



CRITICAL ANALYSIS OF CONSUMER IN CONSUMER PROTECTION ACT 2019

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ABSTRACT

The term “consumer” means someone who buys or rents goods or service for own use rather than for resell or producing. The Consumer Protection Act 2019 was brought to safeguard interests of consumers rather than seller. This act is the recent amendment to the original Consumer Protection Act 1986. There were four amendments done in this act, first Consumer protection Act 1986, second Consumer Protection Act 2002, third Consumer Protection Act 2008 and forth Consumer Protection Act 2019. This act also gave a broader meaning to consumer. This act also catered the consumer rights in E-Commerce sector also. It also Introduced E-Filing of the cases. This paper Discusses in dept about consumer, rights of consumer and Consumer Protection Act 2019. This paper also discusses the short comings of previous acts and how were they fixed by the recent one. This paper gives a critical view of Consumer Protection with the use of different old and new cases.

Key Words: Consumer, Consumer protection, E- Commerce, E-filling, Consumer Protection Act 1986, Consumer Protection Act 2019.

INTRODUCTION

The process of defending consumers against unethical business activities is known as consumer protection. It describes the measures taken to safeguard customers from dishonest and unethical business activities by sellers, manufacturers, service providers, etc. and to offer remedies in the event that their legal rights as consumers have been breached.

The Consumer Protection (Amendment) Act, 2002¹ was introduced, causing changes in the procedural method and jurisdiction of the consumer forums. There were numerous flaws and problems with the Consumer Protection Act 1986², which resulted in a huge number of cases pending and a delay in their resolution. District Consumer Forums were given first-class magistrate authority as a result of this revision. Prepaid gift cards and intellectual property-contained computer software are now covered under the Act according to a second amendment that was approved in 2008. Online shopping, however, was not specifically mentioned. This

¹ Consumer Protection Act, 2002

² Consumer Protection Act, 1986

amending Act does not include any clauses allowing for the submission of online complaints, nor does it provide any specific remedies for consumer problems in the ecommerce sector. The 2019 Consumer Protection Act³ was introduced in order to close these shortcomings. The Act has added new definitions for the terms "consumer," "unfair trade practices," "unfair contracts," and "misleading ads."

A consumer is a person or group of people who buy products and services for their own consumption rather than for manufacture or resale. According to Section 2(7) of the Consumer Protection Act of 2019,⁴ a consumer is someone who purchases goods or services in return for money and uses them for both personal use and resale or other commercial purposes. It is explicitly mentioned in the definition of "consumer" that the terms "buys any goods" and "hires or avails of any services" also cover any electronic transactions made online, as well as direct selling, teleshopping, and multi-level marketing.

LITERATURE REVIEW

➤ ARTICLES

1) Regulating the private Health Care Sector: The case of Indian Consumer Protection Act⁵

The report examines the outcomes of a postal questionnaire and interview responses from 130 service providers in the Indian city of Ahmedabad. The purpose of the questionnaire survey was to determine the providers' perspectives on the various consequences of the COPRA. Since 1991, we also examine data on cases filed with the Gujarat Consumer Disputes and Redressal Commission. Four lawsuits brought only with National Commission on Consumer Redress are examined in depth to show the many challenges impacting the execution of this Act.⁶

2) E-Commerce and Consumer Protection in India: Emerging Trend⁷

This article examines how Indian law protects online customers given e-rise. commerce's An evaluation of the Consumer Protection Act, 2019 and Consumer Protection (E-commerce) Rules, 2020, and literature study allow analysis of 290 online consumers answering research questions and attaining research objectives. Online shoppers prefer cash-on-delivery, and website content and customer service generate trust. New rules strengthen India's e-commerce by protecting online shoppers' rights. E-commerce confidence depends on safety, secrecy, guarantees, customer service, and website information. E-commerce will thrive with strong consumer protections. The findings contribute to e-commerce and consumer rights knowledge by describing customer trust and loyalty. They also discuss e-consumer safety in India.⁸

³ Consumer protection Act, 2019

⁴ Consumer Protection Act 2019, Section 2(7)

⁵ Regulating the private health care sector: the case of the Indian Consumer Protection Act, Ramesh Bhatt, Health Policy and Planning 11(3), Oxford University Press 1996, ISSN NO.: 265-279

⁶ *IBID*

⁷ E-Commerce and Consumer Protection in India: The Emerging Trend, Neelam Chawla and Basant Kumar, Journal of Business Ethics 2022, ISSN No.: 581-604, Url: <https://doi.org/10.1007/s10551-021-04884-3>

⁸ *IBID*

3) Consumer Protection in India: Some Reflections⁹

This article Global economic interconnectivity and global corporate practices have emphasized consumer rights. Better goods and services are wanted globally. Technology enhances quality, availability, and safety. Unscrupulous practices victimize consumers. Consumer exploitation includes food adulteration, phony pharmaceuticals, dubious hire-buy programs, exorbitant costs, poor quality, insufficient services, deceptive promotions, hazardous goods, and black marketing. IT has increased cybercrime, plastic money, etc. Consumer sovereignty is a fiction in developing countries. Consumer protection benefits government and industry. Policy, law, and administration must protect consumer rights and interests.¹⁰

➤ BOOKS

1) Law of Torts, B.M. Gandhi¹¹

In this book he discusses in depth about Consumer protection Act 1986, from Nature Meaning to all the case and parliamentary discussion taken to made the law.¹²

2) Consumer Law and Practice, R. Lowe and G.F. Woodroffe¹³

This book, which has been written for law students and legal advisors, specifics civil and penal solutions mostly in UK for troubles confronted by private purchasers when products or services bought from a seller are defective or never delivered. Specifically, the book focuses on problems that arise when a supplier fails to deliver goods or services that the consumer has ordered.¹⁴

3) Law of Consumer Protection India, D.N. Saraf¹⁵

The book is a superb example of meticulous and innovative research. Written largely to address the academic needs of students of business, economics, management, and law, this book "examines critically the fundamental principles of important consumer laws" (p. x) in the United States. The book is organised into eight well-researched parts and responds to the majority of questions posed by academics, consumer activists, researchers, and attorneys. The book offers a detailed section-by-section analysis on the Consumer Protection Act of 1986, which is thus likely to be of great service to practitioners.¹⁶

⁹ Consumer Protection in India Some Reflections, S.S. Singh and Sapna Chadha, Indian Institute of Public Administration New Delhi

¹⁰ *Supra* n. 9

¹¹ Law of Torts, B.M. Gandhi, Eastern Book Company, ISBN No.: AB/640

¹² *IBID*

¹³ Consumer law and Practice, R. Lowe and G.F. Woodroffe, U.S. Department of Justice office of justice programme, NCJ Number: 81661

¹⁴ *IBID*

¹⁵ Saraf, D.N (1995) "Law of Consumer Protection in India," National Law School Journal: Vol. 7: Issue 1, Article 17. Available at: <https://repository.nls.ac.in/nlsj/vol7/iss1/17>

¹⁶ *IBID*

STATEMENT OF PROBLEM

The new Consumer Protection Act of 2019¹⁷'s scope and extent are discussed in the dissertation, which also examines whether the new Act is adequate to address the problems that customers have with online transactions. The emergence of a well-organized online sector of manufacturers, traders, and service providers necessitated the introduction of this new Act because it had a significant impact on how businesses and consumers interacted. This was because the principle of consumer sovereignty had been significantly undermined. Similar goals from an earlier Act are included in the Consumer Protection Act of 2019¹⁸. But the issue remains: in this globalized world, have the aforementioned goals been accomplished, or are consumers still being exploited? On TV and YouTube, there are frequently alluring advertising, but the actual issue is that the consumer is defenseless from these dishonest marketing since he never receives all the details. The new Act aims to expand the definition of the terms "consumer," "service," and "procedures" as they relate to the numerous established redressal systems. By giving society direct access to the market economy, the Act was introduced with the goal of advancing societal welfare. It has made an effort to diminish the sense of powerlessness that society feels toward powerful businessmen from the perspective of the consumer. The disease is becoming so pervasive and ingrained in society that consumers are no longer resisting it but rather accepting it as a way of life. One bright spot is the implementation of such hard facts, which may eventually be successful in stopping the rot. The dissertation identifies and clarifies the new ideas, particularly those added to the law in light of the digital age, and it also identifies any gaps in the law. The new law and its contents are scrutinized and analyzed in the dissertation.

