

CHAPTER III

DISPUTE RESOLUTION PROCESS IN CONSUMER PROTECTION

1. Outline of Consumers' Cases

Background of consumer disputes in India:

With rapid industrialisation since independence, India has joined the race in manufacturing consumer goods and providing essential services on a large scale, mainly by the Government. The public sector has monopolized many public utility services and production of consumer goods of various types. Be that as it may the well-organized sectors of manufacturers, traders and service providers with the knowledge of market and manipulative skills were exploiting the consumers, despite the existence of various laws protecting their interests. The traders or manufacturers make false representations about the quality, quantity, grade, composition, style or model of the goods offered for sale. They even make false promises to the effect that they (traders/suppliers) have a sponsorship or approval or affiliation, which they do not have. Further they make false or misleading representation concerning the need for, or the usefulness of any goods or services and in giving to the public any warranty or guarantee for the performance, efficacy or the length of life of a product or of any goods which is not based on any adequate or proper test thereof and thereby making the consumer buy, sell, hire or avail of any goods or services as a condition - precedent for buying, hiring or availing of any goods or services. By all these unfair or restrictive trade practices, the trader/manufacturer stands to gain at the expense of the consumer.¹ Rigging prices by creating artificial scarcity is another method adopted by traders to make undue profits in short periods at the expense of the consumer.

The consumers are also been exploited by public enterprises running most important services like telephone, water supply and electricity where the poor, ignorant, illiterate and unorganized consumers are the mute spectators bearing the brunt of the arbitrary and monopolistic attitudes of the officers. In this scenario the sufferers are the millions of consumers who are mostly illiterate and poor.

¹ A.Viraraghavan, *Is The Consumer Protected?*, <http://pib.nic.in/feature/feyr2000/fmar2000/f020320001.html>

The consumer movements has succeeded in focusing the attention of policy makers and administration on the inequities and dangers of the prevailing system. The time honoured concepts of *caveat emptor*, (buyer beware), sanctity of contracts in matters which tend to deprive consumers of remedies against exploitation and unreasonable conditions in a sale contract, liability based on the principle of fault and freedom to engage in trade or profession to the detriment of unwary consumers, have been reinterpreted and applied in the context of the needs of the modern times. Earlier, occasionally cases were coming to the courts of law under law of torts, contracts, criminal law for faulty or defective and dangerous goods or services but there was no separate forum for such cases.

Growing consumer awareness in recent years, initiated at the international level, and reinforced by media and voluntary consumer organizations, have flooded the consumer forums with complaints of all descriptions. It goes to the credit of the consumer fora quality of justice available in Consumer Disputes Redressal Agencies (CDRA) is not inferior to the one given by ordinary courts. Lack of infrastructural facilities has no doubt greatly affected the speed for the disposal of the caseload. It is a matter of great satisfaction that a genuine commitment to consumer cause on the part of all concerned with the adjudicatory process, has helped to protect valuable consumer interests and in the evolution of sound jurisprudence of remedies. Remedies provided by consumer forums extend to diverse fields.

Type of consumer disputes in India:

A survey of decided cases of Consumer Redressal machinery and Courts reveal the following types of consumer disputes:

Agricultural Services –

Seeds - quality of seeds was inferior; Tractor - tractor is not fit for use; failure to issue the sale certificate

Airlines -

Carriage of Goods- Failure to keep proper custody; Reservations - Cancellation of flight on account of technical snag; Failure to accommodate passenger despite confirmed booking in deficiency in service; Failure to intimate change in departure timings after confirmed reservation is deficiency in service; Safety of passengers - Suffered on account of negligence of the airlines; Service - Non supply of improper supply of food

Automobiles -

Advance deposits- Delay in payment of interest; Defective Vehicles- Vehicle found defective; PRICE- Price increase on account of delay caused by the dealer; REPAIR- Unsatisfactory repairs

Banking And Financial Services -

Cash-Counter Services - Refusal to accept small currency notes; Deposits and Withdrawals - Fraud committed by the bank employee mistake made in pay-in-slip; Loss of cheque; Loss of demand draft; Inability of Bank to credit the amount of cheque dishonour of bank draft; Delay in encashment of draft; Passing a cheque; Negligence & carelessness in Vindictive actions of bank staff; Wrongful dishonour of cheque; Interest - Illegal deduction of interest contrary to the terms of the agreement is deficiency; LOAN Transactions - Default in repayment as overdraft; Withholding maturity value of Fixed Deposits in respect of loan granted by its another branch; Withholding pledged gold if loan has been repaid failure of the bank to obtain permission from RBI - Pledged gold is sold after sufficient notice; Rejection of loan application; Miscellaneous Functions - Failure to follow special instructions; Nomination Facilities - Bank withholding dues under a valid nomination; Strikes; Non-transaction of business due to illegal strike by its employees; Travellers Cheques - Loss of cheques.

Chit Fund -

Closure of Business - Non refund of the deposit; Draws - No prior intimation of the draw;

Couriers & Carriers -

Delivery without documents - Delivery the goods without taking goods receipt; Privity of contract - Delivery not made within stipulated time

Education -

Consideration for services - School Authorities charge fees even for those services which they do not render; Examinations - Delay in declaration of results; Professional Courses - Affiliation to a University is a must if the courses so requires; Non refund Full capitation fee if admission is not granted; Non refund of fee if the course is non commenced

Electricity

Billing - Getting the incorrect meter examined; Discrepancy in the bill is deficiency; Imposition of Minimum charges when there is no supply; New Connections - Under delay in giving new connection; Retaining the deposit if temporary connection was not granted; Miscellaneous - Accident caused by poor fittings ; Disconnection despite payment of bills; Low voltage is being

supplied in State Electricity Board; Disconnection of Supply if no arrears are outstanding; Transfer of property entitles the transferee to file complaint; Unreasonable drop in voltage.

Employment Benefits And Funds- Undue delay in release of provident fund; Undue delay in sending files of health record by ESI hospitals

Finance And Investment Companies- Maturity value of deposits - Non-payment; Unilateral alteration of terms

General Insurance- Loss caused by Mob

Household Goods

Clothes- Discoloration and inferior quality of cloths'; Eatables - Sale of defective Pan Parag; Machines - Supply of Defective refrigerator is to be replaced; Misrepresentation about the features of a VCR; Photography - Defective video recording; Sofa Set - Defect in sofa-set

Land And Housing

Allotment- Undue delay in allotment; Delay in issuance of letter of allotment; Cancellation - Communication sent at wrong address; Wrongful cancellation; Delivery of Possession- Delay in delivery of possession; Deliberate delay to force the allottees to pay more; Defects in construction at the time of delivery; Failure to deliver possession for want of statutory permission; Measurement - Changing for excessive super area; Giving lesser area than that which is stipulated in the agreement; Negligence - Failure to execute sale deed; Property Dealer; Pricing- Making additional demands; Customer has to pay floor-wise price fixed by the authority; Imposition of arbitrary Interest imposed arbitrarily; Pricing of flats; Provisional Allotment; Refunds - Not giving the same rate of interest which it charges from its defaulters; Refund not made within time; Customer file is misplaced; Delay in spite of orders from the High Courts; Non refund the amount within a reasonable period

Life Insurance

Service - Insurance paper list in the office; Delay in payment of insurance claim; Loan - Denial of loan to policy holder on flimsy grounds

Local Bodies And Statutory Authorities

Department of Food and Civil Supplies - Refusal to issue Rationcard; Municipal Authorities - Wrongful orders of demolition; Sewers not kept clean by the Municipality; Passport Authorities - Wrongful denial of passport by passport authorities; Registration Authorities - Non-issuance of certified copies; Water Supply - Failure to regulate proper distribution of water supply

