



FACULTY OF JURIDICAL SCIENCES

COURSE: B.B.A.LL.B. I st Semester

SUBJECT: LAW OF TORTS

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LECTURE 30

TOPIC: CONSUMER PROTECTION ACT, 1986- CONSUMER PROTECTION COUNCIL, CONSUMER DISPUTE REDRESSAL AGENCIES

Objective of Consumer Protection Act - The protection of the rights of consumers is of paramount importance. Irrespective of the kind of goods and services being offered in the market it is imperative that the interest and benefit of the consumers are safeguarded by the Government and sellers of any industry.

Introduction- Originally the Consumer Protection Act, 1986 was enacted to provide for better protection of the interest of the consumers and for the purpose to make provisions for the establishment of Consumer Councils and other authorities in the settlement of consumer disputes and for matters connected therewith. It seeks, inter-alia, to promote and to protect the rights of consumers such as protection against marketing of goods which are hazardous to life and property, the right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices, the right to be assured, wherever possible, access to variety of goods at competitive prices, the right to be heard and to be assured that the interest of consumers will receive due consideration at appropriate forums, the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers and right to consumer education. The object is also to provide speedy and simple redressal to consumer disputes-quasi judicial machinery is sought to be set up at District, State and Central Levels.

These quasi-judicial bodies are to observe principles of natural justice and have been empowered to give relief of specific nature and to award, wherever appropriate,

compensation to consumers. Penalties for non-compliance of orders given by quasi-judicial bodies have also been provided. The principal objective of the Consumer Protection Act is to grant shield for the improved safeguard to consumers. Unlike prevailing laws, which are disciplinary or precautionary in nature, the provisions of this Act are compensatory in nature. The act is aimed to afford simple, quick and economical redressal to the consumers' grievances, and reliefs of a particular nature 2 and award of damages wherever appropriate to the consumer.

The Supreme Court in the case of ***Lucknow Development Authority v. M.K. Gupta (1994)***, observed that the importance of the Act lies in promoting welfare of the society by enabling the consumer to participate directly in the market economy. It attempts to remove the helplessness of a consumer which he faces against powerful business, described as network of rackets or a society in which producers have secured power to rob the rest and the might of public bodies which are degenerating into storehouse of inaction where papers do not move from one desk to another as a matter of duty and responsibility but for extraneous considerations leaving the common man helpless, bewildered and shocked.

The Act undoubtedly aims at removing injustices and wrongs met by consumers who are now equipped with a legal weapon to fight against these evils. The Parliament passed the Consumer Protection Bill, 2019 on 06.08.2019 to replace the Consumer Protection Act, 1986 ("1986 Act"). The President of India gave its assent to the Consumer Protection Act, 2019 ("2019 Act") on 09.08.2019 and the same will come into force on the date it is notified by the Central Government. The 2019 Act has been enacted for the purpose of providing timely and effective administration and settlement of consumer disputes and related matters.

The Government instead of bringing an amendment in the 1986 Act, enacted a new Act altogether so as to provide enhanced protection to the consumers taking into consideration the booming e-commerce industry and the modern methods of providing goods and services such as online sales, tele-shopping, direct selling and

multi-level marketing in addition to the traditional methods. The preamble to CPA-2019 reads as an Act to provide for protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto.

Changes brought by Consumer Protection Act, 2019

i. Covers E-Commerce Transactions:

The New Act has widened the definition of 'consumer'. The definition now includes any person who buys any goods, whether through offline or online transactions, electronic means, teleshopping, direct selling or multi-level marketing. The earlier 3 Act did not specifically include e-commerce transactions, and this lacuna has been addressed by the New Act.

