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CONSUMER PROTECTION

Little Alia saved some money to buy a small gift for her brother on his birthday. She went with her mother to a nearby store and bought a very basic phone for him. Her brother was going to the nearby big city for a job, so they wanted to keep in touch with him on the phone. Gopal was very delighted to receive the phone as a birthday present, but this happiness did not last for many days. Just as he reached the city, his phone stopped working, and he had to use another phone to talk to his family. What should Alia and Gopal do? They are consumers and they have “CONSUMER RIGHTS”. The following text talks about the right of consumers and consumer law.

So, in this lesson we will study about the evolution of Consumers Law in India, the main provision of Consumer Protection Act, 1986 and the meaning of the terms Consumer; ‘Consumer Service’, ‘Consumers Protection’s and ‘Consumers’s Rights’.



OBJECTIVES

After reading this lesson you will able to:

- know HISTORY AND EVOLUTION OF CONSUMER LAW;
- understand the meaning of the term ‘CONSUMER’;
- describe the term CONSUMER PROTECTION;
- discuss the main provisions of THE CONSUMER PROTECTION ACT, 1986; and
- identify RECENT AMENDMENTS in the Consumer Protection Act, 1986.

28.1 HISTORY AND EVOLUTION OF CONSUMER LAW

We will try to understand the definition and meaning of a ‘Consumer’ in the next section of this lesson but before that a brief understanding of how ‘Consumer Law’ evolved in India.



Notes

Earlier the doctrine of “Caveat Captor ” punailed that is “Buyer should be aware” before buying a product, and that once goods are sold, the seller is under ‘no liability’ if the consumer had not checked them before buying. This was prevalent in India.

So the buyer had to be very cautious before buying a product.

Although there were some legislations to protect the consumer’s right like those given below, but they were not adequate.

- The Prevention of Food Adulteration Act
- The Essential Commodities Act
- The MRTP Act

The Consumer Protection Act, 1986, was a very unique and highly progressive piece of legislation and is called the ‘MAGNA CARTA’ of Indian Consumers.

People like you, Alia and Gopal have now become aware of Consumer’s Rights and the sellers cannot escape their liability. When the goods are defective or the remices are deficient, the Consumer has rights which help him.



INTEXT QUESTIONS 28.1

1. Who is Alia ?
2. Alia’s mother buys a packet of sweets. What should she be called ?
3. Does Gopal have a right as a Consumer ?



Do you know

A person who has used a product, not bought by him/her, is also a Consumer if he/she has the permission to use it from the person who bought it !

28.2 WHO IS A CONSUMER ?

To put it simply, a ‘Consumer’ is a person who

- buys ‘goods’; or
- hires ‘Services’.

But there is more to the meaning of ‘Consumer’. As per the definition of Consumer Protection Act, 1986; A consumer’s definition is in two parts. The

* Liability means the responsibility to pay compensation or replace a product in consumer law.

first part says that a 'Consumer' is a person who pays a price for the goods he/she buys. [So, a 'Buyer' is a 'Consumer'] The second part says that a 'Consumer' is a person who pays for the 'Services' he/she hires. [So, a HIRER of 'Services' is a 'Consumer']. However, goods bought for business or commercial purposes are not covered by the Act

- (a) BUYER – Eg. a buyer of a TV Set.
HIRER – Eg. a hirer of a Taxi Service.
- (b) Ramanujan pays a sum of Rs 100/- for a hair cut to a hair dresser. Is he a Consumer?
- (c) Karishma goes to a Government Hospital for a check-up. Is she a 'Consumer'*?
- (d) Preeti goes to a Mall and buys a beautiful new dress. After wearing it once, she washes it and the dress tears off while doing so. Can she return the dress?

**INTEXT QUESTIONS 28.2**

1. Who is a consumer?
2. Is a 'Hirer' of services a consumer?

28.3 CONSUMER RIGHTS

We all know and have heard about 'Rights'. But we don't know how to recognise them and enjoy them. You must have heard of Consumer's Rights. Yes, you also see some advertisements on TV about Consumer awareness. Have you seen "Jaago Grahak Jaago" ? Let us see what are Consumer Rights.

Consumer Rights are those rights which a buyer of a product or hirer of a service, has against the seller.

The following are Consumer Rights Listed by the United Nations:

1. Right to safety;
2. Right to be informed;
3. Right to choose;
4. Right to be heard;
5. Right to redress;
6. Right to consumer education;
7. Right to healthy environment; and
8. Right to basic needs.

* Since Government services are free services, they are not covered under the Consumer Protection Act, in spite of the taxes which we pay.

**Notes**

**Notes****Do you know**

A Consumer's biggest and strongest right is to refuse to buy because by that the seller loses his customers and loses business too !

Every year 15th March is observed as the 'Consumer Right Day'.

**INTEXT QUESTIONS 28.3**

1. Define Consumer Rights.
2. Name any Two Rights of consumer under the Consumer Protection Act (C.P.A.), 1986.

**28.4 THE CONSUMER PROTECTION ACT, 1986 (C. P. A.)
IN SHORT)**

We know about Consumer's Rights. But the Act which identifies and provides protection to the rights of 'Consumer' is the Consumer Protection Act, 1986.