LPG Services

Fraud and Forgery - Non-delivery or late delivery of gas cylinders; Non-supply of gas at home; Non-refund of booking amount; Leakage in the LPG Gas; Liabilities in Accident

Machines And Office Systems

Guarantee - Manufacturing defect in the machines; Supply of defective machines; Repairs and Maintenance - Improper and inadequate repair service

Medical Services

Deficiency in Service, Refusal to given complete medical records to the patients; Negligence on the part of the doctor; Professional Qualifications; Person enrolled to practice a line of medicine is not actually qualified to do so

Post And Telegraphs

Loss or Misdelivery of Articles - Due to fraudulent or willful act of the postal employee; Other reasons; National Saving Certificate - Delay in encashment of NSC on maturity; Loss of insured parcel; Loss by registered uninsured parcel; Telegrams - Delay in delivery; Non-delivery

Professional Services

Hotels - Charging high rates while services are of below standard; Lawyers - The fee wrongly charged by lawyers; Pproperty Agents - Non-refund of booking amount

Railways

Carriage of passengers and goods - Delay in running of Superfast Trains is deficiency; Railway Parking - Loss of vehicle has to be indemnified; Reservation of seats - Wrongful refusal of seats/berths against booking

Roadways

Carriage of Goods - Loss caused by his employees of transporters; Carriage of Passengers - Buses not stopped at proper stops; Not plying the bus despite having the tickets reserved; Delay in plying buses

Shares And Debentures

Allotment of Shares - Delay in allotment of shares; Defect in allotted shares; Loss of allotted share certificates in transit

Telephones

Billing - Excessive billing; Phone is out of order; Disconnection of telephone without notice; Disconnection - Disconnection without notice to the subscriber; Telephone of the spouse disconnected for non-payment of bill; New Connections - Billing cycle changed for a single new connection; STD Facility - Correct pulse rates not recorded; Failure to disconnect STD facility

immediately on request of the subscriber is deficiency; Person running an STD/PCO booth is not a consumer; Miscellenous - Non-maintenance of unmetered service

Number of cases

The following table gives the cases filed/disposed/pending in the State Commissions and District Fora in the States/UTs. and National Commission as reported by National Commission²

State/UT	State Commissions			District Fora			Period of Reporting
	Cases filed since inception	Cases disposed of since inception	Cases Pending	Cases Filed Since inception	Cases Disposed of since inception	Cases Pending	
1	2	3	4	5	6	7	
A&N Island	26	16(62%)	10	217	194(89%)	23	Mar.01
Andhra Pradesh	12370	10125(82%)	2245	123886	108563(87%)	16041	Apl.01
Arunachal Pradesh	19	13(68%)	6	189	160(85%)	29	Mar.00
Assam	1332	656(50%)	676	7285	6260(86%)	1025	Sep.00
Bihar	6712	2678(40%)	4034	51593	35373(69%)	16220	Sep.00
Chandigarh Adm.	2690	2375(88%)	315	18841	15609(83%)	3232	Apl.01
D&N Haveli	0	0(0%)	0	33	23(70%)	10	Sep.00
Daman & Diu	5	0(0%)	5	62	37(60%)	25	Dec.99
N.C.T. of Delhi	12205	7791(64%)	4414	88843	66908(75%)	18593	Mar.00
Goa	1247	1059(85%)	188	3894	3198(82%)	696	Apl.01
Gujarat	8067	4672(58%)	3395	65212	45960((71%)	19252	Sep.00
Haryana	12268	9088(74%)	3180	88963	68594(77%)	20369	Mar.01
Himachal Pradesh	4867	3576(72%)	1396	23846	19223(81%)	4623	Mar.01
Jammu & Kashmir	3232	2610(81%)	622	10436	8247(80%)	2189	Dec.99
Karnataka	10008	7425(74%)	2583	61671	55801(90%)	5870	Mar.01
Kerala	14577	12875(88%)	1702	114457	108305(95%)	6152	Apl.01
Lakhsadweep	9	9(100%)	0	35	35(100%)	0	Mar.01
Madhya Pradesh	11499	8295(72%)	3204	71981	64599(90%)	7382	Mar.01
Maharashtra	17979	10157(56%)	7822	98407	77892(79%)	20515	Dec.99
Manipur	62	41(66%)	21	803	774(96%)	29	May.00
Meghalaya	84	60(71%)	24	242	199(82%)	43	Jun.99
Mizoram	51	24(47%)	27	1099	911(83%)	188	Mar.01

² http://fcamin.nic.in/stg_stat.htm

Nagaland	40	15(38%)	25	60	21(35%)	39	Mar.00
Orissa	8513	4255(50%)	4258	37893	32073(85%)	5820	Sep.00
Pondicherry	577	546(95%)	31	1782	1746(98%)	36	Mar.01
Punjab	8392	6225(74%)	2167	48119	42810(89%)	5309	Mar.01
Rajasthan	20063	7752(39%)	12311	153117	137398(90%)	15719	Mar.01
Sikkim	18	16(89%)	2	113	105(93%)	8	Mar.01
Tamil Nadu	12522	9551(76%)	2971	58686	51899((88%)	6787	Mar.01
Tripura	494	196(40%)	298	882	785(89%)	97	Sep.00
Uttar Pradesh	29982	6785(23%)	23197	242776	176897(73%)	65879	Mar.00
West Bengal	6877	4628(67%)	2249	35639	32040(90%)	3599	Mar.00
Total	229162	136168(59%)	82317	1411062	1162639(82%)	248423	
National Commission	22275	12659 56.8%	9616				Mar.01
Grand total (NC+SC+DF)	1662499	1311466 78.9%	351033				

2. Organization/institutions for dispute resolution

The Consumer Protection Act, 1986 (CPA) envisages three-tier machinery at the district, state and national level to settle consumer disputes, as follows:

A. District Forum

Each district shall have a Consumer Disputes Redressal Forum known as a 'District Forum'. The District Forum shall be located at the headquarter of the district which shall consist of a president and two members (one of whom shall be woman). The District Forum can entertain the complaints where the total claim including compensation does not exceed *rupees five lakhs* (Rs. 5,00,000). Any appeal from the order of the District Forum shall lie to the State Commission within 30 days from the date of the order.³

B. State Commission

Every State shall have a Consumer Disputes Redressal Commission, which shall consist of a president and two members (one of whom shall be a woman). The State Commission can entertain the complaints where the total claim *exceeds rupees five lakhs* (Rs. 5,00,000) *but does not exceed rupees twenty lakhs* (Rs. 20,00,000). It can also entertain an appeal from the District

³ CPA, 1986, sections 9 to 15.

Forum within the State. An appeal from the order of the State Commission shall lie to the National Commission within a period of 30 days from the date of the order.⁴

C. National Commission

At the central level there is a National Consumer Disputes Redressal Commission known as the National Commission. The National Commission is located at New Delhi which shall consist of a President and four members (one of whom shall be a woman). The National Commission can entertain complaints where the total claim *exceeds rupees twenty lakhs* (Rs. 20,00,000). It can also entertain an appeal against the order of the State Commission. An appeal from the order of the National Commission shall lie to the Supreme Court of India within a period of 30 days from the date of the order.⁵

D. Appeals to Supreme Court

Under section 23 of the Consumer Protection Act, 1986 any person aggrieved by an order made by the National Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 21 may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order: The Supreme Court may entertain an appeal even after the expiry of the said period if it is satisfied that there was a sufficient cause for not filing it within that period.

Apart from the above, following Administrative / Institutional set-up for administration of the Consumer Law exist in the country:

Department of Consumer Affairs

Government has accorded a very high priority to the consumer protection programme. Ministry of Food & Consumer Affairs, Department of Consumer Affairs in the Central (Union) Government has been designated as the nodal Department to deal with the subject of consumer protection. Since 1986, the Department has taken a number of measures to promote a strong and broad based consumer movement in the country. Some of such measures include - enactment and enforcement of the Consumer Protection Act, 1986; amendment of various legislations such as Prevention of Food Adulteration Act, 1954 etc.; empowerment of the consumers and registered consumer organisations to file complaints in the courts; institution of national awards for

⁴ *Id.*, sections 16 to 19.