RATIONALE OF THE STUDY

India's consumers are dispersed around the nation and are quite disorganized. Therefore, customers are unable to band together as a group to represent themselves in cases of fraud, deceit, or any other type of dishonest behavior. Due to the extent to which the ecommerce sector has grown, consumers who purchase large-ticket items online frequently deal with erratic supply, poor product quality, and inadequate delivery methods. The buyer-seller relationship is further harmed by the online market forums' poor return policies or lack of buyer warranties, which often leave consumers defenseless. Because they no longer have any negotiating leverage, customers are frequently taken advantage of by traders. In the offline market system, hoarding, adulteration, false advertising, and questionable hire-purchase are frequently seen as tools used by the sellers to take advantage of the buyers. Regardless of one's socioeconomic status, it is a well-known fact that consumers are among the most harassed and overlooked groups in society. The Consumer Protection Act of 2019¹⁹ was presented to further protect customers from exploitation and close any gaps in the previous Act's provisions. This was done in an effort to give consumers more influence over their rights. It has improved the rules governing the creation of consumer councils, dispute resolution procedures, and other new approaches to conflict resolution.

¹⁷ *Supra* n. 3

¹⁸ *IBID*

¹⁹ *Supra* n.3

RESEARCH OBJECTIVES

- To study the meaning, nature and scope of consumer protection.
- To study the Judicial precedents of 18th and 19th century.
- To study the Judicial precedents of 21st century.
- To study constitutional and human rights perspective of consumer right.
- To check if Consumer protection Act 2019²⁰ fixed the loopholes of Consumer protection Act 1986.²¹

RESEARCH QUESTIONS

- What is the meaning, nature and scope of consumer in Consumer Protection Act 2019²²?
- What are Judicial precedents in 18th and 19th Century in accordance with Consumer Protection?
- What are the Judicial precedents in 21st century in accordance with Consumer Protection Act?
- What does consumer protection look like from a constitutional and human rights perspective?
- Did Consumer protection Act 2019²³, fixed the loopholes in the previous Consumer protection Act?

RESEARCH METHODOLOGY

I have opted Specifically, doctrinal, analytical, and comparative research methods would be used to carry it out. The Consumer protect Act 2019²⁴, Executive Orders, Judicial Precedents, and the Report of Various Committees serve as the key sources of information for this study. Books, journals, scholarly articles, online journals, research reports, and other published materials served as secondary sources which has helped me during my research work.

CHAPTER 1: Meaning, Nature and Scope of consumer in Consumer Protection Act 2019.²⁵

- 1) **Consumer Protection Act 2019²⁶:** The Consumer Protection Act of 2019²⁷ is a piece of law that was drafted with the intention of protecting the financial and legal rights of members of the purchasing public. Because of this piece of legislation, customers are shielded from purchasing dangerous goods, receiving inadequate services, and being subjected to unethical corporate practices. The Consumer Protection Act, 2019²⁸, has as its principal purpose the protection of consumer rights through the establishment of authorities for the fast and effective management of consumer disputes and the settlement of consumer grievances. “An Act to provide for protection of the interests of consumers and for the said purpose, to

²⁰ *IBID*

²¹ *Supra* n.2

²² *Supra* n.3

²³ *IBID*

²⁴ *Supra* n.3

²⁵ *Supra* n.3

²⁶ *IBID*

²⁷ *IBID*

²⁸ *IBID*

establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto.”²⁹

- 2) **Consumer:** According to Section 2(7) of consumer protection act 2019³⁰, "consumer" refers to any individual who meets the following criteria: I purchases any items for a consideration that has been paid or promised or partly paid and partly promised or under any system of delayed payment and includes any consumer of such products who is not the original purchaser of such products goods for consideration paid or promised or partly paid or partly promised, or goods for consideration paid or promised but not both under any form of deferred payment, provided that the usage is done so with the appropriate authorization person, but does not include a person who gets such things for the benefit of such a person. for the purpose of reselling or any other form of commercial activity; or (ii) engages in, or makes use of, the provision of any service for which a fee has been paid or promised, or partially paid and partially promised, or under any other type of deferred payment scheme. payment and covers anybody who benefited from the service other than the person receiving the payment who employs or uses the services for a fee paid or promised, or wholly or partly benefits from the arrangement. paid and partially promised, or under any system of postponed payment, when such a transaction is considered to be a "deferred payment" services are utilized only after receiving permission from the first individual named, but does not include a person who uses such a service for any kind of commercial purpose is not included in this definition.³¹
- 3) **Person:** In the definition of consumer, it is mentioned about person, From the Latin term "Persona," which means "legal entity," comes the English word "person," which can have legal rights and responsibilities. This refers to a person, group, company, or other legal entity with rights and responsibilities under the law. A person is either the subject of a legal right or the possessor of a legal right, according to Savingy. Holland contends that this viewpoint disregards the fact that people also have obligations. According to him, not only is this right inherent to individuals, but it can also be exercised against them. Individuals may be born into a family or inherit its characteristics. Kelson contended that the personality of a person is not a distinct entity with rights and responsibilities. In addition, he has failed to recognize the distinction between natural and legal individuals. According to him, there is no such thing as an autonomous entity, and each individual is the sum of their rights and duties. However, Kelson's position has been contested on the basis that the law acknowledges a distinct separation between natural and legal persons. It seems like Salmond's definition is the most precise. Salmond claims that: "For the purposes of legal theory, a "person" is any entity that the law recognizes as possessing rights and duties. Regardless of whether the entity in question is human or not, if it contains these qualities, the law classifies it as a "person."" The enlargement of personality to non-human species, according to Salmond, is a magnificent stroke of legal imagination. The categories of persons are (a) natural person and (b) legal, artificial, or juristic person. There are natural individuals who do not have legal person status, and vice versa.³²

²⁹ The Gazette of India, Published by Authority (Ministry of Law and Justice)

³⁰ Consumer Protection Act 2019, Section 2(7)

³¹ V. D. Mahajan, Jurisprudence and Legal Theory, Fifth edition, 2013, Eastern Book Company

³² *IBID*

3)(a): Natural Person: Holland defines a natural person as a human with rights and duties. Natural individuals are "state-recognized live humans" Normal people have rights and duties. Roman law gave slaves no rights or responsibilities. Despite this, he could make master-binding contracts. Manumission affects natural rights. Roman law disenfranchised exiles and enemy captives. Pardon restores his personality. Outlaws lose personality, privileges, and duties under English law. Born-alive persons are normal. He's human.³³

3)(b): Legal Person: Legal persons are actual or fictitious beings whose personalities are fabricated by law. Juristic persons are entities, property, groups of people, or institutions on which the law has conferred a legal character and who are capable of having natural person rights and duties. Legal person are also called artificial and juristic person.³⁴

4) Which person can be classified as consumer: All Natural persons can be a consumer, But not all legal person can be a consumer.³⁵

CHAPTER 2: Judicial Precedents in 18th and 19th century on consumer protection.

