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A Study on Consumer laws in India

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ABSTRACT

The increase in defected and unsafe products has created a need for the protection of consumers as the unsafe products are being marketed between the consumers which have created a need for development of consumer laws in India. On the basis of the growing need of consumer protection a resolution is passed in the United Nations in the year 1985 which provides the framework for the protection of consumers all around the world. The developing countries have started to improve their consumer protection policy.

In order to protect the consumers and deficiencies various safety standards and measures were being formed and implemented by the Government of India. The present article provides a detailed analysis of all the laws which are being made and applied in India in order to protect the rights and interest in India.

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INTRODUCTION

The increase in defected and unsafe products has created a need for the protection of consumers as the unsafe products are being marketed between the consumers which have created a need for development of consumer laws in India. However not all products are defective and unsafe, the defect in the products and services might be due to the negligence of goods and services which are being offered by the manufacturer. In order to remove such negligence and deficiencies in the products various laws are being made in order to protect the rights and interest of the consumers of the country.

In order to protect the consumers and deficiencies various safety standards and measures were being formed and implemented by the Government of India. A product safety and product quality ensures consumer satisfaction and consumer loyalty. Apart from product safety and product quality there are various other factors such as life style of the product, proper price of the product, design, color and packaging of the product which helps in ensuring a proper customer loyalty.

As the consumers all around the world have been exploited very badly which has developed a need for a proper consumer protection program for the protection of the consumers all around the world. On the basis of the growing need of consumer protection a resolution is passed in the United Nations in the year 1985 which provides the framework for the protection of consumers all around the world. The developing countries have started to improve their consumer protection policy. The guidelines are being made for all types of products whether they are imported from another country or being exported to other country.

RESEARCH OBJECTIVE

This research paper is an endeavor to explain the laws which are available in India to protect the rights and interest of the consumers.

RESEARCH QUESTIONS

The following are the research questions that can be framed:

1. What are Consumer laws?
2. What are the various laws made for protection of rights and interest of the consumers?
3. What are the rights and remedies available to the consumers in case of infringement of their rights?

RESEARCH METHODOLOGY

The researcher of the project has evaluated all the sources which are available online to understand the laws made for the protection of consumers in India. An advance approach has been carried out with the help of various laws and articles.

CHAPTERISATION

The below research is divided into three chapters. The first chapter deals with the Research Objective, Research Questions, and Research Methodology. The Second Unit deals with the various types of laws which are made for the consumers of India and the final chapter provides conclusions and observations learned while researching on various laws in India.

Consumer Protection in India

The consumer protection in India has become one of the basic needs in the continuous increase in the population of the country. The growing population in the country has started to attract various products and services. In order to counter the illiteracy and lack of information of the consumers, the Government of India has enacted various laws to protect the rights and interest of the consumers. The following are the various laws which are enacted by the Government of India:

A. INDIAN PENAL CODE(1860)

The foremost ever notable provisions with regards to consumer protection in India are observed in Indian Penal Code 1860. The IPC acts as dissuasion against any potential offenders and thus takes helps in the protection of the consumers¹. Under this indirect process, there may be no scheme of the compensation for the consumers, but they are eligible for receivable of an indirect and remote benefit. The two particular sections that are highlighted are section 272² and section 273³ of the IPC which deal with the offences affecting public by different means and ways such as adulteration

¹Indian Penal Code, 1860.

²Section 272 in The Indian Penal Code

272. Adulteration of food or drink intended for sale.—Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

³Section 273 in The Indian Penal Code

273. Sale of noxious food or drink.—Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

of food or drink, food or drinks that are noxious in nature and are sold, both are considered as crimes and are punishable for up to six months imprisonment, or a fine up to one thousand rupees or even both.

B. LAW OF TORTS

Various common law tortious remedies are still present to the consumers in India, in addition to various legislations⁴. There are several legislations that are available for consumer protection and this one tends to offer various tortious remedies. This is especially crucial for situations like- An injured consumer of goods are not allowed to take claim under the law of contracts,, even if the customer is accustomed to harmful impacts, if he is not the principal user, but a subsequent user. Such a user could be any entity, such as employee, primary buyer's family member, or anyone else inadvertently coming into the contract with the goods, also known as passerby or a donee.

A tort can be termed as a wrong activity or a breach of contract or a breach of trust. The intentional torts can involve deliberate actions that may cause injury; the tort of carelessness includes wounds following an inability to utilize sensible consideration regardless of whether this isn't purposeful; exacting obligation torts force legitimate duty regarding injury despite the fact that the gathering subject had neither deliberately nor carelessly caused the injury.