⁵ *Id.*, sections 20 to 24.

consumer organisations; grant of financial assistance to consumer organisations; preparation of audio visual material to create awareness about the consumer rights; publishing quarterly magazine " *Upbhokta Jagaran*"⁶; publishing of printed material and its free distribution, etc.⁷

The various measures taken by the Government has aroused a lot of expectation amongst the consumers. In the last few years, a major thrust has been given to the consumer protection programme and a number of additional steps have been taken to protect the interests of the consumers.⁸ This includes also the proposed amendment of the Consumer Protection Act.

The Department of Consumer Affairs, alongwith the Department of Administrative Reforms and Public Grievances, has brought out 62 Citizens' Charters in Ministries/Departments having public contacts.⁹ The Department regularly monitors retail prices, wholesale prices of essential commodities as part of its monitoring activity¹⁰ to safeguard the interests of the consumers.

Consumer Protection Councils

The Consumer Protection Act, 1986 provides for establishment of central consumer protection council and the state consumer protection councils for the purpose of spreading consumer awareness.¹¹ Central protection consumer council is headed by the Minister, incharge of the Consumer Affairs in the central government and in the state, it is the Minister incharge of the Consumer Affairs in the state government who heads state council.¹² The Central Government constituted the first Central Consumer Protection Council on 1.6.1987. This Council has since been reconstituted w.e.f. 18.4.2000 for a period of 3 years. So far, 20 meetings of the Council have been held. The main object of these Councils is to protect and promote the rights of consumers such as the right to safety, the right to information, the right to choose, the right to be heard, the right to seek redressal and the right to consumer education.¹³

⁶ meaning consumer awareness

⁷ <http://fcamin.nic.in/top>

⁸ <http://fcamin.nic.in/top>

⁹ Ministry of Consumer Affairs & Public Distribution, GOI., <http://pib.nic.in/archieve/factsheet/fs2000/caffairs.html>

¹⁰ *Ibid.*

¹¹ CPA, 1986, section 4.

¹² *Ibid.*

¹³ *Id.*, section 6 and 8.

3. Fact Finding regarding the organizations/Institutions

(a) Statutory bases

Until the advent of independence there was hardly any legislation enacted primarily to protect consumer interest. Legislative enactment which protected public interest (non necessarily the consumer interest) were the Indian Penal Code, 1860, the Indian Contract Act, 1872, the Code of Civil Procedure, 1908, the Sale of Goods Act, 1930, the Drugs and Comestics Act, 1954; the Prevention of Food Adulteration Act, 1954, the Essential Commodities Act, 1955, the Protection of Civil Rights Act, 1955; the Trade and Merchandise Marks Act, 1958, the Monopolies and Restrictive Trade Practices Act, 1969, the Marks Act, 1958, the Monopolies and Restrictive Trade Practices Act, 1969, the Code of Criminal Procedure, 1973, the Water (Prevention and Control of Pollution) Act, 1974; the Motor Vehicles Act, 1988; Drugs (Control) Act, 1950, Industries Development and Regulation) Act, 1951; Indian Standards Institution (Certification Marks) Act, 1952; Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, Essential Commodities Act, 1955; Specific Relief Act, 1963; Hire Purchase Act, 1972; Code of Criminal Procedure, 1973; Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975; Standards of Weights and Measures Act, 1976; Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980; Essential Commodities (Special Provisions) Act, 1981; Monopolies and Restrictive Trade Practices (Amendment) Act, 1984; and Narcotics Drugs and Psychotropic Substances Act, 1985. However, these legislation could hardly protect the interest of consumer further they lack enforcement. In order to protect the interest of a consumer, the Consumer Protection Act, 1986 was enacted. The Act seeks to promote the interest of consumer by enabling them to participate directly in the market economy. "It attempts to remove the helplessness of a consumer which he faces against powerful business, described as, 'a network of rackets' or a society in which 'producers have secured power' to 'rob the rest' and the might of the public bodies which are degenerating into store house of inaction where papers do not move from one desk to another as a matter of duty and responsibility but for extraneous consideration leaving the common man helpless, bewildered and shocked. The malady is becoming so rampant, widespread and deep that the society instead of bothering, complaining

and fighting for it, is accepting it as part of life.”¹⁴ The Act is a milestone in history of socio-economic legislation and is directed towards achieving public benefit.

Nature and Scope of the Consumer Protection Act, 1986 (CPA):

- 1) The CPA applies to all goods and services.
- 2) The CPA provides a framework for speedy disposal of consumer disputes and seeks to remove the evils of the ordinary court system.
- 3) The CPA gives a comprehensive definition of “consumer”, who is the principal beneficiary of the legislation.

Objects of the Consumer Protection Act: The twin objects of the CPA are:

- 1) to provide better protection of the interests of consumers, and
- 2) for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers’ disputes and for matters connected therewith.

The basic rights of consumers : The Consumer Protection Act, 1986 confers the following rights upon the consumer:

- i) the right to be protected against marketing of goods and services which are hazardous to life and property
- ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods, or services so as to protect the consumer against unfair trade practices
- iii) the right to be assured, wherever possible, access to variety of goods and services at competitive prices
- iv) the right to be heard and be assured that consumers' interests will receive due consideration at appropriate forums
- v) the right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers
- vi) the right to consumer education

The Act extends to the whole of India except the State of Jammu & Kashmir and applies to all goods and services unless otherwise notified by the Central Government.¹⁵ The provisions of the

¹⁴ *Lucknow Development Authority v. M.K. Gupta*, AIR 1994 SC 787 at 790.

¹⁵ CPA, 1986, Section 1(2).

Consumer Protection Act are in addition to and not in derogation of the provisions of the other laws.¹⁶

(b) Running cost

Grant-in-aid is provided every year to voluntary consumer organizations for generating consumer awareness among masses. Assistance is being ordinarily given for specific projects and programs of action and not for general upkeep of an organization. The following items are eligible for assistance:-

- i) Creating and strengthening infrastructure:- for promotion of consumer movement in slums and rural areas. Provision for film projectors, public address system, testing kit, library books, etc.
- ii) Organizing consumer education programs - both in urban and rural areas by exhibition, talks, film shows, demonstrations and advertisements through mass media etc.
- iii) To undertake research and investigation into consumer problems;
- iv) To undertake testing and standardization programs on quality and quantity of various consumer products.

Awards: Under the scheme of National Consumer Awards, Government of India, Ministry of Consumer Affairs gives prizes under three categories, viz., a) women, b) youth and c) voluntary organizations, for generating awareness among masses. Government of NCT of Delhi has also instituted an award under the scheme '*State Youth Award*' awarded to winners of art competition organized every year on topics relevant to consumer movement.¹⁷

The government has also set-up a Consumer Welfare Fund (CWF) for creating consumer awareness at grass-root level, and is extending support to voluntary consumer organizations and non-governmental organizations. A consumer can simply file a complaint on plain paper requesting compensation.

Under a scheme for granting one-time financial assistance to strengthen infrastructure facilities of redressal agencies, the Department of Consumer Affairs has disbursed Rs. 61.8 crore during the period 1995-1999.¹⁸

¹⁶ *Id.*, section 3.

¹⁷ <http://delhigovt.nic.in/dept/food/fca3.htm>

¹⁸ *Supra* note 9.