• CASE 1: Om Prakash Saini vs. DCM Ltd. And Ors.³⁶

Facts: In this case, the appellant invested in Fully Secured Debentures issued by the respondent. When the respondent failed to pay the maturity amount, the appellant filed a complaint with the State Consumer Disputes Redressal Commission, which was upheld. Respondent No. 1 disputed the State Commission's Order by submitting an appeal within Section 21 of the 1986 Act, but subsequently withdrew the appeal. Consequently, Defendant filed a Writ Petition, which the High Court granted on the grounds that the State Commission lacked the authority to hear the matter. Consequently, this appeal is filed with the Supreme Court.

Issue: If the High Court made a jurisdictional mistake by accepting Respondent's petition.

Judgement: "Hon'ble SC held that, CPA,1986 was enacted by the Parliament

for better protection of the interest of consumers and a wholesome mechanism has been put in place for adjudication of consumer disputes. The remedy of appeal available to a person aggrieved by an order of the State Commission be treated as an effective alternative remedy. The CPA,1986 is a special statute and a complete code in itself. In the present case, Respondent had availed the alternative remedy available to it under Section 21 by filing an appeal against the order of the State Commission but during the pendency of the appeal, Respondent chose to challenge the order of the State Commission by filing a petition under Article 227 of the Constitution, which was entertained by the learned Single Judge on the basis of the assurance given by the Respondent that the appeal filed before the National Commission will be withdrawn. No reasons were recorded as to why High Court thought it proper to make a departure from the rule that the High Court will not entertain a petition under Article 226 or 227 of the Constitution if an effective alternative remedy is available to the aggrieved person. Thus, during the pendency of the appeal filed by Respondent under Section 21 of the 1986 Act, the High Court was not at all justified in entertaining the petition filed under Article 227 of the Constitution

³³ *IBID*

³⁴ *Supra* n.31

³⁵ *IBID*

³⁶ (2010) 11 SCC 622. Om Prakash Saini vs. DCM Ltd. Ors.

and

Appeal allowed.”³⁷

Analysis: According to me the decision of supreme court is right, high court should not extended its jurisdiction and accept respondents appeal under Article 227³⁸, when the decision of the previous appeal under CPA 1986³⁹ was still pending.

• **CASE 2: Patel Roadways Ltd. Vs. Birla Yamaha Ltd.**⁴⁰

Facts: Respondent and appellant both reserved generator sets. Later, a fire broke out in Respondent's warehouse where the products were stored. This occurrence occurred immediately after the commodities were stored in the warehouse. As a result, Respondent filed a claim for a value-of-goods return and compensated for loss. However, neither party reached a solution that was satisfying. Therefore, Respondent filed a complaint with the National Commission against the Appellant. Now, the issue was whether the transportation statute falls within consumer provisions.

Issue: Is Section 9 of the Carriage Act ⁴¹part of the Consumer Act?

Judgement: “The word suit not only means a regular suit but it also includes all the ordinary proceedings of civil matters whether they arise in suit or miscellaneous proceedings. Therefore, even though National commission is a summary proceeding it can be considered as suit.”⁴²

Analysis: Yes, section 9 can be considered as a part of consumer act in some cases, as the delivery of goods is at the end done to a person who is a consumer.

• **CASE 3: M/s Shreenath Corp. & Ors. Vs. Consumer Education & Research Society & Ors.**⁴³

Facts: Shreenath Corporation provided over units in 1992. In 2001, nine years after acquisition, a building collapsed due to faulty construction. Flat buyers were killed and injured. With CERS's guidance, a compensation claim was launched against the builder. The panel upheld the complaint and ordered the company to pay compensation and 9% interest. Builder appealed to national commission. The Consumer Protection Act (CPA) mandates an appealing party to deposit money. Attempts to appeal to the national commission cost 50% of the award or Rs. 35,000, whichever is lower. The builder contributed Rs. 35,000/appeal. The national commission allowed the builder an interim stay if he deposited 50% of the principle amount (minus interest) within three months. Supreme Court questioned builder's interim order. The builder stated that since Rs. 35,000/- had already been given at the time of submitting the appeal, the national commission had no right to order a further deposit.

Issue: Whether the National Commission's interim ruling granting the appellant a conditional stay falls within its jurisdiction?

³⁷ *IBID*

³⁸ Article 227 of Indian Constituion

³⁹ *Supra* n. 2

⁴⁰ (2000) 4 SCC 91. Patel Roadways Ltd. Vs. Birla Yamaha Ltd.

⁴¹ Section (of Indian carriage Act

⁴² *IBID*

⁴³ (2014) 8 SCC 657. M/s Shreenath Corp. & Ors. Vs. Consumer Education & Research Society & Ors.

Judgement: “The Supreme Court observed that the deposit of Rs. 35,000/- is a pre-deposit payable as a condition precedent to filing the appeal. The objective of this pre-deposit is to avoid frivolous appeals. At the time of hearing the appeal, the commission would have the power to pass suitable interim orders. The commission could exercise its discretion while passing such interim orders to either grant a total stay, or a conditional stay, or refusal to grant stay. The Supreme Court also observed that the amount payable as a pre-deposit and that which is payable under interim order occur at two different stages of the proceedings. The pre-deposit is payable at the time of filing the appeal and has no link with the merits of the dispute. In contrast, the direction to make a further deposit is passed during the hearing of the application for interim stay, and is determined on a consideration of the merits of the appeal, the balance of convenience, and whether irreparable loss would be caused to a party seeking a stay. The Supreme Court accordingly concluded that the interim order passed by the national commission was well within its jurisdiction, and dismissed the builder appeal.”⁴⁴

Analysis: If the power of giving a conditional stay falls comes within the National Commission’s interim jurisdiction, then it can exercise its power. But, should not exceed its Jurisdiction.

• **CASE 4: U.T. Chandigarh Administration & Another vs. Amarjeet Singh & Others**⁴⁵

Facts: Plot buyers on previous projects submitted complaints about amenity delays. Respondents 1 to 4 won Plot 173 in Sector 39C & D at auction on 18.12.1996. The bid was Rs. 20,45,000/-. The approval of the bid and confirmation of the plot lease were informed to respondents 1 to 4 by post dated 19.5.1997 (for short "letter of allotment"), which also offered ownership of the leased property. The letter of assignment acknowledged payment of Rs. 511,250/- worth 25% of the premium and allowed the Respondents to pay the remainder 75% of the premium with 10% interest in 3 equal installments on 18.12.1997, 18.12.1998 and 18.12.1999. Respondents had to pay Rs. 51125/year in ground rent for the initial 33 years of the contract. The letter of allotment outlined the lease terms and urged the Respondents to sign a lease deal within six months and acquire ownership of the property before the lease is finalized.

Issue: Can the plots be separated from those in a proposed development layout?

Judgement: “The Supreme Court distinguished plots on existing sites from those in a layout proposed to be developed over time, and held that for the former, there is no statutory requirement or assurance of providing civic amenities. Further, the contract was for lease/sale of immovable property, not for the sale of goods or for the hire of services, so the Complainants could not be considered to be consumers within the meaning of the Consumer Protection Act.”⁴⁶

Analysis: Supreme court has rightly held the case. Appeal cannot be accepted as the contract for rent or sale of a plot, not for a sale of goods or for hiring for services, so according to the definition of consumer in CPA, the complainants cannot be considered as consumers. Hence, they cannot file against the builder.

⁴⁴ *Supra* n.43

⁴⁵ AIR 2009 SC 1607. U.T. Chandigarh Administration & Another vs. Amarjeet Singh & Others

⁴⁶ *Supra* n.45

CASE 5: Faqir Chand Gulati vs. Uppal Agencies Pvt. Ltd.⁴⁷

Facts: Appellant and Respondent entered into a partnership arrangement for the construction of an apartment complex and the sharing of the constructed area; there were numerous construction flaws and violations of the approved plan, and the appellant requested correction.

