Act of 1986, which provided easy access to justice, had brought a legal revolution in India as a result of its cost-effective mechanisms and popular support. However, with the gradual advancements in technology, the age-old 1986 Act was unable to keep up with the grievances of the modern consumer. Thus, a need was felt to substitute the old Act which resulted in the enactment of the Consumer Protection Act, 2019.²

III. METHODOLOGY

The nature of this research paper is theoretical; hence the data has been collected through secondary source, for example, reference books, internet, journals, etc. have been widely consulted to develop the plan of the research paper. The study employed a simple framework in identifying the contemporary definitional elements of “reasonable apprehension” and the role excluded by the Supreme Court of India while exercising its criminal jurisdiction in the matters of concerning private defense of the body under the criminal laws of India.

IV. DEFINITION AND IMPORTANCE OF CONSUMER RIGHTS

Consumer rights refer to the legal and ethical frameworks that protect the rights of consumers in business transactions. In the realm of insurance law in India, consumer rights are protected by various legal provisions that ensure that consumers are treated fairly and with respect by insurance companies.

Consumer rights are a set of legal and ethical principles that protect the interests, welfare, and safety of consumers in business transactions. Consumer rights include the right to safety, the right to be informed, the right to choose, the right to be heard, and the right to redressal. The right to safety refers to the right of consumers to be protected from hazardous or unsafe products and services. The right to be informed refers to the right of consumers to be provided with accurate and complete information about the products and services that they consume.³ The right to choose refers to the right of consumers to choose products and services that meet their needs and preferences. The right to be heard refers to the right of consumers to express their opinions and concerns about products and services that they consume. Finally, the right to redressal refers to the right of consumers to seek compensation or remedies for harm caused by products or services.

Consumer rights play a crucial role in protecting the interests, welfare, and safety of consumers in business transactions. In the context of insurance law in India, consumer rights are of paramount importance as they ensure that insurance companies operate fairly and ethically, and the needs of consumers are adequately addressed. In this section, we will examine the importance of consumer rights in the context of insurance law in India.⁴

V. EVOLUTION OF CONSUMER RIGHTS IN INDIA

Evolution of Consumer Rights in India

Consumer rights protection in India has a long history, and it has undergone several phases of evolution. The consumer movement in India began in the 1960s with the establishment of consumer groups and their advocacy work. The legal frameworks providing consumer protection have seen significant changes over the years, and today we have a robust

²<https://www.scconline.com/blog/post/2020/12/24/consumer-protection-act-2019-a-primer/>

³Insurance Regulatory and Development Authority Act, 1999.

⁴Oriental Insurance Co. Ltd. v. Brij Mohan Gupta, AIR 2005 SC 1215.

legal system to safeguard consumer rights. In this section, we will trace the evolution of consumer rights in India and examine the current legal framework that ensures the protection of consumer rights.⁵

Early Consumer Movement in India:

The consumer movement in India began in the 1960s when some consumer activists, notably Ravinder Singh and H D Shourie, highlighted the need for consumer protection. The rampant exploitation of consumers by traders and manufacturers drew the attention of social activists, and they started creating awareness about consumer rights. The voluntary group Common Cause, created by H D Shourie, was instrumental in creating consumer awareness. Initially, consumer activism in India was focused on spreading awareness and creating a sense of responsibility among consumers. The movement gained momentum, and various consumer societies, voluntary organizations, and groups began to take shape across the country.

Consumer Protection Act, 1986:

In 1986, the Indian government passed the Consumer Protection Act, and it came into effect on December 24, 1986. The act aimed to provide speedy and inexpensive redressal to consumer grievances. The act introduced three-tier grievance redressal forums at the district, state, and national levels. These forums were to efficiently resolve consumer disputes, and the aggrieved party could file the complaint personally or through a consumer association or a recognized consumer body.

The Consumer Protection Act, 1986 provided for penalizing manufacturers, wholesalers, and retailers for unfair trade practices. It gave consumers the right to be informed and the right to seek redressal in case of defective goods or services. The Act defined such varied concepts as consumer, deficiency, unfair trade practice, and included a mechanism for compensation to the aggrieved party. This legal platform was the beginning of a comprehensive legal framework for consumer rights protection in India.