ii. Enhancement of Pecuniary Jurisdiction: Revised pecuniary limits have been fixed under the New Act. Accordingly, the district forum can now entertain consumer complaints where the value of goods or services paid does not exceed INR 10,000,000 (Indian Rupees Ten Million). The State Commission can entertain disputes where such value exceeds INR 10,000,000 (Indian Rupees Ten Million) but does not exceed INR 100,000,000 (Indian Rupees One Hundred Million), and the National Commission can exercise jurisdiction where such value exceeds INR 100,000,000 (INR One Hundred Million).

iii. E-Filing of Complaints:

The New Act provides flexibility to the consumer to file complaints with the jurisdictional consumer forum located at the place of residence or work of the consumer. This is unlike the current practice of filing it at the place of purchase or where the seller has its registered office address. The New Act also contains enabling provisions for consumers to file complaints electronically and for hearing and/or

examining parties through video-conferencing. This is aimed to provide procedural ease and reduce inconvenience and harassment for the consumers

iv. Establishment of Central Consumer Protection Authority: The New Act proposes the establishment of a regulatory authority known as the Central Consumer Protection Authority (CCPA), with wide powers of enforcement. The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiry or investigation into consumer law violations. - The CCPA has been granted wide powers to take suo-moto actions, recall products, order reimbursement of the price of goods/services, cancel licenses and file class action suits, if a consumer complaint affects more than 1 (one) individual.

v. Product Liability & Penal Consequences:

The New Act has introduced the concept of product liability and brings within its scope, the product manufacturer, product service provider and product seller, for any claim for compensation. The term 'product seller' is defined to include a person who is involved in placing the product for a commercial purpose and as such would include e-commerce platforms as well. The defense that e-commerce platforms merely act as 'platforms' or 'aggregators' will not be accepted. There are increased liability risks for 4 manufacturers as compared to product service providers and product sellers, considering that under the New Act, manufacturers will be liable in product liability action even where he proves that he was not negligent or fraudulent in making the express warranty of a product. Certain exceptions have been provided under the New Act from liability claims, such as, that the product seller will not be liable where the product has been misused, altered or modified.

vi. Unfair Trade Practices: The New Act introduces a specific broad definition of Unfair Trade Practices, which also includes sharing of personal information given by the consumer in confidence, unless such disclosure is made in accordance with the provisions of any other law.

vii. Penalties for Misleading Advertisement: The CCPA may impose a penalty of up to INR 1,000,000 (Indian Rupees One Million) on a manufacturer or an endorser, for a false or misleading advertisement. The CCPA may also sentence them to imprisonment for up to 2 (two) years for the same. In case of a subsequent offence, the fine may extend to INR 5,000,000 (Indian Rupees Five Million) and imprisonment of up to 5 (five) years. The CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of up to 1 (one) year. For every subsequent offence, the period of prohibition may extend to 3 (three) years.

viii. The New Act fixes liability on endorsers considering that there have been numerous instances in the recent past where consumers have fallen prey to unfair trade practices under the influence of celebrities acting as brand ambassadors. In such cases, it becomes important for the endorser to take the onus and exercise due diligence to verify the veracity of the claims made in the advertisement to refute liability claims

ix. Provision for Alternate Dispute Resolution: The New Act provides for mediation as an Alternate Dispute Resolution mechanism, making the process of dispute adjudication simpler and quicker. This will help with the speedier resolution of disputes and reduce pressure on consumer courts, who already have numerous cases pending before them.

Exercise:

1. Who shot Stanely in Stanely V. Powell case?
 - a) Powell
 - b) Police
 - c) His mother
 - d) Armyman

2. The Wagon Mound case is an example of

- a) The test of reasonable foresight
- b) The test of directness
- c) Defamation
- d) Negligence

3. In contributory negligence,

- a) Only one party is negligent and other has not taken due care
- b) Both parties have contributed to negligence equally
- c) Lack of care is equal on both sides
- d) Only one party is negligent resulting in injury while the other has taken due care

4. Agreement in restraint of trade is void:

- a) True
- b) False

5. The 'standard of care' generally used in care of negligence is the care of a prudent and careful man.

- a) True
- b) False