Issue: Whether or whether the constructor has breached his obligations?

Judgement: “The Supreme Court ruled that a complaint is maintainable when the landlord of a property who has handed the construction of a house to a contractor has a complaint of deficiency of service in relation to the construction, and when the buyer or intending purchaser of an apartment/flat/house has an objection against the builder/developer in relation to construction, delivery, or amenities. It further concluded that if the builder breaches his responsibilities, the owner has the right to seek specific performance and/or damages through the Civil Court, or he can seek remedies under the Consumer Protection Act through the Forum against the constructor as a service-provider.”⁴⁸

Analysis: When owner has given responsibility of building the property to the builder, its his/her duty to take due care and protocols and follow the procedure and deliver his due work. Thus, Supreme court Rightly held that Owner can seek damages from builder in civil court under Consumer Protection Act.

CHAPTER 3: Judicial Precedents in 21st century on Consumer Protection.

- **CASE 1: Spicejet Limited vs. Ranju Arey**⁴⁹

Facts: Ranju Aery bought air tickets online through Yatra.com for her and her family to go from Kolkata to New Delhi on 30.06.2015. The complainant used her debit card to pay Rs 70,900. When the complainant and his parents arrived at the Kolkata airport at 1.30 p.m. to join the 20.40 OP Airlines flight to New Delhi, they were surprised to learn that the flight had been cancelled. OP Airlines didn't give the plaintiff and her family alternative New Delhi travel plans. So, the complaint had to get tickets for another Jet Airways flight from Kolkata to Mumbai, with a connection to New Delhi at 20:40. Plaintiff paid Rs. 80,885 on 5 tickets for trip. The complainant said the OPs didn't refund the cancelled flight's cost or give an alternate flight. The complainant submitted the above consumer complaint, seeking that the OPs refund Rs. 20,000/- plus 12% per annum interest for the terminated trip. They also asked the OPs to reimburse the Rs. 80,885/- they spent on an alternative flight. The claimant also demanded Rs. 1.5 lakhs for mental abuse and Rs. 22,000 for legal fees. The District Forum passed an ex-parte against OP Airlines ordering them to refund Rs. 80,885/- to the petitioner after deducting the airfare between Kolkata and New Delhi for the cancelled flight, together with interest @ 9% per annum from the date of termination of the journey until realization. They also asked OP Airlines to pay Rs 1,250,000 for harassment and Rs 10,000 for legal fees. The airline appealed the court's jurisdiction because its main office is in Gurugram. The aircraft firm relied on Section 11 of the Consumer Protection Act, which states that a consumer may make a complaint in the defendant's home, place of business, or where the cause of action originated.

Issue: Should internet consumers be permitted to file lawsuits anywhere?

⁴⁷ (2008) 10 SCC 345. Faqir Chand Gulati vs. Uppal Agencies Pvt. Ltd.

⁴⁸ *IBID*

⁴⁹ 2017 SCC Online NCDRC. Spicejet Limited vs. Ranju Arey

Judgement: “NCDRC did not accept contention of the airline company and held the company guilty of deficiency of service for cancelling the flight without any reason. On appeal to Supreme Court, Supreme Court ruled out that consumers opting for online purchase of products through websites can file a consumer complaint before any consumer court for deficiency in services.”⁵⁰

Analysis: NCDRC rightly held the airline liable and told them to pay the damages. NCDRC should also charge airline with heavy penalty as spicejet has time and again breached the contract and did not provide the due service to consumer. Also, online buyers/purchasers should be allowed to complaint before any consumer forum in case of non-delivery of due service. The same thing has also been ruled by Supreme Court.

• **CASE 2: Banne Singh vs. Jhunjhunu Academy**⁵¹

Facts: In opposition to the order of the State Commission of June 2, 2016, the complainant filed an amended petition. OP school was attended by the complainant's daughter. In 2013, she completed her 12th grade exam and contacted her school to get a transfer certificate and the return of her security deposit. The school sought Rs. 10,000 as a prerequisite for issuing a transfer certificate, despite there being no unpaid fees. The daughter of the complainant was not admitted for the 2013-2014 academic year due to the failure to provide a TC. Consequently, the Complainant filed a consumer complaint with the District Forum and demanded compensation of Rs. 4,50,000/-. The OP refuted all claims and stated the complainant had never approached the school. The District Forum ordered the school to deliver a TC and character certificate to the complainant's daughter within 15 days, failing which the school would be liable to pay Rs. 10,000/-. The complainant, dissatisfied with the meagre compensation awarded by the District Forum, chose to appeal to the State Commission. The State Commission did not discover any flaws in the District Forum's order. Therefore, the complainant filed an amended petition with the NCDRC.

Issue: Was there a lack of service on the part of the school?

Judgement: “NCDRC held that it is clear that on account of wrongful act of the Opposite Party daughter of the Complainant was prevented from getting admission in college in the current session i.e.2013-14. Wastage of one year in the career of a student has wide implication on the job as also promotion prospects. Both the forums have failed to appreciate this aspect of the matter while deciding on the compensation to be paid. Therefore impugned order cannot be sustained. Thus the order of State Commission was modified and it was directed to OP to pay Rs. 50,000/- to the Complainant within a month. On failing the Complainant shall be entitled to recover the money by filing execution petition in the District Forum.”⁵²

Analysis: Here because of dis-service of school not only complainant daughter's one year wasted, but also the failure of both forums has caused wastage of more time of her by giving inadequate decisions. NCDRC rightly held the school liable for causing damage to one academic year and posed the right penalty on the school.

⁵⁰ *IBID*

⁵¹ 2017 SCC Online NCDRC 128. Banne Singh vs. Jhunjhunu Academy

⁵² *IBID*

• **CASE 3: Tukaram vs. The Executive Engineer, Maharashtra State Electricity Distribution Company Ltd. Ors.**⁵³

Facts: The appellant applied to Respondent for an electricity connection on his property and paid the required fees. Respondent sent a receipt for consumption fees. The appellant alleged that there was no electricity connection built. The appellant filed a complaint with the Consumer Forum. The District Forum accepted the complaint and awarded damages. In an appeal, the State Commission overruled the district forum's decision. The revision was initially dismissed when the appellant brought the issue to the National Commission. Nonetheless, the Petitioner filed a petition for review. The Review Petition was granted, and the Appellant was awarded compensation. Appellant favoured a current appeal for compensation augmentation.

Issue: Whether the appellant is eligible for an increase in compensation?

Judgement: “Supreme Court while allowing the appeal held that the grant of compensation by the National Commission would not be adequate to meet the requirement of just and fair compensation to a consumer who had suffered as a consequence of the default of the Respondent and enhance the compensation to an amount of Rs. 5,00,000/- which shall be paid over within a period of four weeks from today. In default, the compensation shall carry interest at the rate of 9 per cent per annum. Observing that the Appellant had suffered hardship and inconvenience as a result of an unexplained delay of one decade on the part of the Respondent (s) in granting an electricity connection.”⁵⁴

Analysis: Here the National Commission gave justice to the complainant by providing the fair amount of Damages from the Respondent. This decision was given because the Appellant suffered hardships and problems due to delay and inconvenience caused by the Respondent.

• **CASE 4: Hindustan Coca-Cola Beverages Pvt. Ltd. Vs. Purshottom Gaur**⁵⁵

Facts: The complainant contacted District Forum with the allegation that Coca-Cola Company was liable for selling a substandard beverage. The Complainant wanted significant compensation for inadequate service from the Company. In its defence, the corporation claimed that there is no proof that the bottle in question was made by them. In addition, they argued that the product is bogus and also that their Bottling Plant is equipped with cutting-edge equipment and adheres to stringent cleanliness standards, thus there is no chance of an insect entering the bottle. The District Forum denied the case, but the State Commission upheld the Complainant's appeal and awarded him Rs. 10,000/- in damages and levied Rs. 3,000 in expenses on the Company. In addition, a laboratory report was provided to the NCDRC in this case, which stated, "The visual examination of the bottle reveals one huge bug (about 10mm in size) floating on top of the container, two small insects, and various insect body pieces suspended in the fluid." In the report, the laboratory also stated that certain characteristics of the bottle in question were distinct from those of a commercially available "Fanta" bottle, but to be certain, the laboratory would also need bottle samples bearing the batch code printed on the bottle.