C. SALE OF GOODS Act (1930)

The Sale of Goods Act, 1930 gives certain protections to the purchaser of goods. Where a purchaser is harmed by an item moved to him under an agreement of offer, subject to specific exemptions, he may depend on "inferred conditions and warranties just as express endeavors of the vender. Section 16 of this Act manages inferred conditions as to quality or fitness. Section 16(1)⁵ manages the suggested condition identifying with "readiness for reason and segment 16(2) manages the inferred condition in regards to "merchantable quality"

⁴Law of Torts

⁵Section 16(1) in The Sale of Goods Act, 1930

(1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose: Provided that, in the

To fall under the category of merchantable quality, it has to satisfy four major aspects which have been listed below.

- It must be genuine with respect to name, kind and description.
- Allowance of sale in the market under the designation
- Fit for the standard use and motivation behind such products and
- Free from defects interfering with sale or ordinary use

Contrasting the two subsections of segment 16, though merchantable quality covers with readiness for reason, it is of a lot more extensive import. This implies the vendor will be at risk if the products don't fulfill the guideline required by the law regardless of whether he has taken all conceivable consideration. As respects to item risk, these principles are inferred by the Sale of Goods Act. In instances of penetrate of agreement, the buyers have numerous cures under this Act. Due to these reasons, the tenet of proviso emptor has now been supplanted by the regulation of admonition vendor. The institution of the Consumer Protection Act, 1986 is a stage in this direction. It secures the interests of purchasers better.

D. AGRICULTURAL PRODUCE (MARKETING AND GRADING) ACT, 1937

The administrative measures for normalization and quality control of rural products are contained in the Agricultural Produce (Marking and Grading) Act, 1937, which is the pioneer enactment in the field of value control and normalization in India⁶. These benchmarks signify an agricultural seal which ensures the standard and quality. Section 3 of the Act engages the Central Government to make rules to complete the elements of endorsing grade designation, which includes:

- Fixing grade designation to demonstrate the nature of any planned article,

case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

Section 16(2) in The Sale of Goods Act, 1930

(2) Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality: Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

⁶AGRICULTURAL PRODUCE (MARKETING AND GRADING) ACT, 1937

- Defining the quality demonstrated by each evaluation designation,
- Specifying grade assignment imprints to speak to specific evaluation designations.

E. DRUGS AND COSMETICS ACT, 1940

The Drugs and Cosmetics act formed in the year 1940; however the Cosmetics came into effect of the Act in 1964. The basic reason for the formulation of the act was to provide standardization and quality control upon the import, export and production of cosmetics in India. The objective of the Act is to prevent the supply of substandard drugs and cosmetics which may affect the health of the general public of the country⁷. Hence the act lays down the standard for the production, import and export of drugs and cosmetics in India. As the second schedule of the act states that the drugs of the country shall comply with the standards set in the second schedule of the act. However, in absence of any compliance of any provisions of act will attract several penalties and fines and are also punishable with imprisonment from one year to life imprisonment.

F. CONSTITUTION OF INDIA

It is the duty of the Government of India to provide a life to the citizen of the country to live with dignity. However, the right to live with dignity is mentioned in the constitution of India. However it also the duty of the state to ensure that all the public utility should be given to the consumers in the best possible manner. Additionally, it shall also be noticed that there are large number of people in the country who are living with reasonably bad conditions; hence it is the duty of the government of the country to provide all the necessary utilities to the underprivileged people.

G. PREVENTION OF FOOD AND ADULTERATION ACT, 1954

The food is considered as one of the essential ingredient of life. Absence of proper and adequate nutrition will affect the human health. The act empowers as well charges the Central Government of our country to make available pure food which are rich in the ingredient of proteins and vitamins to the citizens of the country. Hence such legislation became the need of

⁷Drugs and Cosmetics Act, 1940

the hour of the present government of that time and to implement the provisions of the act at ground level⁸.

H. STANDARDS OF WEIGHTS AND MEASURES ACT, 1976

It is an act which is formed for the purpose of regulation of weights and measurements of all business which involves the use of weighing and measurements machine. Such usage of machines is helpful for all commercial transactions as well in the maintenance of public safety and human health. The commodities which are sold between the states of our country or the commodities which are exported outside the country are being weighted on the weighing machines. The act helps in governing the weights and measures of the products which are being intended to manufacture upon the commencement of the act. The act also provides additional charge to the Central Government of the country to collect proper samples and take regular inspections in order to facilitate the enforcement of the provisions of the act. In other words the provisions are made to inspect all the fraudulent activities which are being conducted in the country.

I. BUREAU OF INDIAN STANDARDS (1986)

The Bureau of Indian Standards replaced the Indian Standards Institution; however the certification of ISI still prevails on the certain products and services which are being offered by various producers of goods and services⁹. The act is governed by an office of non-profit organization headquartered in New Delhi which has 5 regional offices and 5 branch offices and also has 8 well- equipped laboratories which measures the quality of goods which are being offered for sale¹⁰. These standards are necessary for the export of goods such as iron, steel, shoes, clothes etc. where the products are voluntarily certificated and sold to the customers.