Like every 'Act' this 'Act' also has various Sections, Sub-Sections and Clauses. For example, Section 2, Sub-Section (1) and Clause (d) of the Sub-section (1), will be represented as under S.2 (1) (d).

Now this Section 2 (1) (d) of the Consumer Protection Act, defines a 'Consumer', which we discussed earlier.

The Consumer Protection Act, (CPA), 1986 aims at providing simple, quick and cheaper protection to the Consumer under a 'three-tier' quasi-judicial redressal regime at the District Level, State Level, and National Level,

'Redressal' means a Remedy to a 'Consumers' dispute, under the CPA, 1986.

So, these are the places one goes to when a Consumer's right is violated. The main object of this Act is the protection of the Consumer, which we will discuss in the following part of this lesson.

The following are the main objects of the CPA, 1986.

1. Protection of interests of Consumers.
2. Protection of rights of Consumers.

Which include:

- (a) Protection against dangerous goods and services which are hazardous to life and property;
- (b) Right to information about the quality, quantity, potency, purity, standard, and price of goods or services to so as to protect him against unfair trade practices like false discrediting exaggerated claims etc.;
- (c) Right to be heard;
- (d) Right to access to variety of goods;
- (e) Right to seek redressal; and
- (f) Right to consumer education



Notes



Do you know

It is the responsibility of the Central Consumer Protection Council (CCPC) to educate the Customers !



INTEXT QUESTIONS 28.4

1. Name the 'Act' in India, which protects the Consumers rights and provides redressal to Consumer disputes?
2. Name any two rights of 'Consumer' under the Consumer Protection Act, 1986?
3. Whose responsibility is it to educate the Consumers ?
4. Which day is celebrated as the Consumer Rights Day ?
5. Where do you go to when a Consumer right is violated ?
6. Preeti goes to a Cosmetic shop to buy some nail polish bottles. Does she have a right to choose

28.5 THE FORMAL DEFINITIONS OF CONSUMER AND SERVICE

“Consumer”

Section 2 (i)(d) of the Consumer Protection Act, 1986 defines a Consumer. It says –

‘Consumer’ means any person who buys any goods for consideration which has been paid or promised, or partly paid and partly promised, or under buy deferred payment and includes any use of such goods other than the person who buys



Notes

such goods for consideration, when such goods are is used with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment, the includes the beneficiary of such services of her than the person who hires or avails of the services for consideration. When such services are availed of with the approval of the first mentioned person”.

You do not have to mug up this definition. It is only for reference. The meaning of ‘Consumer’ has already been explained in the previous section. [Section 1.2 of the Lesson]

“Service”

Sectoin – 2 (i) of CPA, 1986 defines ‘Service’ –

‘Service’ means service of any description which is made available to potential users and includes the provision of facilities in connection with *banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information.*”

Free services are excluded; so they are not ‘Services’ within the meaning of Consumer Protection Act, 1986. So, free government services are also excluded.

? **Do you know**

So, if a courier reaches after the promised date, there is “deficiency” in service!



INTEXT QUESTIONS 28.5

Answer the following

1. Define the term ‘Service’ as defined by CPA, 1986.
2. Which Section of the CPA defines ‘Service’?
3. Rupa went to a bank to open an account, and the bank offered an interest of 9% on her savings. But eventually, when she opened the account, it was reduced to 8%, although the prevailing rate was 9%. Is the bank liable under the Consumer Protection Act 1986?

28.6 LANDMARK CASES**1. Lucknow Development Authority v. M. K. Gupta**

Ratio : A person who applies for an allotment of a flat, is a ‘Consumer’ and is protected under the CPA, 1986.

2. Indian Medical Assoc. v. V. P. Shanta

Ratio : ‘Services’ rendered by medical Practitioners are ‘services’ under the CPA, 1986. However, hospital giving free service are excluded.

3. Transasia Bio Medicals Hd. v. Dr. D. J. Desonga [22nd Jan 2013]

A defective second hand auto analyser was returned and money returned to the consumer.

28.7 RECENT AMENDMENT BILL

The Forums established under CPA, 1986 have become clogged with pendency of cases, effective compliance is difficult to monitor and very low. The amendment bill seeks to change this and addresses these issues in a variety of ways.

For instance, the Bill allows for–

- Filing of Consumer Complaints on line
- non-compliance of orders of the power are now punishable by a time of five hundred rupees or one half per cent of award amount for each day of non-compliance.
- Award of the Consumer Forum is now like a ‘Decree’ of the Civil Court of competent jurisdiction
- The definition of the terms “*deficiency*”, “*defect*” and “*unfair trade practice*”, is being provided for by the Amendment Bill.

**Do you know**

A ‘Forum’ under the Consumer Act, consists of judge and two members, and is called quasi-judicial, which means it decides like a Court !