Issue: Whether the corporation was negligent in making both the bottle and the 'Fanta' soft drinks?

Judgement: “After considering all the evidences, NCDRC held that as the Company did not try to help and

⁵³ MANU/SC/0601/2019. Tukaram vs. The Executive Engineer, Maharashtra State Electricity Distribution Company Ltd. Ors.

⁵⁴ *IBID*

⁵⁵ 2014 SCC Online NCDRC 7. Hindustan Coca-Cola Beverages Pvt. Ltd. Vs. Purshottom Gaur

provide any assistance to the Laboratory personnel and no efforts were made by the Company regarding the origin of that bottle. Prima facie, it appears that this bottle belongs to the Company. The Court added that the case stands proved against the company and thereby dismissed the revision petition. While upholding the order of State Commission, NCDRC awarded Rs. 10,000/- compensation to the consumer who found insects in “Fanta” bottle.”⁵⁶

Analysis: It is the company’s duty to take safety and hygiene measures in case of food and beverages. So according to my opinion when it comes to health the penalty of Rs. 10,000/- is very less and seeing the Brand they should be heavily penalized for taking consumers health so lightly. The Appellant should put a revised petition in NCDRC for increase in the penalty.

• **CASE 5: Avon Beej Company vs. Anoop Singh** ⁵⁷

Facts: This is a petition for modification submitted under subsection (b) of section 21 of the Consumer Protection Act of 1986.⁵⁸ The petitioner had purchased paddy seeds for land sowing from the respondent company. The Respondent guaranteed that the seeds were of the highest quality and had not been tampered with. The complainant asserted that despite planting the seeds at the optimal time and employing scientific agricultural techniques, only sixty percent of the crop was harvested, and the remaining forty percent was lost due to low seed quality. Thus, the Complainant asserted service deficiency. The Respondent asserted that the seeds were not faulty and that the Complainant's crop was lost because he did not sow the correct number of seeds per acre of land.

Issue: Whether the petitioner is entitled to compensation and whether the court must utilize its power of revision?

Judgement: “The court relied on the report of the Agriculture Experts where it was found that 31% seeds were ‘off-type’ which means that were not of the same variety as the other seeds. Thus, it was established that the seeds were not pure. The court observed that the report of the experts was based on spot-inspection and can thus be relied upon to evaluate the quality of seeds. The order of the State Commission, thus, did not suffer from any perversity or illegality and had properly appreciated all material on record. Thus, it did not call for any interference in exercise of this court’s Revisional Jurisdiction u/s 21(b) ⁵⁹of the Act.”

Analysis: State commission has not extended its review jurisdiction and gave the due justice to the consumer.

CHAPTER 4: What Does Consumer Protection look like from a Constitutional and Human Rights Perspective?

This chapter traces the growth of consumer rights from early international to modern national eras. All Indian law is based on the Constitution, which also guarantees Indian citizens' rights. The author explains consumers' rights so they can avoid unethical corporate practices and take legal action if required. Purchaser have the statutory right to know the origin, production cycle, ingredients, and purity of the products and services they

⁵⁶ *Supra* n.55

⁵⁷ 2020 SCC Online NCDRC 212. Avon Beej Company vs. Anoop Singh

⁵⁸ Section 21(b), Consumer protection Act 1986

⁵⁹ *Supra* n.58

purchase. Both the 1986 and 2019 Consumer Protection Acts⁶⁰ included similar customer protections. The author recognized rights similar to those in India's constitution. The chapter argues that consumer rights are human rights and details the conditions a right must meet to be considered a human right. The author also contends that consumer rights should be incorporated into international accords.

"Caveat emptor" was implemented in the earlier days of open market transactions. Here, the salesman displays his wares, and the buyer inspects them first. Consumers were required to use reasonable competence and observation. The rule said sellers aren't responsible for product defects. As trade and business grew, more commodities and services entered the market, and authority lost importance. Modern economies led to new deals between buyers and sellers through e-commerce, and it became vital to sustain their relationship.

Consumerism protects consumer interests. Gandhi stated, "A consumer is our most important guest." We're not dependent on him. He's not a distraction; he's our focus. Giving a consumer a chance isn't a favor. He's helping us by letting us serve him. Consumer consciousness is still in its infancy, and consumerism as a mass movement hasn't made its mark on society. Consumerism is a modern phenomena that attempts to protect consumers through government laws and regulations and NGO's that educate customers on their responsibilities and rights.

According to Hohfeld Analysis, right is a correlate of obligation, and it has been articulated by jurists since ancient times. The widely accepted definition of the term "right" is "that that is due to a person by virtue of a legitimate claim, legal assurance, or moral principle."⁶¹

The notion of rights cannot be articulated in detail, but it can be interpreted as something a man is entitled to as a person or as something the state guarantees through its law or regulation. Countries give consumers different rights. John F. Kennedy's 1962 speech outlined four consumer rights. Consumer International created consumer rights adopted by most economies.

1) CONSUMER PROTECTION- CONSTITUTIONAL PERSPECTIVE

In India, the constitution is the fundamental law from which all other laws are derived. The constitution is so dynamic and extensive that the judiciary has seized the chance to interpret its contents in the most imaginative manner. The Indian constitution is not a static document, but rather a living, changing document.⁶²

Article 21⁶³ of the Indian Constitution stipulates that "no person shall be deprived of his life or personal liberty in accordance with established legal procedure." The Indian judiciary has broadly interpreted this clause in numerous decisions involving a variety of jurisprudential issues. In accordance with Article 21 of the Constitution⁶⁴, a consumer cannot be denied the right to choose among necessary services. It is the responsibility of the state to ensure that its residents live in a safe and healthy environment; consequently, any product that endangers the life and property of consumers is in direct violation of Article 21 of the

⁶⁰ *Supra* n.3,2

⁶¹ B.A Garner; Black's Law Dictionary 8th edition, 2004, St Paul Minnesota:West Publishing Co. Ltd, p7347

⁶² State of West Bengal v. Kesoram Indu. Ltd., AIR 2005 SC 1646, 1678-79. To

⁶³ Article 21, Indian Constitution

⁶⁴ See, Parmanand Singh "Thinking about the limits of Judicial Vindication of Public Interest", (1985) 3 SCC (Jour) 1

Constitution⁶⁵.

The state must further protect consumers through its legislation against consumer frauds such as malpractices, adulteration, and the manufacturing of substandard goods by punishing offenders for their wrongdoing. Article 21 of the Constitution ⁶⁶has given rise to numerous consumer rights, including the right to safety, the right to education, and many others.

The right to equality is a fundamental right granted to all Indian citizens regardless of caste, class, gender, place of birth, or language. Article 14⁶⁷ of the Constitution provides a free and impartial environment for all citizens. A state is not permitted to engage in monopolistic consumer relations. Regardless of differences in purchasing power, all consumers should be treated similarly. The consumer protection law of India protects both the wealthy and the poor, and as a result, the fundamental essentials of life are accessible to all at affordable prices.

When crafting the constitution, the country's citizens' welfare was always a top priority for the drafters. Article 38 ⁶⁸of the Constitution addresses the state's obligation to promote the well-being of the people by securing and defending the social order. It tries to eliminate disparities and inequalities between people in terms of opportunity, position, and resources. To ensure that no consumer is excluded from the current market to their status quo, the state ensures that all consumers have access to a range of basic necessities.