J. CONSUMER PROTECTION ACT, 1986

The Consumer Protection Act was formed in order to protect the interest of the consumers of the country. The act was formulated in the year 1986, Consumer Protection rule was formed in the

⁸Prevention of Food and Adulteration Act, 1954

⁹Rana, V., & Chopra, R. (2020). Bureau of Indian Standards (BIS)– Overview And Importance - Consumer Protection - India.

¹⁰Standards of Weights and Measures Act, 1976

year 1987, and the Consumer Protection Regulations was formed in the year, 2005. The Consumer Protection Act was amended in the year 1991, 1993, 2002 and 2019. The basic function of the act is to provide remedies to the consumers whose rights have been infringed by the producer of the goods and services. The function of the act is supplementary in nature where the consumer of the goods and services has the right to file a suit against the producer of the goods and services in a civil court under the provisions of law of contract, law of torts and any other existing laws which are applicable to the situation of the consumers. The consumer of the goods and services can file a suit against the supplier of the goods and services under the Consumer Protection Act:

- i. By making false representation to the customers regarding the particular standard, quality, composition or grade of goods.
- ii. By falsely representing the re-built, refurbished and second hand products or any old product as a new product to the customer.
- iii. By offering such goods and services with an intention to use deceptive methods of sale.

The Consumer Protection Act will come into force if any of the activities which are unethical in nature are done with an intention to deceive the customers or infringe the rights of the customers.

K. FOOD SAFETY AND STANDARDS ACT, 2006 (FSSA)

This act is enacted to strengthen the food standards which are followed by various food dealers, called as Food Safety and Standards Act, 2006. It is basically a food related laws which helps in governing the food and safety standards all over the country¹¹. In order to implement these laws at the ground level, the food safety and Standards Authority of India was formed. The basic function of the Authority is to lay down the scientific standards for the food safety all around the country. The authority is also responsible for the regulation of manufacturing of food and food related items, storage of food items, distribution, sale and import of food and food related items¹². The basic structure of the act was taken from the Food Safety Act, 1990 and Food Standards Act, 1999 of the United Kingdom and the changes in the act was being made in

¹¹Standards of Weights And Measures Act in Detail | Department of Consumer Affairs | Ministry of Consumer Affairs Food and Public Distribution | Government of India.

¹²Food Safety and Standards Act, 2006

accordance of the Indian conditions. The following Acts and orders were repealed during the formation of Food Safety and Standards Act:

1. Vegetable Oil Products (Regulation) Order, 1947
2. Fruit Products Order, 1955
3. Edible Floor Control Order, 1967
4. Meat Food Products Order, 1973
5. Milk and Milk Products Order, 1992
6. Edible Oil Packaging Regulation Order, 1998
7. All orders issued under Essential Commodities Act, 1955

The following are the duties and responsibilities of a Food Business Operator mentioned in the Section 26¹³, of FSSA 2006:

¹³Section 26 in The Food Safety and Standards Act, 2006

26. Responsibilities of the food business operator.-

(1) Every food business operator shall ensure that the articles of food satisfy the requirements of this Act and the rules and regulations made thereunder at all stages of production, processing, import, distribution and sale within the businesses under his control.

(2) No food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food-

(i) which is unsafe; or

(ii) which is misbranded or sub-standard or contains extraneous matter; or

(iii) for which a licence is required, except in accordance with the conditions of the licence; or

(iv) which is for the time being prohibited by the Food Authority or the Central Government or the State Government in the interest of public health; or

(v) in contravention of any other provision of this Act or of any rule or regulation made thereunder.

(3) No food business operator shall employ any person who is suffering from infectious, contagious or loathsome disease.

(4) No food business operator shall sell or offer for sale any article of food to any vendor unless he also gives a guarantee in writing in the form specified by regulations about the nature and quality of such article to the vendor: Provided that a bill, cash memo, or invoice in respect of the sale of any article of food given by a food business operator to the vendor shall be deemed to be a guarantee under this section, even if a guarantee in the specified form is not included in the bill, cash memo or invoice.

- 1) The Food Business Operator should ensure that all the provisions for the safety of food and food products must be duly followed under all stages of production such as production, processing, import and sale & distribution of the food and food products.
- 2) The food business operator shall not employ any such person who is suffering from infectious disease.
- 3) The food business operator shall ensure that the vendor shall provide any such guarantee in writing to follow the specified regulations regarding the nature of the food and food product.
- 4) The Food Business Operator shall by himself or by any other person on behalf of the manufacturer should not sale, distribute or manufacture such food items -
 - Which is not safe to consume; or
 - Such food product which is of sub-standard or misbranded or contains any such extraneous matter; or
 - Any such products for which license are required for the production of food and food related products; or
 - Shall not produce such products which have been prohibited by the state and the central government for the interest of public health; or
- 5) Any such food product which is unsafe to consume and such unsafe food is the part of the batch manufactured than it shall be presumed that whole batch manufactured is unsafe for the consumption of food.

