

## PROTECTION OF CONSUMER'S RIGHT AND CONSUMER PROTECTION BILL, 2018

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### **ABSTRACT**

*The consumer Protection Bill passed in the year 2018 to replace the old consumer protection Act 1986. New Bill has provided the awareness to the consumer for their rights. This Bill has done many changes in the old act. The aim of the bill is to strengthen the consumer.*

*The consumers should also welcome the efforts laid by the government for their benefit and support the measures. The consumers should believe in self-help themselves so as to fight frothier rights because Consumer Is King.*

*In fact, the laudable objectives of the legislation concerning consumer protection can only be achieved if consumers become fully conscious of their rights and are aware of availability of cheap and speedy remedies under the Act. They must understand their right to freedom from any kind of exploitation, and make use of the redressed machinery which has been made available to them to get quick justice.*

**KEY-WORDS:** *Pecuniary, Territorial, Mediation, Unfair Trade Practices, Unfair contracts.*

### **INTRODUCTION**

The Consumer Protection Act 1986 was replaced by the Consumer Protection Bill 2018 and it was introduced in the Lok Sabha on 5 January 2018 but the major developments in the year of 1984 when the statutory provisions for regulating unfair trade practices were incorporated for the first time.

This Bill of 2018 was approved by the Union Cabinet commence tentatively from January 29, 2018, because there was a great need to update the Consumer Protection Act, 1986. The new Bill was originally drafted in 2015 and placed before the Lok Sabha (Lower House) in 2016 and subsequently sent to the Standing Committee on Food and Consumer Affairs. The aim of this bill was strengthening the rights of consumers and providing a mechanism for redressal of their complaints regarding defects in goods and deficiency in services, it also promises a fresh and a positive new change for Consumers and a step ahead in the area of consumer protection laws ,also setting up of the forums at district level, state level ,national level and Consumer Disputes Redressal Commission for

adjudicating consumer complaints. In this Bill there are many protection authority to promote, protect and enforce consumer rights as a class.

### **THE NEW AMENDMENTS IN THE CONSUMER PROTECTION BILL, 2018 PROPOSE FOLLOWING:**

**1. Pecuniary Jurisdiction:** In the Consumer Protection Bill 2018, the Pecuniary Jurisdiction of the Consumer Disputes Redressed Agencies has been revised. As per the current Market trends the new bill introduced the new limits under the Consumer Dispute Redressed Agencies.

- a. The District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed one crore rupees.
- b. The State Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration, exceeds rupees one crore, but does not exceed rupees ten crore.
- c. The pecuniary jurisdiction of the National Commission will be for value of goods and services exceeding ten crore rupees.

### **2. Introduction of Central Consumer Protection Authority as a Regulator:**

As a regulator to handle matter relating to violation of rights of the consumer ,unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers the national authority introduced to handle matters, to protect ,promote enforce the rights of consumers as a class. This Authority have power to issue safety notices, impose penalties for false and misleading advertisements, Power to recall goods, prevent unfair and restrictive trade practices, Reimbursement of purchase price paid etc.

**3. Territorial jurisdiction** – The Bill has made changes to the territorial jurisdiction of the Dispute Redressal Agencies and includes the place of residence or business of the complainant, in addition to that of the opposite party and the place of occurrence of the cause of action. An appeal from the orders of the CCPA shall lie to the National Company Disputes Redressal Commission within a period of thirty days from the date of receipt of such order.

**4. Product liability-** The Consumer Protection Bill 2018 extensively deals with the Product liabilities. Product liability means the responsibility of the product manufacturer or product seller, of any product or service, and also compensate for the harm caused to a consumer through such defective product manufactured or sold or by deficiency in services relating thereto.

A claim for compensation may be made for any harm caused, including: (i) property damage; (ii) personal injury, illness, or death; and (iii) mental agony or emotional harm accompanying these conditions.

The product liability action may be brought by a complainant against a product manufacturer or a product service provider or a product seller, as the case may be, on account of the defective product for any harm caused to him

A. Product manufacturer's Liability is liable a product liability action if the product has a manufacturing defect, is defective in design, deviates from the manufacturing specifications or express warranty, or does not contain adequate instructions for usage. A product manufacturer shall be liable in a product liability action even if he proves that he was not negligent or fraudulent in making the express warranty of a product.

B. Product service provider' Liability shall be liable in a product liability action, if the service provided by him was faulty or imperfect or deficient or inadequate in quality, nature or manner of performance; or there was an act of omission or commission or negligence or conscious withholding any information which caused harm; or the instruction and warnings not provided by the service provider for preventing any harm; or the service did not conform to express warranty or the terms and conditions of the contract.

C. Product seller Liability :

The Bill provides for the liability of a product seller, who is not a product manufacturer in certain circumstances, where:

- a. the seller has exercised substantial control over the designing, testing, manufacturing, packaging or labelling of a product that caused harm; or
- b. the seller has altered or modified the product and such alteration or modification was the substantial factor in causing the harm; or
- c. the seller has made an express warranty of a product independent of any express warranty made by a manufacturer and such product failed to conform to the express warranty made by the product seller which caused the harm; or
- d. the product has been sold by him and the identity of product manufacturer of such product is not known, or if known, the service of notice or process or warrant cannot be affected on him or he is not subject to the law which is in force in India or the order, if any, passed or to be passed cannot be enforced against him; or
- e. The seller failed to exercise reasonable care in assembling, inspecting or maintaining such product or he did not pass on the warnings or instructions of the product manufacturer while selling such products the dangers involved or proper usage of the product and such failure was the proximate cause of the harm.