The table 2 enlists the one-time-grant financial assistance released to the States/UTs, @ Rs. 50 lakhs for State Commission and Rs 10 lakhs for each District Forum, and its utilization reported by the States/UTs till 30.6.01.¹⁹

State/UT	No. of DFs grant was given	Grand given Rs. (in lakhs)	Grant Utilised Rs. (in lakhs).	% of Utilisation	Period of reporting
1	2	3	5	6	4
Andhra Pradesh	22	270.0	117.64	43.6%	Jun-00
Arunachal Pradesh	12	170.0	122.50	72.1%	Sep-00
Assam	23	280.0	24.00	8.6%	Sep-00
Bihar	39	440.0	200.48	45.6%	Mar-98
Goa	2	70.0	64.56	92.2%	Sep-00
Gujrat	20	250.0	129.00	51.6%	Jun-00
Haryana	16	210.0	54.23	25.8%	Sep-00
Himachal Pradesh.	12	170.0	170.00	100%	Sep-00
Jammu & Kashmir	2	70.0	16.70	23.9%	Mar-00
Karnataka	20	250.0	42.59	17.0%	Mar-01
Kerala	14	190.0	99.06	52.1%	Jun-00
Madhya Pradesh.	45	500.0	480.00	96.0%	Sep-00
Maharashtra	31	360.0	346.00	96.1%	Jun-00
Manipur	8	130.0	81.56	62.7%	Jun-00
Meghalaya	7	120.0	23.10	19.3%	Jun-00
Mizoram	3	80.0	57.74	72.2%	Sep-00
Nagaland	7	120.0	120.00	100%	Sep-00
Orissa	13	180.0	173.19	96.2%	Sep-00
Punjab	13	180.0	153.20	85.1%	Sep-00
Rajasthan	30	350.0	325.60	93.0%	Sep-99
Sikkim	4	90.0	69.42	77.1%	Sep-00
Tamil Nadu	22	270.0	59.64	22.1%	Mar-01
Tripura	3	80.0	40.78	51.0%	Mar-01
Uttar Pradesh.	63	680.0	421.93	62.0%	Sep-00
West Bengal	17	220.0	55.00	25.0%	Sep-99
A&N Island	2	70.0	30.97	44.2%	Mar-00
Chandigarh Adm.	1	60.0	20.96	34.9%	Jun-00
D&N Haveli	1	60.0	6.14	10.2%	Sep-00
Daman & Diu	2	70.0	11.21	16.0%	Sep-99
Delhi	2	70.0	70.00	100%	Sep-00
Lakhsdweep	1	60.0	20.36	33.9%	Mar-01
Pondicherry	1	60.0	60.00	100%	Mar-01
Total:	458	6180.0	3667.56	59.3%	
National Commission	22275	12659	9616	56.8%	Mar.01

¹⁹ <http://fcamin.nic.in/otg.htm>

Grand total (NC+SC+DF)	1662499	1311466 78.9%	351033		
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Consumer Welfare Fund

The Central Excise and Salt Act, 1944 was amended in 1991 to enable the Central Government to create the consumer welfare fund where the money which is not refundable to the manufacturers etc. shall be credited. The money credited to the Fund is to be utilised by the Central Government for the welfare of the consumers in accordance with the Rules framed. Under the Consumer Welfare Fund Rules which were notified on 25th November, 1992, any agency/ organisation which is engaged in the consumer welfare activities for a period of 3 years and is registered under any law for the time being in force; village/ mandal/ samitit level cooperatives of consumers, industries; state governments etc. are eligible for seeking financial assistance from the Fund. The financial assistance is given mainly for preparation of publicity materials; setting up of facilities for training, research; community based rural awareness projects; setting up of consumer product testing laboratories etc. The total quantum of assistance on an individual application does not exceed Rs. 5 lakhs (Rs. 5,00,000) (assistance will be limited to 90% of the approved cost). However, in exceptional cases, 100% assistance can be considered. So far, the Ministry sanctioned more than rupees three crores from this Fund to 360 applicants. More than 3500 applications have been received for this purpose. The Ministry has a scheme for giving financial assistance to voluntary consumer organisations where financial assistance to a maximum of Rs. 25,000 (on 75% grant basis) is given. In 1990-91 and 1991-92 approximately Rs. 1.80 lakhs and Rs. 1.6 lakhs were distributed. In 1993-94, more than Rs. 8 lakhs were given. In addition, it is also giving them financial assistance for specific projects.²⁰

(c) Status

The Consumer Protection Act, 1986 has assumed the shape of practically the most important legislation enacted in the country during the last few years. It has become the tool to enable people to secure speedy and inexpensive redressal of their grievances. With the enactment of this law, consumers now feel that they are in a position to declare *sellers be aware* whereas previously the consumers were at the receiving end and generally told *buyers be aware*.²¹

²⁰ http://fcamin.nic.in/cons_cwf.htm

²¹ <http://ncdrc.nic.in/>

Initially, the progress in the establishment of state commissions and district fora was slow. However, after constant persuasion of the Central Government and the Supreme Court, the position has improved. 32 state commissions, 569 district forums are functioning in the country, including a state commission and two divisional forums set up under the Jammu & Kashmir Consumer Protection Act.²²

A backlog of some 200,000 unsettled cases pending before various consumer courts is evidence enough that, in India, the consumer is anything but king.

Traders, manufacturers and service providers have become more accountable owing to the possibility of being taken to the consumer court. There have been a growing compensation claims against doctors, hospitals since the medical profession was brought under CPA by a Supreme Court decision in November 1995²³

(d) Qualifications of Presiding Officers of Consumer Redressal Fora

The district forum is headed by a president not below the rank of district sessions judge who is assisted by two other members, one of whom should be a woman.²⁴ A person who is or has been a judge of the high court heads the state commission and two other members assist him.²⁵ The National Commission is headed by a sitting or retired judge of the Supreme Court of India and four members (one of whom is a woman).²⁶

Except for the President in the district and state forums who are district or high court judges, the rest of the members are drawn mainly from persons having a background in economics, law, commerce, industry and public affairs. They are thus better equipped to understand the problems of the consumer.

(e) Substantive rules applicable to dispute resolution

Rights of Consumers against unfair trade practices

The Monopolies & Restrictive Trade Practices Act, 1969 (in short, MRTP Act) came into force with effect from 1st June, 1970, to ensure that trade growth is channelised for the public good, to prevent the concentration of economic power to the common detriment and to control and

²² <http://fcamin.nic.in/top>

²³ See *Indian Medical Association v. U.P. Shanta* AIR 1996 SC 550.

²⁴ CPA, 1986, Section 10.

²⁵ *Id.*, section 16.

²⁶ *Id.*, section 20.

remove unfair trade practices. The MRTP Commission is established by Central Government at New Delhi in pursuance of section 5 of the Act to inquire into any restrictive trade practice, either upon receiving a complaint from consumer or upon receiving a reference from the Union or state government.²⁷ The Commission has the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of: the summoning and enforcing the attendance of any witness and examining him on oath; the discovery and production of any document or any other evidence; the reception of evidence on affidavits; the requisitioning of any public record from any court or office; the issuing of any commission for the examination of witnesses.²⁸ Besides, the Commission is empowered to grant temporary injunction with / without giving notice to the opposite party.²⁹ The MRTP Commission has power to award compensation, where as a result of the trade practice carried on by any undertaking or any person, any loss or damage is caused to the Central Government/ State Government / any trader/traders or any consumer. The Commission has powers to cause investigation to find out whether or not orders made by it have been complied with.³⁰

Under the MRTP Act, *unfair trade practice* means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or deceptive practice including any of the following practices, namely: (i) false representation; (ii) false offer of bargain price; (iii) schemes offering gifts, prizes etc.; (iv) non-compliance of prescribed standards; (v) hoarding, destruction or refusal; (vi) defective goods and deficient services), has been prohibited.