Article 39 ⁶⁹of the Constitution requires that certain policies for the welfare of the citizens be stated. India has both a free and regulated market policy, where prices are not set by a monopoly but rather by the demand and supply basis. The lowest and highest prices of food goods and other products are regulated by legislation so that vendors do not abuse consumers by charging outrageous rates.

Article 46 ⁷⁰of the Indian Constitution addresses the advancement of the educational and economic interests of SC, ST, and other disadvantaged groups. It strives primarily to prevent and avoid injustice and inequality for the aforementioned group at the hands of vendors and other consumers, as well as to safeguard them from harassment in the marketplace. Therefore, customers should be safeguarded from potentially harmful contaminated products.

Article 47 ⁷¹of the Indian Constitution expresses the consumerist principle. It attempts to enhance the quality of life and nutrition by offering fruits, vegetables, milk, and other necessary food items at affordable costs so that they can be purchased by citizens. The Indian Consumer Law has been accomplishing this successfully.

⁶⁵ *IBID*

⁶⁶ *IBID*

⁶⁷ Article 14, Indian Constitution

⁶⁸ Article 38, Indian Constitution

⁶⁹ Article 39, Indian Constitution

⁷⁰ Article 46, Indian Constitution

⁷¹ Article 47, Indian Constitution

2) CONSUMER RIGHT- HUMAN RIGHT PERSPECTIVE

Consumer rights have traditionally been described as constitutional rights, tort-based laws, or contract-based laws, but it is now time to evaluate if they can also be called human rights. Let us determine whether principles of human rights can be applied to explain consumer relations. Consumer relations haven't ever received much focus. The human rights will provide a new perspective on the seller-customer relationship, as both the seller and the consumer have various rights and responsibilities.

The notion of human right is difficult to apply to consumer interactions since consumer claims are directed against private parties and not the state. States are not required to offer specific rights to consumers because it is not specified in any human rights agreement. Human rights are accepted by states and given to their people, hence they cannot be applicable to consumers. In consumer contracts, the seller, producer, or maker is liable, but the state is not. State can only violate consumer rights if it's the supplier. One could wonder if human rights apply to private or non-state entities.

The Consumer Protection Act of 1986⁷² guarantees consumer rights in India. This is a positive law where the seller is not accountable for human rights violations; the State is not required to respect, provide, or fulfil consumer rights.⁷³ However, there are circumstances in which the state may be responsible for "liability." Listed below are the circumstances: -

- 1) State may intervene to stop the infringement of consumer property.⁷⁴ In India, this is accomplished by enforcing consumer protection statutes in favour of customers.
- 2) To guarantee a consumer's rights to a present right. The right to a healthy environment is indivisible from the right to life.⁷⁵
- 3) A regional consumer right EU that is analogous to a human right and has the same effect as other human rights should be developed. These can subsequently be practically incorporated into local laws in accordance with respective economies. However, no such right currently exists under human rights law.
- 4) To construct a relationship in which both customer and seller are committed to each other, in contrast to traditional human rights. Indian consumer law has developed such a consumer-vendor connection.

According to the Unfair Terms in Consumer Contracts Directive, pre-dispute arbitration clauses introduced into consumer contracts that have not been individually negotiated would be regarded contrary to good faith by the European Union,⁷⁶ and any resulting disputes cannot be arbitrated. This language suggests that in the vast majority of arbitration disputes, the consumer class is at a disadvantage.

However, it should be emphasized that the EU has not taken these directives properly in terms of enforcing them within its authority, indicating that they do not view it as an urgent concern. Example The 2007 Charter

⁷² *Supra* n.2

⁷³ Report of the Special Representative, Protect, Respect and Remedy: A Framework for Business and Human Rights, UNDoc A/HRC/8/5 (7 April 2008).

⁷⁴ EC Directive 93/13 on Unfair Terms in Consumer Contracts introduced the concept of good faith, according to which all the terms in consumer contracts which were not individually negotiated must be fair and comply with the requirements of good faith.

⁷⁵ Subhash Kumar v State of Bihar, AIR 1991 SC 420.

⁷⁶ Council Directive 93/13/EEC (5 April 1993), OJ L 95 (1993).

of Fundamental Rights of the European Union⁷⁷ encompasses the vast majority of human rights, although the clause dealing with consumer protection is undervalued and just suggests that EU member states promote consumer-friendly policies. Despite this provision, no EU entity has ever taken collective or individual action to enact such a policy. Article 38⁷⁸ should therefore be interpreted as having merely an institutional effect, with no individual or group remedies available.

CHAPTER 5: Drawbacks of Consumer Protection Act 1986⁷⁹, and How does Consumer Protection Act 2019⁸⁰ fixes it.

• Drawbacks of Consumer Protection Act 1986⁸¹-

The Consumer Protection Act of 1986⁸² is a vital and extensive piece of legislation, but given the current state of the economy, we require a new law to adapt to the constant changes in society over the next century. However, the implementation of the Consumer Protection Act of 1986⁸³ encountered the following issues:⁸⁴

- 1) Pendency of Suit: Consumer forums have a backlog of cases despite the Act's time limit. This delay lowers customer confidence in the system. The redressal method is slow and ineffective for normal scenarios where dealers harass consumers over minor complaints.
- 2) Inferior Goods: Inadequate product quality is still common in the marketplace. However, because the method is too slow to swiftly resolve minor disputes, no customers use the consumer forums for this purpose. These conditions render legal redress infeasible.
- 3) Inoperative Dispute Redressal mechanism: The law is utilised to protect the interests of the citizenry, and the Act's purpose cannot be properly attained until a suitable implementation mechanism is in place. Consumers can seek action under a variety of laws, however due to insufficient execution, they are unlikely to bother to contact consumer forums.
- 4) Lack of Infrastructure: The challenge with Indian infrastructure is that we need consumer forums with distinct facilities, employees, sufficient resources comprising human resources for converting programs and functions into effective actions, and follow up, and inadequate funding allocation. Many district forums lack the expertise and skills to execute their jobs.
- 5) Lack of Consumer Awareness: The customers lack understanding of their rights, and the majority of those who suffered are from financially deprived sectors. Furthermore, many consumers are unaware of the legal recourses available for wrongs committed against them.
- 6) Globalization and Technological effects in Legislation: Numerous complexities have arisen as a result of the Ecommerce business, necessitating revisions to consumer protection legislation to accommodate these exigencies.

⁷⁷ OJ C 364/1 (2000).

⁷⁸ Article 38, Indian Constitution

⁷⁹ *Supra* n.2

⁸⁰ *Supra* n.3

⁸¹ *IBID*

⁸² *IBID*

⁸³ *IBID*

⁸⁴ Editor prof Ashok Patil, "25 Years of Consumer Protection Act: Challenges and the Way Forward" (2014)

- **Overview of Consumer Protection Act 2019** ⁸⁵

The Consumer Protection Act of 1986 ⁸⁶ was replaced on August 6, 2019 with the Consumer Protection Bill of 2019⁸⁷. The measure was signed by the President on August 9, 2019, and it will go into effect whenever the National Government informs of its implementation. This act's primary objective is to provide prompt and efficient administration and resolution of consumer disputes.

This Act was designed to safeguard consumers from e-commerce loopholes and modern ways of virtual market place, such as e-selling, teleshopping, direct selling, and multi-level marketing. This Act protects customers further than the Consumer Protection Act of 1986 ⁸⁸ since its definition of 'consumer'⁸⁹ includes e-commerce transactions. Further, the definition of Unfair Trade Practice⁹⁰ has been broadened to include online misleading marketing, not issuing bill/memo for goods and services, failing to take back faulty goods or deactivate defective services and refund the amount within the required time mentioned in the bill or memo or within 30 days in the absence of such stipulation, and disclosing personal information of a consumer unless such disclosure is in conformity with law.