5. Unfair Contracts - As defines under The Consumer Protection Bill 2018 "unfair contract" to mean a contract between a manufacturer or trader or service provider on one hand, and significant change in the rights of the consumer is at the other hand of the consumer. There are six types of unfair contracts in the new Bill (i) requiring excessive security deposits;

(ii) disproportionate penalty imposing a for a breach in contract;

(iii) refusing to accept early repayment of debts;

(iv) terminating the contract without reasonable cause;

(v) For the determination of the consumer without his consent transferring a contract to a third party or

(vi) For putting the consumer at a disadvantage imposing unreasonable charge or obligations And any complaint against unfair contracts can be filed with the State Commission or the National Commission.

6. Unfair Trade Practices – There is also some important change took place in the new bill 2018 and that is related to the unfair trade practices already laid down there are three more types of practices which are added to the existing list to expand the scope of unfair trade practices. These practices are as follows:

(i) failure to issue a bill or receipt;

(ii) A good returned not accepting within 30 days; and

(iii) disclosure of Personal information disclosure given in confidence, unless and until it is required by law or in public interest

7. Mediation- The Bill introduced exclusive provisions for reference of a dispute to Mediation as an Alternative Dispute Redressal Mechanism and provides for settling up of a Consumer Mediation Cell. If any type of element of a settlement between the parties, the District, State or the National commission may direct the parties to give a written consent to have their dispute settled by mediation. This cell will be attached to the National Commissions, state level and District Level. The parties consent to settle their dispute in this manner the Commissions may refer a matter for mediation

8. E- Commerce- The new bill covers within its ambit buying or selling of goods or services including digital products over digital or electronic network.

9. Consumer Protection Councils: As advisory bodies the Bill sets up Consumer Protection Councils (CPCs) at the district, state, and national levels and then Councils will advise on promotion and protection of consumer rights.

### **REASONS BEHIND TO COME IN FORCE THE NEW BILL 2018:**

1. Regulator: New bill 2018 establishes the Central Consumer Protection Authority (CCPA) to promote, protect, and enforce the rights of consumers as a class but in the Act of 1986 this provision was missing.
2. Product liability: New bill 2018 establishes claim for product liability can be made against manufacturer, service provider, and seller. Compensation can be obtained by proving one of the several specified conditions in the Bill but in the old bill there was no provisions related to the same.
3. Unfair trade practices: New bill 2018 establishes three more practices like failure to issue a bill or receipt, refusal to accept a good returned within 30 days and the requirement by law or in public interest the personal information can be provided in the 30 days. Contests/ lotteries may be notified as not falling under the ambit of unfair trade practices but in the old bill of 1986 having six unfair practices.
4. Pecuniary jurisdiction: New bill 2018 establishes the pecuniary District: Up to Rs one crore; State: Between Rs one crore and up to Rs 10 crore but does not exceed rupees ten crore. The pecuniary jurisdiction of the National Commission will be for value of goods and services exceeding ten crore rupees. In the old law there was no provision up to the above limit.
5. Ambit of law: New Bill 2018 establishes all goods and services, including telecom and housing construction, and all modes of transactions like online, teleshopping, etc for consideration. Free and personal services are excluded. But in the act of 1986 All goods and services for consideration, while free and personal services are excluded
6. Unfair contracts: New bill 2018 establishes contracts that cause significant change in consumer rights but no provisions in the old law
7. E-commerce: New bill 2018 establishes direct selling, e-commerce and electronic service provider. The central government may prescribe rules for preventing unfair trade practices in e-commerce and direct selling but in the old law no provisions related to E-Commerce.
8. Central Protection Councils (CPCs): New bill 2018 establishes the new Bill makes CPCs advisory bodies for promotion and protection of consumer rights. Establishes CPCs at the district, State and national level but in the old act CPCs promote and protect the rights of consumers.
9. Composition of Commissions: New bill 2018 establishes Headed by a president and at least two members at district level, at the state level headed by a president and at least four members. At the national level Headed by a president and at least four members. In the old law it was different. At the District level Headed by current or former District Judge and two members, At the state level Headed by a current or at least four members or former supreme court judge. National Level Headed by a current or former Supreme Court Judge and at least four members.
10. Alternate dispute redressal mechanism: New bill 2018 establishes Mediation cells will be attached to the District, State, and National Commissions establishes but in the 1986 Act No provision.
11. Penalties: New bill 2018 establishes If a person does not comply with orders of the Commissions, he may face imprisonment up to three years, or a fine not less than Rs 25,000 extendable to Rs one lakh, or both but in the old act If a person does not comply with orders of the Commissions, he may face imprisonment for the Rs. 2000 to Rs 10000 or imprisonment of one month to three months.

## CONCLUSION

The aim of the Consumer Protection Bill 2018 has to keep up with the emerging market trends and also aims to simplify the consumer dispute adjudication process by including provisions for electronic filing and provisions for hearing or examination through video conferencing. This bill is a very important step taken for the protecting the rights and interest of the consumers. This bill developed the new consumer culture. This bill has educated the consumer how to buy and what to buy. With the help of this consumer Bill Consumers must be aware of the existing consumer protection laws.

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