The trader has to maintain his promised standards of quality, quantity, etc. The MRTP Act gives discretion to the MRTP Commission to hear or not to hear an individual consumer aggrieved by restrictive or unfair trade practice. The Act confers an important right on an individual consumer and a voluntary consumers' association to file a complaint before the Commission. On receipt of a complaint, the Commission institutes regular inquiry into any restrictive or unfair trade practice alleged by such individual consumer or voluntary consumers' association.³¹ And if it is found that the practice is prejudicial to the public interest, or to the interest of any consumer or consumers generally, it directs the discontinuance of such practice or makes agreement relating

²⁷ The Monopolies & Restrictive Trade Practices Act, 1969, section 10.

²⁸ *Id.*, section 12

²⁹ *Id.*, section 12A

³⁰ *Id.*, section 13A

³¹ *Id.*, section 36D, inserted by Gaz. of Ind., 8.12.1986, Ext., Pt.II, section 2, p.22 (No.58).

to such unfair trade practice as void.³² The person aggrieved by any decision of the Commission, within 60 days from the date of the order can prefer an appeal to the Supreme Court of India.³³

Rights of Consumers under the Sale of Goods Act

The Sale of Goods Act, 1930 enables the buyer to reject goods if they do not correspond with their description, or which are not fit for the buyer's purpose or which are not of merchantable quality or which do not in their bulk agree with the sample. But the Sale of Goods Act defines only the substantive rights of the parties. It does not provide any special forum for redressal of consumer grievances, which the Consumer Protection Act provides.

The remedies provided by the Sale of Goods Act enable the buyer to sue his immediate seller, whether he is a manufacturer or not. The buyer has no right to proceed against any person who is not a party to the sale transaction. He cannot sue the producer, manufacturer or wholesaler from whom the seller may have acquired his stock, he being a third party (doctrine of 'privity of contract'). Further, no person other than the buyer himself could sue the seller, he being not a party to the transaction, even if he was injured by the use of goods.

The Sale of Goods Act contains protective clauses in favour of the buyer in the shape of implied terms and conditions. But the Act also enables the sellers to exclude such implied terms and conditions either by an express or implied contract or by a course of dealing, prevailing customs and usages of the particular market. The Sale of Goods Act is also not applicable to rendering of services.

Rights of Consumers under the Consumer Protection Act

The Consumer Protection Act was passed in 1986 with a view to provide for better protection of the interest of the consumers. This Act recognizes the right of the user other than the buyer also to sue the manufacturer by defining the word consumer to include the user also. The Act empowers an individual consumer or a recognized consumer association whether the consumer is a member of such association or not to file a complaint in respect of defective goods or deficient services. The Consumer Protection Act, 1986 covers not only goods as defined under the Sale of Goods Act 1930 but also services including services provided by Public Sector Undertakings and Government Departments such as banking, financing, insurance, transport, processing, supply of electrical or other energy, etc.

³² *Id.*, section 36D(1)(a),(b).

³³ *Id.*, section 55

Section 13 of the Act provides for the procedure to be followed by the District Forum on receipt of complaint. The first step on receiving a complaint is to refer a copy of the complaint to the opposite party directing him to give his version of the case within a period of 30 days. Such period may be extended by a maximum of 15 days by the District Forum.

When the opposite party denies or disputes the allegations contained in the complaint or omits or fails to take any action to represent his case within the above time-period, a dispute arises.

The District Forum, for the purpose of settling the dispute, has the same powers as are vested in the civil court under the Code of Civil Procedure, 1908. Every proceeding before the District Forum is a judicial proceeding. The validity of proceeding cannot be questioned on the ground that the principles of natural justice have not been complied with. However, it may be noted that the District Forum does not have all the powers as are vested in the civil court. A District Forum is quasi-legal and, thus, do not enjoy the inherent powers of the civil courts.

Where the complainant alleges a defect in the goods, which cannot be determined without proper analysis or test, it is mandatory for the District Forum to have the goods analyzed in an appropriate laboratory, after taking a sample of goods from the complainant.

Section 14 provides that if the forum is convinced that the goods were really defective or that the complaint about the deficiency in service is proved, the forum may order the opposite party:

- (a) to remove the defect which has been pointed out by the laboratory,
- (b) to replace the goods,
- (c) to return to the complainant the price of the goods or the charges for services,
- (d) to pay to the complainant a sum of money (compensation) for any loss/injury suffered by the consumer due to the negligence of opposite party,
- (e) to remove the defects/deficiencies in the services,
- (f) to discontinue the unfair/deficiencies in the services,
- (g) to discontinue the unfair/restrictive trade practice or not to repeat them,
- (h) not to offer the hazardous goods from being offered for sale,
- (i) to provide for adequate costs of parties.

Under the Consumer Protection Act, 1986 the consumer can sue in his own hometown the distant manufacturer with whom he had no direct contract relationship. The Act covers all kinds of services. It also covers all kinds of consumer dealings whether for cash or in kind.

The Act protects the consumer from the burden of restrictive and unfair trade practices. It enables the District Consumer Forum, State Consumer Dispute Redressal Commission and National Consumer Dispute Redressal Commission to award compensation for not only the amount lost in purchasing defective material or in hiring deficient services but also for mental pain, suffering and harassment caused by defective goods or services.

Under the Consumer Protection Act, 1986 principal substantive rules applicable to dispute resolution are discussed hereinbelow:

(i) Who can file a complaint - Under Section 2(b) of the Act, a complaint can be filed generally by any of the following:

- Consumer; or
- Any voluntary consumer association registered under the Societies Registration Act or under any law for the time being in force; or
- The Central Government or any State Government;
- One or more consumers where there are numerous consumers having the same interest.

(ii) Who is a consumer? - Section 2 (d) (ii) defines ‘Consumer’ to mean any one who hires or avails of any services for consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed with the approval of the first mentioned person.

(iii) Consumer Dispute - Section 2(e) defines a ‘consumer dispute’ to mean a dispute where the person against whom a complaint has been made or disputes the allegations contained in the complaint.

(iv) Defect - ‘Defect’ has been defined in Section 2(f) to mean any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods;

(v) Deficiency - The term ‘deficiency’ has been defined in section 2(g) to mean any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been

undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

(vi) Service - Section 2(o) defines service to mean a 'service' which is made available to potential users, 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 service free of charge or under a contract of personal service.

(f) Proceedings

Procedure on receipt of complaint

Under the Consumer Protection Act, 1986³⁴ the District Forum shall, on receipt of a complaint, if it relates to any goods-

- (a) refer to copy of the complaint to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be the District Forum;
- (b) where the opposite party on receipt of a complaint referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute in the manner specified in clauses (c) and (g);
- (c) where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the District Forum shall obtain a sample of the goods from the complainant, seal it and authenticate it in the manner prescribed and refer the sample so sealed to appropriate laboratory alongwith a direction that such laboratory make an analysis or test, whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or suffer from any other defect and to report its findings thereon to the District Forum within a period of forty five days of the receipt of the reference or within such extended period as may be granted by the District Forum;
- (d) before any sample of the goods is referred to any appropriate laboratory under clause (c), the District Forum may require the complainant to deposit to the credit of the forum such

³⁴ CPA, 1986, Section 13.

fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;

- (e) the District Forum shall remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, the District Forum shall forward a copy of the report alongwith such remarks as the District Forum may feel appropriate to the opposite party;
- (f) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes of the correctness of the methods of analysis or test adopted by the appropriate laboratory, the District Forum shall require the opposite party or the complainant to submit in writing his objections in regard to the report made by the appropriate laboratory;
- (g) the District Forum shall thereafter give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (f) and issue an appropriate order under Section 14.

Finality of Orders

Every order of a District Forum, the State Commission or the National Commission shall if no appeal has been preferred against such order under the provisions of this Act, be final.³⁵

Consequences of filing frivolous or vexatious complaints

Where a complaint is found to be frivolous or vexatious, it shall be dismissed for the reasons to be recorded in writing by the concerned Forum/Commission. It may also pass an order that the complainant shall pay to the opposite party such cost, not exceeding ten thousand ruppes as may be specified in the order.

