

Law of Torts

Consumer Protection Act, 1986

Besides the basic necessities of food, clothing, and shelter, we consume a variety of things in our daily lives such as cell phones, digital cameras, soaps, perfumes, cosmetics, among other things. Thus, all of us are consumers in the literal sense of the term. When we buy things from the market as a consumer, we expect value for money, i.e., quality, quantity, right price, information about the mode of use, etc. However, there may be instances where a consumer is cheated.

In such cases, most of us do not know whom to approach to seek redressal. Moreover, a majority of us also are unaware of our “rights” as a consumer and often hesitate to complain or even stand up to unfair practices. We also don't have the recourse of costly litigation to seek justice and we continue to bear such injustice.

This is where consumer forums, which can help you seek justice against unfair practices without incurring exorbitant litigation costs, come in.

Consumer Protection Act, 1986

The Consumer Protection Act, 1986, was enacted to provide a simpler and quicker redressal to consumer grievances. The Act seeks to promote and protect the interest of consumers against deficiencies and defects in goods or services. It also seeks to secure the rights of a consumer against unfair trade practices, which may be practiced by manufacturers and traders. The agenda of a consumer forum is to provide relief to both parties and discourage long litigation. In a process called 'informal adjudication', forum officials mediate between the two parties and urge compromise.

The Act applies to all goods and services unless specifically exempted by the Union Government and covers all sectors, whether private, public, or cooperative.

This Act has provided a machinery whereby consumers can file their complaints. These complaints will then be heard by consumer forums with special powers so that action can be taken against erring suppliers and possible compensation is awarded to the consumer for the hardships he/she has undergone.

The consumer, under this law, is not required to deposit huge court fees, which earlier used to deter consumers from approaching the courts. The rigors of court procedures have been replaced with simple procedures as compared to the normal courts, which helps in quicker redressal of grievances. The provisions of the Act are compensatory in nature.

Please remember, consumer courts provide redress only in cases of products or services for personal use; defects in products used for commercial purposes are not entertained.

Basic rights of consumers include:

1. Right to be protected against marketing of goods and services that are hazardous to life and property
2. Right to be informed about the quality, quantity, standard, and price of goods or services so as to protect the consumer against unfair trade practices
3. Right to receive assured access, wherever possible, to a variety of goods and services at competitive prices
4. Right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums.
5. Right to seek redressal against unfair trade practices.
6. Right to consumer education

Consumer redressal forum

Under the Consumer Protection Act, every district has at least one consumer redressal forum, also known as a consumer court. Here, consumers can get their grievances heard. Above the district forums are the state commissions. At the top is the National Consumer Disputes Redressal Commission in New Delhi.

A written complaint to the company is taken as proof that it has been informed. The complaint must be backed by copies of bills, prescriptions, and/or other relevant documents, and should have a deadline. Consumers can also complain through a consumer organization.

Claims of less than Rs5 lakh should be filed with a district forum, claims of Rs5-Rs20 lakh with the state commission, and claims of more than Rs20 lakh directly with the National Commission.

To file the complaint:

- The complaint should be filed within two years of buying the product or using the service
- It needs to be in writing. Letters should be sent by registered post, hand-delivered, email, or fax. Do not forget to take an acknowledgment
- The complaint should mention the name and address of the complainant and the person/entity against whom the complaint is being filed. Copies of relevant documents must be enclosed
- The consumer must mention details of the problem and the demand on the company for redressal. This could be a replacement of the product, removal of defect(s), refund, or

compensation for expenses incurred, and for physical/mental torture. The claims, however, need to be reasonable

- You should preserve all bills, receipts, and proof of correspondence related to the case. Avoid using voice mail or telephone because such interactions are normally difficult to prove
- The complaint can be in any Indian language, but it is better to use English
- There is no compulsion to hire a lawyer. The main cost consists of correspondence and traveling to the consumer forum for the hearing
- Maintain a complete record of the emails and documents sent and received

Appeal

An appeal is a legal instrument which enables persons dissatisfied with the findings of a consumer court to approach a higher court to present his case and seek justice. In the context of consumer forums:

1. An appeal can be made with the state commission against the order of the district forum within 30 days of the order, which is extendable for further 15 days (Section 15)
2. An appeal can be made with the National Commission against the order of the state commission within 30 days of the order or within such time as the National Commission allows (Section 19)
3. An appeal can be made with the Supreme Court against the order of the National Commission within 30 days of the order or within such time as the Supreme Court allows (Section 23)

Penalties

The consumer courts (district court, state commission, and National Commission) are given vast powers to enforce their orders. If a defaulter does not appear in court despite notices and reminders, the court may decide the matter in his absence. The forum can sentence the defaulter to a maximum of three years' imprisonment and impose a fine of Rs10,000. Forums can issue warrants to produce defaulters in court. They can use the police and revenue departments to enforce orders.

Consumer rights need to be protected since services are availed based on trust and faith, and thus, it's a necessity to keep a check on the service providers for the sake of service recipient.