The 2019 Act added the phrase unfair contract⁹¹ with the only objective of disallowing the trader, manufacturer or seller to make any major change in the rights of the consumer, such as imposing any penalty on the consumer for a breach of the contract that is entirely disproportionate to the loss happened due to such breach to the other party to the contract; refusing to accept early repayment of debts on payment of suitable penalty; entitlement of a party to the contract. This rule was created to prevent online services like Amazon, Flipkart, and the banking industry from abusing consumers by coercing them to sign boilerplate contracts.

The 2019 Act forms the Central Consumer Protection Authority⁹² to defend interests of the consumers and unfair trade practices. CCPA prosecutes 2019 Act infractions. The CCPA can penalize misleading and inaccurate ads and their endorsers. This implies the CCPA could now sue celebrities who backed misleading and deceptive ads if they didn't undertake due diligence. The CCPA can fine a producer or endorser up to Rs.10 Lakhs for a fake ad. The CCPA can award suo-moto processes against offenders, recall things or discontinue services, and repay consumers, making it a useful tool to halt large consumer interest violations.

The 2019 Act introduced "Product Liability."⁹³ The product maker, product service provider, and product seller can be accountable for product liability if a consumer is harmed by a defective product or deficient product services. E-commerce websites' argument that they are only 'platforms' or 'aggregators' would no longer be tenable in court. Under the 2019 Act, producers will be responsible in product liability actions even if they prove they were not negligent or dishonest in issuing a product's explicit claim.

Territorial and financial jurisdiction have changed for Consumer Redressal Forums. ADR is also used to

⁸⁵ *Supra* n.3

⁸⁶ *Supra* n.2

⁸⁷ Consumer Protection Bill of 2019

⁸⁸ *IBID*

⁸⁹ Section 2(7), Consumer Protection Act, 2019

⁹⁰ Section 2(47), Consumer Protection Act, 2019

⁹¹ Section 2(46), Consumer Protection Act, 2019

⁹² Section 10, Consumer Protection Act, 2019

⁹³ Section 2(34), Consumer Protection Act, 2019

CHAPTER 6: Critical Analysis of Consumer Protection Act 2019⁹⁵

• Historical Background of Consumer Protection (Old India)

Ancient India adhered to the Dharma Shastras, which were founded on social conventions and rules and ultimately functioned as fundamental principles governing human relationships.⁹⁶ These principles were founded on Vedic rules, and the Vedas were referred to as God's teachings that were communicated to humans through Vedic books, hence they were referred to as main sources of law.⁹⁷

Consumer protection was a key topic in the ancient scriptures Smriti and Shruti, which emperors and rulers utilized to manage their states. Manusmriti describes social, political, and economic situations.⁹⁸ This text defined the code of behavior and sanctions for violations. The book describes adulteration as the least severe crime and fraud in selling defective product as very serious.⁹⁹ In ancient times, the king could take a trader's whole property if he monopolized banned exports. King set market pricing for things.¹⁰⁰ These measures suggest that Indian society was effective at regulating the market, and consumer protection was a concern for the monarch and provincial rulers.

Consumer protection was likewise emphasized in Kautilya's Arthashastra. It outlined the state's role in controlling the market and merchants' responsibility to avoid consumer offences.¹⁰¹ In 400-300 B.C., the ruler appointed a director of trade to control the market and ensure equal trade.¹⁰² Arthashastra safeguarded both vendors and purchasers, whereas Manusmriti's primary priority was consumer protection, and good practices were popular.

• Consumer Protection in Modern Era

Medieval kings also prioritized consumer protection. Mughal India utilised many weights. Prices were set based on provincial conditions. Market pricing was enforced. Shopkeepers who under weighed their goods were penalized.¹⁰³

In recent times, the British overturned India's traditional legal system and unified it.¹⁰⁴ The Indian judicial system underwent a radical shift, and British-style justice was administered. Indian Contract Act, 1872¹⁰⁵,

⁹⁴ *Supra* n.3

⁹⁵ *Supra* n.3

⁹⁶ A. Rajendra Prasad, "Historical Evolution of Consumer Protection and Law in India: A Bird's Eye View", *Journal of Texas Consumer Law*, Volume 11, No. 3, Summer, 2008, pp. 132-136 at p. 132.

⁹⁷ *IBID*

⁹⁸ Dr. Shradhakar Supakar, *Law of procedure and justice in Ancient India*, 38 (Deep & Deep Publication, New Delhi, 1986)

⁹⁹ Gurjeet Singh "The problem of Consumer Protection in India : A Historical Perspective" *Consumer Protection Reporter* 704 at 705, n.6 (1994 III)

¹⁰⁰ Rajendra Nath Sharma, "Ancient India According to Manu" 142 (1st ed., Nag Publishers, Delhi, 1980)

¹⁰¹ See R.P. Kangle, *The Kautiliya Arthasastra – (Part II)*, University of Bombay Publisher, 2nd ed. 1972)

¹⁰² *IBID*

¹⁰³ S.R.Bakshi, "Advanced History of Medieval India" 287 (Vol. 1, 1st ed; Sterling Publications Private Limited 2003).

¹⁰⁴ Marc.Galanter, "Law and Society in Modern India " ,15 (1st ed; Oxford University Press, 1997).

¹⁰⁵ Indian Contract Act, 1872

Sales of Goods Act, 1930¹⁰⁶, Indian Penal Code, 1860¹⁰⁷, Drugs and Cosmetics Act of 1940¹⁰⁸, Civil Procedure Code, 1908¹⁰⁹, and Agriculture Procedure, 1937¹¹⁰ were passed during British rule.

• Consumer Protection after August 1947

The independence of India on August 15, 1947 was a momentous milestone. In 1950, the Constitution of India was enacted, which serves as our nation's guiding document. It has established Fundamental Rights, which are frequently referred to as the country's Magna Carta.

Article 21¹¹¹ of the Constitution guarantees the right to a dignified existence. Article 19(1)(g)¹¹² grants Indian citizens the right to engage in unrestricted commerce or trade in any portion of India. The Directive Principles of State Policy outlined economic and social justice objectives. Specifically, Article 47¹¹³ puts on the state the obligation to secure the protection of its citizens and the advancement of public health. India was always a socialist state that seeks to provide its citizens with a reasonable level of living and safety.¹¹⁴

India was an agricultural economy when it gained independence, but the government industrialized through Five Year Plans.¹¹⁵ Due to economic disparity, high illiteracy, unavailability of basic commodities, adulteration, black-marketing, underweighting, and consumer rights ignorance, developing economies needed to implement consumer protection. Five Year Plans aimed to enhance living standards, offer full employment at acceptable pay, and eliminate wealth inequality. Several individuals went from rural to urban India to find work after many industries were founded. In this pandemonium, critical goods suffered shortages and adulteration at an accelerated rate, forcing the government to manage their supplies, manufacturing, and distributions. The 1950s led to the establishment of many consumer protection laws.

The government introduced the Banking Companies Act, 1949¹¹⁶, the Industries (Development and Regulation) Act, 1951¹¹⁷, the Emblems and Names (Prevention and Improper Use) Act, 1950¹¹⁸, the Forward Market (Regulation) Act, 1952¹¹⁹, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954¹²⁰, the Prevention of Food Adulteration Act, 1954¹²¹, the Essential Commodities Act, 1955¹²², the Companies Act, 1956¹²³, and the Indian Standards Institutions (Amended in 1984).¹²⁴

¹⁰⁶ Sales of Goods act, 1930

¹⁰⁷ Indian Penal Code, 1860

¹⁰⁸ Drugs and Cosmetics Act, 1940

¹⁰⁹ Civil Procedure Code, 1908

¹¹⁰ Agriculture Procedure, 1937

¹¹¹ Article 21 of Indian Constitution

¹¹² Article 19(1)(g) of Indian Constitution

¹¹³ Article 47 of Indian Constitution

¹¹⁴ D.J. De, *The Constitution of India*, Vol. I, Article 1-104, Asia Law House, Hyderabad, 2002, pp. 1220-1221.