Procedure for disposal of complaints

- 1) Cases filed by the complainants are decided on the affidavits filed by them. Evidence is allowed, but the lengthy procedures adopted by the civil courts are not normally prevalent in these forums as the complainants themselves, who are laymen, appear before the forums and

³⁵ *Id.*, section 24.

present their cases without the need to employ lawyers. The remedies normally granted in these forums are to remove/replace the defects or defective goods; return to the complainant the price or charges paid by them; award compensation for loss or injury suffered by the consumer; discontinue any unfair trade practice indulged in by the trader; and award costs to parties.³⁶

- 2) To encourage and safeguard, their rights, in consumer litigation, no court fee is charged, no lawyer need to be engaged. Consumer forum can be approached even if arbitration agreement exists. The Madras High Court has held that it is permissible for the districts consumer disputes redressal forum to entertain a complaint seeking refund and compensation, although there was an agreement between the parties to refer the matter to arbitration in case of a dispute.³⁷
- 3) Complaint before the consumer courts, i.e district fora / state commission / National Commission, in relation to a product or in respect of a service, does not include rendering of any service free of cost or under a contract of personal service.³⁸
- 4) In order to attain the objects of the CPA, the National Commission has also been conferred with the powers of administrative control over all the state commissions by calling for periodical returns regarding the institution, disposal and pendency of cases. National Commission is empowered to issue instructions regarding, (1) adoption of uniform procedure in the hearing of the matters; (2) prior service of copies of documents produced by one party to the opposite parties; (3) speedy grant of copies of documents; and (4) over-seeing the functioning of the state commissions or the district forums to ensure that the objects and purposes of the Act are best served without in any way interfering with their quasi-judicial freedom.³⁹

Nature of proceedings

Proceedings are summary in nature and endeavour is made to grant relief to the parties in the quickest possible time keeping in mind the spirit of the Act, which provides for disposal of the cases within possible time schedule prescribed under the Act.

³⁶ A. Viraraghavan, *Is The Consumer Protected?*, <http://pib.nic.in/feature/feyr2000/fmar2000/f020320001.html>

³⁷ *Kasi Housing and Development Ltd. v. M.M. Kalaiselvi* AIR 2000 Madras 90

³⁸ CPA, 1986, Section 2(d).

³⁹ *Supra* note 21.

Functioning of district forum, state commission and National Commission is consumer friendly, and consumer can file complaint and address arguments in person. In genuine cases where the parties are unable to engage the services of an advocate Bar Association of NCDRC also provides legal aid to needy.⁴⁰

The complaints relating to following consumer grievances are allowed to be made under the CPA:

- (i) restrictive trade practice adopted by the trader;
- (ii) defective goods;
- (iii) deficiency in service;
- (iv) excess price charged by the trader;
- (v) sale of unsafe goods, which are hazardous to life and safety when used.

Consumer Courts may grant one or more of the following reliefs:

- (i) Repair of defective goods;
- (ii) Replacement of defective goods;
- (iii) Refund of price paid for the defective goods or services;
- (iv) Removal of deficiency in service;
- (v) Refund of extra money charged;
- (vi) Withdrawal of goods hazardous to life and safety;
- (vii) Compensation for the loss or injury suffered by a consumer due to negligence of the opposite party; adequate cost of filing and pursuing the complaint.⁴¹

(g) Drafting the Agreements

Since there is no arbitration or conciliation agreement provided under the Acts / Statutes regulating consumer laws and parties can directly proceed in the court/ special forums provided for expeditious disposal of cases, the question of drafting the agreement is not statutorily dealt with. Though the parties are not prohibited by the law to draft any agreement as to delivery of services or goods, payment to be made thereof and in cases of dispute the mode of resolution of

⁴⁰ *Ibid.*

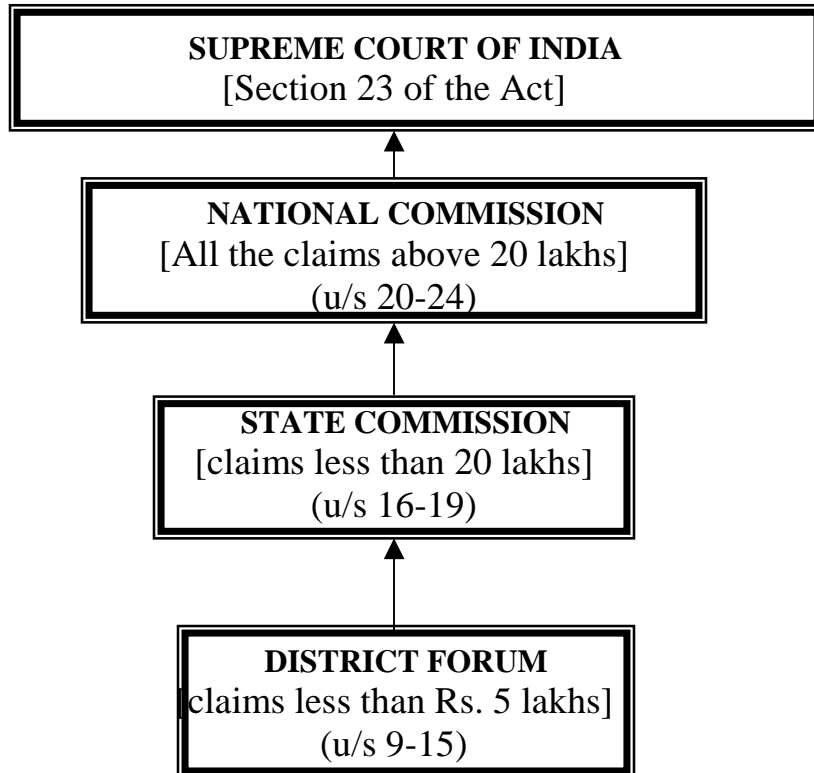
⁴¹ *Supra* note 17.

the same, there is nothing on the record on the basis of which empirical study can be made as to manner of the drafting of these agreements or the number of such agreements entered into.

(h) Relationship to the court system in terms of proceeding

Legal Structure Under The Consumer Protection Act, 1986 (CPA)

The following is the structure of the legal system under the CPA:



(i) Cost owned by parties (fees, including lawyer's fees)

A complaint can be filed free of cost before the district forum, the state commission or the National Commission, by the complainant or any of his/her authorised agents. It is not obligatory to engage a lawyer. Even a consumer organisation can be authorised to represent the case. The complaint can be sent by post to the appropriate Forum/Commission⁴² but the lawyers will represent the case.

⁴² An alert consumer is a protected consumer, <http://www.consumerindia.com/articlesnew.html#analert>

The CPA is an alternative and cheapest remedy available to the aggrieved persons / consumers other than civil suit. In the complaint/appeal/petition submitted under the Act, a consumer is not required to pay any court fees or even process fee,⁴³ except in the Supreme Court.

There is no fee for filing appeals in the National and state commissions. Procedure is the same as that of filing complaint except that the application has to be accompanied by the copies of the orders appealed against with reasons for filing appeals.⁴⁴

(j) Time (consumed for the closing of cases and the number of meetings)

The state governments are mostly involved in the effective functioning of the district consumer forums. But considering the large number of cases, which are already pending disposal, and the continuous flow of cases due to increased awareness of consumers as to their rights, it seems they are not bestowing sufficient attention. There is need to establish more such forums in the various states and union territories. Though the framers of CPA hoped that the consumer would find a quick and speedy justice in these forums, the average time for disposal of a case ranges from 2 to 3 years against the stipulated time of 90 days. The reasons for such delays are not far to seek. Firstly, many of these district/state forums do not have the full members for long periods, as the vacancies are not filled up on a regular basis. Secondly, there is a lack of infrastructure i.e., these courts are not given adequate secretarial assistance and many times even proper accommodation is not provided to house these forums. Unless remedial steps are taken to meet these shortcomings, this Act would remain just as one more legislation on the statute book.⁴⁵

Time limit for filing the complaint

Under Section 24 A of CPA the District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen. However, a complaint may be entertained after the period specified in sub-section (1), if the complainant satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period. But the District Forum, the State Commission or the National Commission, as the case may be must records its reasons for condoning such delay.