Consumer Protection Act, 2019:

In 2019, the Indian government passed an amended Consumer Protection Act, and it came into force on July 20, 2020. This act replaced the Consumer Protection Act, 1986, and introduced several changes that aimed to strengthen consumer rights. The 2019 act includes provisions that ensure timely and effective grievance redressed and accountability on the part of manufacturers, traders, and service providers. The 2019 act introduced the concept of product liability for the first time and made manufacturers and service providers liable for any harm caused by defective products or deficient services. The act also introduced the concept of e-commerce to the forefront of consumer protection and empowered the central government to regulate e-commerce.

VI. CONSUMER RIGHTS UNDER CONSUMER PROTECTION ACT 2019

There exist six rights of a consumer under the Consumer Protection Act, 2019. The rights of the consumers are mentioned under Section 2(9) of the Act, which are as follows:

The right of a consumer to be protected from the marketing of goods and services that is hazardous and detrimental to life and property.

The right of a consumer to be protected against unfair trade practices by being aware of the quality, quantity, potency, purity, standard and price of goods, products or services.

The right of a consumer to have access to a variety of goods, services and products at competitive prices.

The right to seek redressal at respective forums against unfair and restrictive trade practices.

The right to receive adequate compensation or consideration from respective consumer forums in case they have been wronged by the seller.

The right to receive consumer education.

⁵ The Hindu, (2019) Changes are necessary to strengthen the Consumer Protection Act: Ram Vitas Paswan.

VII. ESSENTIAL PROVISIONS OF CONSUMER PROTECTION ACT, 2019

Consumer Protection Councils

The Act establishes consumer protection councils to protect the rights of the consumers at both the national and state levels.

Central Consumer Protection Council

Under Chapter 2 Section 3 of the Consumer Protection Act, 2019 the Central Government shall establish the Central Consumer Protection Council which is known as the Central Council. It is an advisory body and the Central Council.

State Consumer Protection Councils

Every state government shall establish a State Consumer Protection Council known as the State Council having jurisdiction over that particular state. The State Council acts as an advisory body.

District Consumer Protection Council

Under Section 8 of the Act, the state government shall establish a District Consumer Protection Council for every district known as the District Council.

VIII. ONLINE FRAUDS FACED BY CONSUMERS

Online fraud has used a variety of innovative strategies and tactics to commit online crime. It includes malicious software, email, and instant messaging services to spread malware, spoofed websites that steal user data, and elaborate, wide-reaching phishing scams.

VIII. CONCLUSION

The Consumer Protection Act, 2019 enables the consumers to seek alternative dispute resolution mechanisms and mediation so that the parties can opt for speedy and effective settlement of consumer disputes. The scope of e-filing of complaints and e-consumers in the Act portrays forward-thinking in part of the legislature. Furthermore, the Act also introduced new terms such as product liability, unfair contracts, etc. thereby widening the scope of protection of consumer rights and enabling the consumers to file complaints when their rights have been violated under the Act.⁶ Centre and State rules regulating selling and buying activities concerning consumer goods are known as consumer protection laws. Such laws prevent unfair trade practices which harm consumers, either physically or financially. These laws are intended to put common people i.e., consumers who buy goods or hire services on an equal footing with businesses or other people who conduct business frequently. These laws, specifically the Consumer Protection Act in India, are preserving and protecting consumer rights to a much extent. However, consumers in India are still facing problems. Also, even after the amendment, the drawbacks and loopholes persist. Hence, the government should recognize this quickly and take steps accordingly.

REFERENCES

- [1]. <https://blog.ipleaders.in/consumer-protection-laws-in-india/#Introduction>
- [2]. Insurance Regulatory and Development Authority Act, 1999.
- [3]. Oriental Insurance Co. Ltd. v. Brij Mohan Gupta, AIR 2005 SC 1215.
- [4]. The Hindu, (2019) Changes are necessary to strengthen the Consumer Protection Act: Ram Vilas Paswan.
- [5]. Consumer Protection Act, 2019.
- [6]. Indian Contract Act, 1872.
- [7]. Insurance Regulatory and Development Authority (Protection of Policyholders' Interests) Regulations, 2017.
- [8]. The Insurance Ombudsman Scheme, 2017.
- [9]. <https://blog.ipleaders.in/consumer-protection-laws-in-india/#Introduction>.
- [10]. <https://www.scconline.com/blog/post/2020/12/24/consumer-protection-act-2019-a-primer/>
- [11].¹ <https://blog.ipleaders.in/consumer-protection-act-2019-2/#Conclusion>

⁶<https://blog.ipleaders.in/consumer-protection-act-2019-2/#Conclusion>