The following are the liability of the manufacturers, distributors and sellers of the food and food products under Section 27, FSSA 2006:

- 1) The manufacturer of the food and food related items shall be liable for manufacturing of any such food and food related items which do not meet with the requirements and provisions of the FSSA, 2006.

(5) Where any food which is unsafe is part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment within a specified time, it is found that there is no evidence that the rest of the batch, lot or consignment is unsafe: Provided that any conformity of a food with specific provisions applicable to that food shall be without prejudice to the competent authorities taking appropriate measures to impose restrictions on that food being placed on the market or to require its withdrawal from the market for the reasons to be recorded in writing where such authorities suspect that, despite the conformity, the food is unsafe.

- 2) The distributor of the food and food products is liable for the following :
 - a) Any such food and food related product which are being supplied after the expiry of the product.
 - b) Any such food and food related product which is unsafe to consume and are misbranded.
 - c) Any such food products which are being kept in the unhygienic conditions.
 - d) Any such food which is in the knowledge of the distributor of being unhygienic and unsafe for the consumption.

The following are the food procedures which are discussed under Section 28, of FSSA:

- 1) If the food business operator has the reasons to believe that the food manufactured by the manufacturer is not according to the standards set by the FSSA, 2006 than the food business operator shall immediately withdraw all food in question from the market by providing due and relevant reasons to the competent authorities¹⁴.
- 2) The food business operator shall inform about the food in question to the competent authorities by co-operating with the competent authorities providing the reasons for the manufacturer to believe that the food supplied by them are unsafe and unhygienic.
- 3) The food business operator shall provide all the information to the competent authorities regarding the actions taken by the food business operator in prevention of the unhygienic products, the competent authority or any such person shall not discourage any person from co-operating, which may help in preventing or eliminating or reducing the risk arise to the consumers upon the consumption of unsafe and unhygienic food.
- 4) Every food business operator shall follow all the guidelines relating to the safety of food mentioned in the FSSA, 2006.

SUGGESTIONS & CONCLUSION

The safety of the products plays an important role in protection of rights and interest of the consumers. The Government of India has developed various laws and safety standards of the products which are being manufactured, distributed and sold in India. These regulations and standards have made the life of the consumers easier as it focuses upon protection of rights of the consumers.

¹⁴CONSUMER PROTECTION IN FOOD SAFETY.

However it is a well-known fact that the laws are made for the benefit of the consumer of the products and services and in order to have a greater applicability of the laws it is necessary for the people of country to participate in the active involvement against the substandard and defective goods which are being sold to the consumers of the country. However, in order to counter the problems faced by the consumers of the country, it is necessary for the consumers to be alert and well informed about the products and services which are being offered to them. Hence, there is a need for growth in awareness of the people towards the standards of the products as well as the Consumer protection laws in force in India.

Bibliography

1. Legislations

- Indian Penal Code, 1860
- Law of Torts
- Sale of Goods Act, 1930
- AGRICULTURAL PRODUCE (MARKETING AND GRADING) ACT, 1937
- Drugs and Cosmetics Act, 1940
- Constitution of India
- Prevention of Food and Adulteration Act, 1954
- Standards of Weights and Measures Act, 1976
- Bureau of Indian Standards
- Consumer Protection Act, 1986
- Food Safety and Standards Act, 2006

2. Websites:

- LEGAL PROVISIONS FOR CONSUMER PROTECTION. Retrieved 15 June 2020, from https://shodhganga.inflibnet.ac.in/bitstream/10603/66778/12/12_chapter%205.pdf
- *THE SALE OF GOODS ACT, 1930*. [Ebook]. Retrieved from <http://14.139.60.114:8080/jspui/bitstream/123456789/687/25/The%20Sale%20of%20Goods%20Act%2C%201930.pdf>

- Standards of Weights And Measures Act in Detail | Department of Consumer Affairs | Ministry of Consumer Affairs Food and Public Distribution | Government of India. Retrieved 16 June 2020, from <https://consumeraffairs.nic.in/organisation-and-units/division/legal-metrology/standards-of-weights-and-measures-act-in-detail>
- Rana, V., & Chopra, R. (2020). Bureau of Indian Standards (BIS)– Overview And Importance - Consumer Protection - India. Retrieved 15 June 2020, from <https://www.mondaq.com/india/product-liability-safety/888040/bureau-of-indian-standards-bis-overview-and-importance>
- *CONSUMER PROTECTION IN FOOD SAFETY*. [Ebook]. Retrieved from <https://clap.nls.ac.in/wp-content/uploads/ConsumerGuide/10FoodSafety.pdf>



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