Time limit for deciding complaints

⁴³ *Supra* note 21.

⁴⁴ CPA, 1986, sections 15,19, and 23.

⁴⁵ See ILI, *Legal Framework for Health Care in India*, Butterworths (2002).

Where a complaint does not require analysis or testing of the goods, it should be decided as far as possible within a period of three months from the date of receipt of notice by opposite party, and within five months if it requires analysis or testing of the goods.

(k) Statistical data

At present, there are 569 District Forums, 33 State Commissions with apex body as a National Consumer Disputes Redressal Commission (NCDRC) having its office at Janpath Bhawan, A Wing, 5th Floor, Janpath, New Delhi.⁴⁶

The following tables give the number of consumer courts, number of cases filed, resolved and pending and the list of consumer courts at State and District level⁴⁷ :

⁴⁶ *Supra* note 21.

⁴⁷ http://164.100.9.14/cons/cons_det.asp

Table 1- the number of consumer courts

State / UT	Number of state commission	Number of district forums	Total consumer courts
Andaman and Nicobar	1	2	3
Andhra Pradesh	1	25	26
Assam	1	28	29
Bihar	1	55	56
Chandigarh	1	2	3
Dadra and Nagar Haveli	1	1	2
Goa	1	2	3
Gujarat	1	20	21
Haryana	1	17	
Himachal Pradesh	1	36	37
Karnataka	1	21	22
Kerala	1	14	15
Lakshyadeep	1	2	3
Madhya Pradesh	1	34	35
Maharastra	1	8	9
Manipur	1	7	8
Meghalaya	1	3	4
Mizoram	1	42	43
NCT of Delhi	1	7	8
Nagaland	1	8	9
Orissa	1	31	32
Punjab	1	17	18
Rajasthan	1	33	34
Sikkim	1	4	5
Tamil Nadu	1	24	25
Tripura	1	4	5
Uttar Pradesh	1	101	102
West Bengal	1	19	20
Arunachal Pradesh	1	13	14
Uttarakhand	NA	NA	NA
Jharkhand	1	NA	NA
Pondicherry	1	NA	NA

Table 2 - the Consumer cases filed/disposed/pending in the state commissions & National Commission.
Table 5 provides at District level.

Name of the State	Cases filed since inception	Cases disposed of since inception	Cases Pending	% of Disposal	As on
National Commission	23632	16184	8448	64.25	30.9.2001
Andhra Pradesh	12776	10408	2368	81.47	30.8.2001
Arunachal Pradesh	19	13	6	68.42	31.3.2000
Assam	1332	656	676	49.25	30.9.2000
Bihar	7548	2932	4616	38.84	30.9.2001
Goa	1270	1075	195	84.65	30.9.2001
Gujarat	8067	4672	3395	57.91	30.9.2000
Haryana	15260	9810	5450	64.29	30.9.2001
Himachal Pradesh	7967	3571	1396	71.89	31.3.2001
Jammu & Kashmir	3232	2610	622	80.75	31.3.1999
Karnataka	10530	8174	2356	77.63	30.9.2001
Kerala	15158	13226	1932	87.25	18.10.2001
Madhya Pradesh	12112	8721	3391	72.00	30.6.2001
Maharashtra	17979	10157	7822	56.49	31.3.2000
Manipur	62.	41	21	66.13	31.5.2000
Meghalaya	84	60	24	71.43	30.9.2000
Mizoram	51	24	27	47.06	31.12.2000
Nagaland	40	15	25	37.50	31.3.2000
Orissa	7369	5061	2308	68.68	31.10.2001
Punjab	9252	6828	2424	73.80	30.9.2001
Rajasthan	20520	8190	12330	39.91	30.6.2001
Sikkim	18	18	0	100.00	30.9.2001
Tamil Nadu	13003	9817	3186	75.50	30.9.2001
Tripura	513	202	311	39.38	30.9.2001
Uttar Pradesh	31920	7617	24303	23.86	30.9.2001
West Bengal	7369	5061	2308	68.68	13.10.2001
A&N Island	26	16	10	61.54	31.3.2000
Chandigarh Adm.	2869	2540	329	88.53	30.9.2001
D&N Haveli	0	0	0	0.00	
Daman & Diu	5	0	5	0.00	30.9.2000
Delhi	12205	7791	4414	63.83	31.3.2000
Lakhsadweep	9	9	0	100.00	30.9.2001
Pondicherry	591	546	45	92.39	30.9.2001
Total	239788	145045	94743	60.49	

Statement of Consumer cases filed/disposed/pending in District fora

Name of the State	Cases filed since inception	Cases disposed of since inception	Cases Pending	% of Disposal	As on
Andhra Pradesh	125491	110298	15193	87.89	30.8.2001
Arunachal Pradesh	189	160	29	84.66	31.3.2000
Assam	7285	6260	1025	85.93	30.9.2000
Bihar	44406	32269	12137	72.67	30.9.2001
Goa	3972	3239	710	81.55	30.9.2001
Gujarat	65212	45960	19252	70.48	30.9.2000
Haryana	95754	73795	21959	77.07	30.9.2001
Himachal Pradesh	23846	19223	4623	80.61	31.3.2001
Jammu & Kashmir	10436	8247	2189	79.02	31.3.1999
Karnataka	64289	58210	6079	90.54	30.9.2001
Kerala	117530	111466	6064	94.84	18.10.2001
Madhya Pradesh	74910	66618	8292	88.93	30.6.2001
Maharashtra	98407	77892	20515	79.15	31.12.1999
Manipur	803	774	29	96.39	31.5.2000
Meghalaya	242	199	43	82.23	30.6.1999
Mizoram	1099	911	188	82.89	31.3.2001
Nagaland	60	21	39	35.00	31.3.2000
Orissa	46095	40688	5407	88.27	30.9.2001
Punjab	53079	47245	5834	89.01	30.9.2001
Rajasthan	155516	139894	15622	89.95	30.6.2001
Sikkim	122	115	7	94.26	30.9.2001
Tamil Nadu	61254	54463	6791	88.91	30.9.2001
Tripura	882	785	97	89.00	30.9.2000
Uttar Pradesh	242776	176897	65879	72.86	31.3.2000
West Bengal	35639	32040	3599	89.90	31.3.2000
A&N Island	217	194	23	89.40	31.3.2000
Chandigarh Adm.	19818	16582	3236	83.67	30.9.2001
D&N Haveli	33	23	10	69.70	31.12.1999
Daman & Diu	62	37	25	59.68	30.9.2000
Delhi	88843	66908	21935	75.31	31.3.2000
Lakhsadweep	38	35	3	92.11	30.9.2001
Pondicherry	1850	1803	47	97.46	30.9.2001
Total	1440155	1193251	246881	82.86	

It must be clearly stated that though there are number of laws for the redressal of consumer grievances and to settle the disputes, but the CPA is important piece of legislation earning goods

and services and the portion of the study is mainly based on data and information collected thereto.

Consumer Affairs in few selected States

1) Delhi⁴⁸

At present one State Commission and 9 District Fora are functional in NCT of Delhi. The jurisdiction of the latter is co-terminus with the police districts of Delhi.