**INTEXT QUESTIONS 28.6**

1. What is a Consumer Complaint ?
2. Is the ‘Award’ of the Consumer Forum like a ‘Decree’ of a Civil Court?

**Notes**

**Notes****WHAT YOU HAVE LEARNT**

- The Consumer Protection Act 1986 is the ‘Magna Carta’ of the Consumer’s Rights in India. A ‘Consumer’ is a person as defined in 5 2(1) (d) of the Consumer Protection Act, 1986. A ‘Service’ is explained in 5 2(1) (0) of the Consumer Protection Act (CPA), 1986.
- ‘Service’ includes banking, insurance financing, transport, processing, supply of electrical or other energy, boarding or lodging or both, housing, construction, entertainment, Government, or the purveying of news or other information. Free services are excluded from the purview of ‘Service’.
- Goods/Services taken without ‘Consideration’ do not make you a consumer. Goods/Services taken for business or commercial purposes, are not covered by the Act, and, therefore, do not make you a ‘Consumer’. A ‘Consideration’ is money paid or a value given for goods or services. See the Section 2(1) (d) is defined in two parts. The first part defines a ‘Consumer’ as a person who has bought goods, and the second part defines a ‘Consumer’ as a person who has hired services.
- The Consumers have certain rights. The Consumer Protection Act, 1986 provides forums for redressal, as all Consumer have a right to redressal. These forums are at the District, State and National Level. It is the responsibility of the CONSUMER PROTECTION COUNCIL to educate the Customers. Some landmark Cases are ‘Transasies Bio Medicals Ltd. v. D. J. Desouzar’, ‘Lucknow Development Authority v. M. K. Gupta’ and ‘Indian Medical Association v. V. P. Shantar’
- Consumer Laws are important for the protection of the rights of Consumers for a healthy environment for both the Consumers and business.

**TERMINAL QUESTIONS**

1. List any two rights of a Consumer.
2. Which body is responsible for educating the Consumers in India ?
3. Which day is celebrated as the Consumer Rights Day ?
4. List any two services included in the Section 2 (1) (0) of the CPA, 1986.
5. What Kinds of goods/services are excluded from the CPA, 1986?
6. What is ‘Consideration’ ?
7. Define a ‘Consumer’ in your own words.
8. What are the rights of Consumer under the Consumer Protection Act, 1986?

9. Sheela's car's air conditioner stopped working within one month of its purchase. The showroom sales person was approached but he/she refused to repair it free of cost. What can Sheela do ?

Write True or False

1. 'Liability' means the responsibility to pay Compensation or replace a product.
(True/False)
2. The Consumer Protection Act, 1986 is a very unique and highly progressive piece of legislation and is called the "Magna Carta" of Indian Consumers.
(True/False)
3. A person who has used a product, not bought by him/her, is also a 'Consumer' is he/she has no permission to use it from the person who bought it.
(True/False)
4. A person is not a 'Consumer' if he/she buys the goods for business or commercial purpose.
(True/False)
5. Government Services or free services are considered as 'services' under the Consumer Protection Act, 1986.
(True/False)
6. Consumer rights are available against the buyer.
(True/False)
7. Definition of the word 'Consumer' is provided under Section 2 (1) (d) of the Consumer Protection Act 1986.
(True/False)
8. 'Redressal' means a 'remedy' to a consumer under the Consumer Protection Act, 1986.
(True/False)
9. It is not the responsibility of the Central Consumer Protection Council to educate the Customers.
(True/False)
10. Consumer has no right to access to variety of goods.
(True/False)
11. A Forum under the Consumer Act, consists of a judge and is called 'Quasi-judicial', which means it decides like a regular Court.
(True/False)
12. Amendment Bill Provides Award of the Consumer Forum is now like a 'Decree' of the Civil Court of competent jurisdiction.
(True/False)
13. A 'Service' is explained in see 2 (1) (0) of the C. P. A., 1986.
(True/False)
14. Unfair Trade Practices affect the small businessmen who can't sustain by reduction of prices below the manufacturing cost.
(True or False)



Notes

**ANSWERS TO INTEXT QUESTIONS****Notes****28.1**

1. Alia is a 'Customer'
2. 'Consumer'
3. Yes

28.2

1. A 'Consumer' is a person who pays a price for the goods he/she buys. So, a 'Buyer' is a 'Consumer'.
2. Yes

28.3

1. Consumer's Rights are those rights which a 'Buyer' of a 'Product' or 'Higher' of a 'Service' has against the seller or service provider.
2. (i) Right to redress
(ii) Right to be informed.

28.4

1. Consumer Protection Act 1986
2. (i) Right to choose
(ii) Right to be heard
3. Central Consumer Protection Council (CCPC)
4. 15th March is observed as the 'Consumer Right Day'
5. Consumers Dispute Redressal Court
6. Yes

28.5

1. 'Service means service of any description which is made available to potential users.
2. Sec - 2(i) of C.P.A defines 'Service'
3. Yes

28.6

1. Any complaint against any defective and deficiency in services filed by a consumer is called a consumer's complaint.
2. Yes