¹¹⁵ J.N. Pandey, "*The Constitutional Law of India*," 32-33 (Central Law Agency, Allahabad, 2008)

¹¹⁶ Banking Companies Act, 1949

¹¹⁷ Industries (Development and Regulation) Act, 1951

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¹²⁰ Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954

¹²¹ Prevention of Food Adulteration Act, 1954

¹²² Essential Commodities Act, 1955

¹²³ the Companies Act, 1956

¹²⁴ Indian Standards Institutions (Amended in 1984).

- **Consumer Protection Act 2019** ¹²⁵(brief)

The consumer Protection Act replaced the previous Consumer protection Acts of 1986, 2002 and 2008¹²⁶ to full fill the flaws and gaps in the previous once. CPA 2019 ¹²⁷mainly made amendments in the definition of "consumer" giving it a broader meaning. Second it also brought sections for E-Commerce and online sale and purchase. Brought a e-filing system for registration of cases. It also gave definition and sections for "product liability", "misleading advertisement" and "alternative Dispute resolution". So in brief Consumer protection Carter to all the gaps and fallacies present in the previously existing statutes.

- **Conclusion**

India's Consumer Protection Act, 1986¹²⁸, protects customers from dealers, manufacturers, and retailers. The Act aimed to speed up victim justice and revolutionize consumer protection, education, and counselling. Academics and policymakers have given much thought to consumer protection in e-commerce. Governments and intergovernmental organizations have created numerous frameworks for e-commerce sellers and e-consumers, but an examination of the existing legal framework shows it fails to meet e-consumer needs. It hasn't protected customers' rights. The 1986 Consumer Protection Act ¹²⁹excludes free services. The CPA may not extend to a free online platform. India's Consumer Protection Act, 2019¹³⁰, protects electronic consumers' rights. The new Act reinforces existing restrictions to further protect consumer rights. Highlights include a central regulator, strong penalties for deceptive ads, and regulations for e-commerce and digital service providers. The professor analyzed and explained how these crucial aspects safeguard customers from exploitation and malpractices.

The 1986 Act's redressal mechanism institutions lacked the proper jurisdictions to resolve e-commerce-related issues. However, the 2019 Act has addressed the deficiencies of the old law and expanded the scope and authority of authorities established under the Act.

CHAPTER 7: Conclusions and Suggestions

CONCLUSION

This dissertation examines whether the Consumer Protection Act, 2019¹³¹ introduced by Parliament in 2019 can fix the flaws of the Consumer Protection Act, 1986¹³². Two failed attempts in four years made this possible. This new law aims to protect consumer rights and promote consumer-seller interactions by establishing a regulatory authority for fast and effective dispute resolution. This statute provides a strong consumer grievance procedure. The entire Act was written with consumer issues in mind. Dissertation discusses these provisions. Chapter 1 titles Meaning, Nature and scope of consumer protection in which we discussed in detail about

¹²⁵ *Supra* n.3

¹²⁶ *Supra* n.2,1

¹²⁷ *Supra* n.3

¹²⁸ *Supra* n.2

¹²⁹ *Supra* n.2

¹³⁰ *Supra* n.3

¹³¹ *Supra* n.3

¹³² *Supra* n.2

Consumer Protection Act 2019¹³³, definition of consumer and person and also understood which type of persons can be classified as consumers.

Chapter 2 deals with judicial precedents in 18th and 19th century in which we discussed few landmark cases during 18th and 19th century and saw how judges then interpreted the consumer protection as a law.

Chapter 3 also deals with case laws, but it discusses the judicial precedents in 21st century mainly cases after 2015, in this we saw how the new changes were applied and interpreted by consumer forums and how was justice given to consumers.

In Chapter 4 we discussed the constitutional and human Rights perspective of Consumer protection Act. How CPA is not only a constitutional law, but also how it works for welfare of consumers which is covered under Human Rights.

Chapter 5 titles Drawbacks of Consumer Protection Act 1986¹³⁴ and how the new act deals with its shortcomings. We in detail saw that how the CPA 1986¹³⁵ cannot be used in today's time and we needed new amendments, which was taken care by CPA 2019¹³⁶ the 4th amendment of the original act.

Chapter 6 we critically analyzed the CPA 2019¹³⁷ and how did this act came into existence in India.

SUGGESTIONS

After 30 years, the Consumer Protection Act, 2019¹³⁸ was passed. The earlier act tries to keep up with technological advances with minimal adjustments. The removal of the old law and passage of the 2019 law were essential. The scholar has thoroughly analyze the state, and it's clear that the current Act consolidates consumer protections. The Act keeps up with the times by incorporating e-commerce and technology. Here are solutions to some severe concerns.

- The religious fan following India offers its celebrities (film stars, cricketers, etc.) imposes a modicum of accountability (if not more) on them to watch what they say rather than operate as information conduits. When their fans pose mental and physical health risks. Such a responsibility can be enforced on the 'morals' a celebrity advocates, but not on product flaws. A celebrity can't be expected to realized how dangerous products/services are to people. Celebrities should be exempt from this rule.
- Consumer Redressal Fora must be able to issue temporary injunctions prohibiting an enterprise or person from engaging in unfair commercial practices. Due to this flaw in the old statute, enormous masses of consumers often experienced damage because no measures were taken against the seller, trader, or manufacturer until the matter was decided. The court needs the power to issue interim injunctions at will.
- Lawyers shouldn't handle everything. The court decides if a lawyer is needed after the initial hearing to avoid dragging out trifling matters. If the complainant hires a lawyer, he must explain why. The forum should only adjourn in extreme instances, not regularly. After the final hearing, the decision should be posted online so no time is wasted in filing an appeal.

¹³³ *Supra* n.3

¹³⁴ *Supra* n.2

¹³⁵ *IBID*

¹³⁶ *Supra* n.3

¹³⁷ *IBID*

¹³⁸ *IBID*

- In the E-commerce and worldwide world, there must be an option for online hearings of matters via video conferencing, so that a great deal of time and money may be saved by both parties and minor disputes can be resolved expeditiously.
- The Act should be changed to give Consumer Courts the authority to disclose the identities of producers, traders, and retailers whose products are deemed detrimental to public safety. The business community would be restrained by this empowerment.
- Commissions are quasi-judicial, whereas the government is executive. The government may be involved in a disagreement over a government enterprise's service, such as the Railways. The administration would be a participant in the controversy before the Committees and have the right to nominate members.
- Another deficiency of the Law is that it contains no provision for medical malpractice encountered by consumers. However, the identical provision existed in the previous Act; therefore, the previous measure should be restored in the New Legislation.
- As customers are mostly exploited owing to a lack of knowledge of their rights, consumer rights education should be required as a component of the Social Studies curriculum in schools, as youngsters could serve as a source of information for their parents.
- Consumer rights should be included in the International Covenant on Economic, Social, and Cultural Rights because, despite differences in legislation, the principles upon which consumer legislations are built are globally applicable and must stay constant.
- Parliaments should also provide Consumer Forums with guidance regarding their subject matter jurisdiction, as it has often been observed that there is ambiguity regarding the matters that Consumer Forums can decide. This is due to the fact that Consumer Forums frequently deny their jurisdiction, claiming that the issue falls under civil jurisdictions, when this is not the case.

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