Name of Consumer Court	Address
National Commission	V Floor, Tel Bhawan, Janpath, New Delhi.
State Commission	A-Block, Vikaas Bhawan, I.P. Estate, New Delhi.
Distt. Forum (North)	Room No. 2 & 3, Old Civil Supplies Bldg., Tis Hazari, Delhi.
Distt. Forum (South)	C-22, 23, Udyog Sadan, Institutional Area, Behind Qutab Hotel, Mehrauli, Delhi.
Distt. Forum (West)	C-Block, Community Centre, Pankha Road, Janak Puri, Delhi.
Distt. Forum (North-East)	Bunkar Vihar, Nand Nagri, Delhi.
Distt. Forum (North-West)	CSC, Block-C, Pocket-C, Shalimar Bagh, New Delhi.
Distt. Forum (New Delhi)	Barracks, K.G. Marg, New Delhi.
Distt. Forum (South-West)	L.S.C., Phase-II, Sheikh Sarai, New Delhi.
Distt. Forum (Central)	Mezannine Floor, ISBT, Kasmere Gate, New Delhi.
Distt. Forum (East)	CSC, Saini Enclave, New Delhi. ⁴⁹

2) Haryana

For the State of Haryana,⁵⁰ a full-fledged state consumer disputes redressal Commission at Chandigarh is functioning since 1.7.1989. At the district level, full time district consumer disputes redressal forums have been set-up in all the 19 districts of the State.

The State of Haryana has taken a number of steps in promoting awareness amongst consumers towards their rights. In this direction, state consumer protection council has also been set-up in Haryana to promote and protect the rights of the consumers within the state. The details of institution of cases and their disposal by the state commission and district forums since their inception are as under:⁵¹

⁴⁸ *Supra* note 17.

⁴⁹ <http://delhigovt.nic.in/sear/welcome.html>

⁵⁰ Consumers Protection rules, 1988 which were notified vide notification dated 25.4.88.

⁵¹ <http://haryanafood.nic.in/consumer.html>

		Since inception to 31.12.2000	1.10.2000 to 31.12.2000	Total
STATE COMMISSION				
A	No. of Cases	11352	426	11770
B	No. of cases disposed off	8414	374	8788
C	No. of cases Pending.	2938	52	2990
DISTRICT FORUMS				
A	No. of Cases	81064	2479	83543
B	No. of cases disposed off	62457	1863	64320
C	No. of cases Pending.	18607	616	19223

3) Chandigarh

In Chandigarh two district forums and one state commission are functioning. When the value of the goods or services and the compensation claimed do not exceed Rs 5 lakh, the complaint is filed in a District Forum. When value or compensation exceeds this limit, the case is filed straightaway in the State Commission. The State Commission has appellate jurisdiction over the matters decided by the District Forum. From the State Commission, the case goes to the National Commission.⁵²

4) Punjab

In Punjab, the Punjab State Consumer Disputes Redressal Commission and 17 Districts Consumer Disputes Redressal Forums (one for each district of the state) exist. Also, there are 70 voluntary Consumer Protection Organizations working for the welfare of the consumers. These voluntary organizations have an important role to strengthen and to spread the consumer movement in the rural areas. These associations are given financial assistance by the government of India for showing better performance in the consumer protection activities out of the "Consumer Welfare Fund".⁵³

⁵² <http://chandigarh.nic.in/jud.htm>

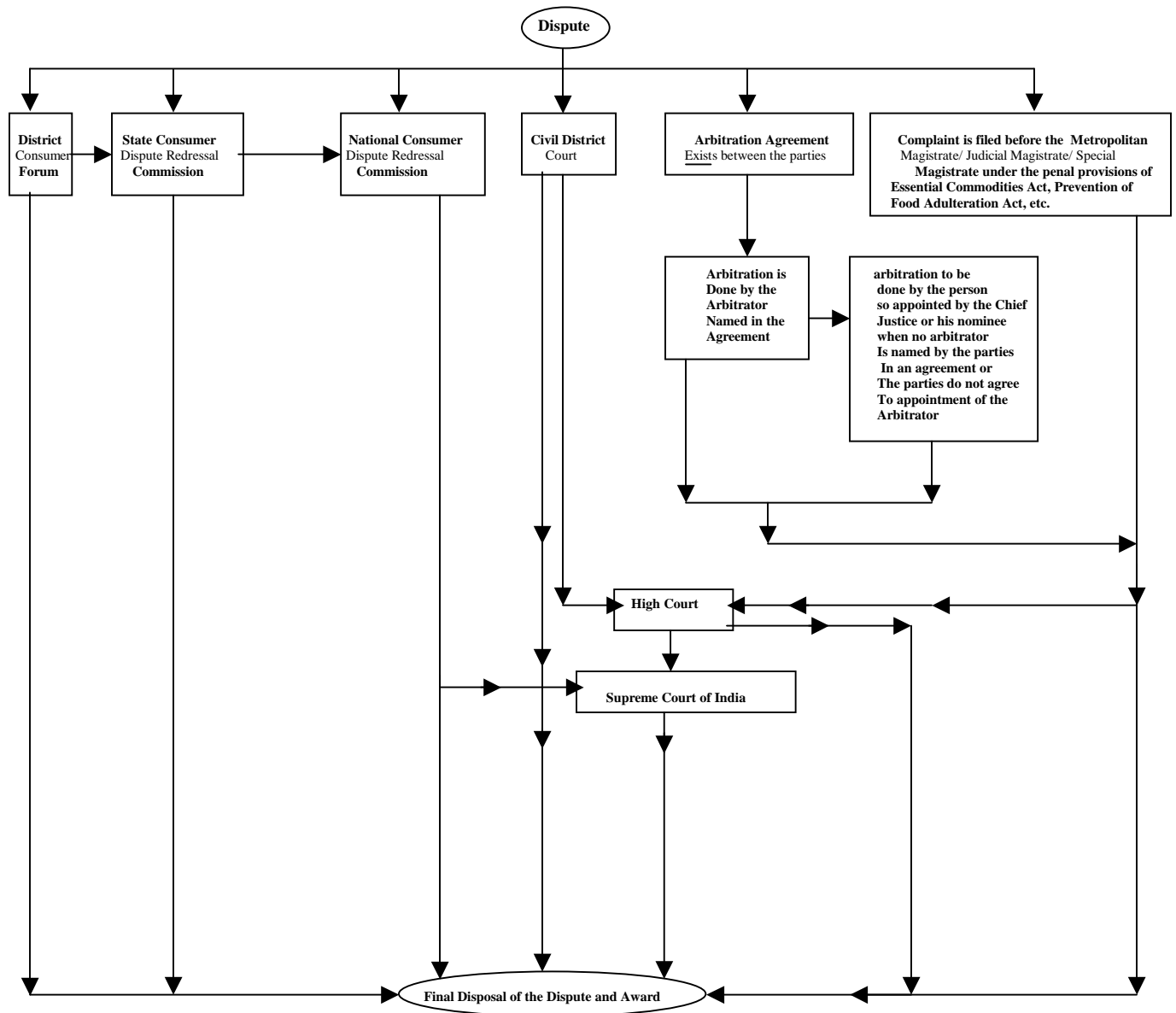
⁵³ <http://foodsuppb.nic.in/top>

Since inception till now, 16,02,706 cases have been filed in these three-tier agencies. Out of them 12,63,399 (78.8 per cent) of cases have been disposed off.⁵⁴

⁵⁴ *Supra* note 42.

4. Institutional Routes from the Outbreak to the Resolution of Disputes

All the possible institutional routes available to the aggrieved consumer against the defective goods and services are depicted with the help of a flowchart given below:



5. Choices of Routes for Dispute Resolution

(a) Trend in People's Choice and Factors that Influence in the Process

Prior to 1986, consumers used to resort civil remedies through an action under the law of torts & contract. Quite apart from this, they sought remedies by filing a complaint under relevant statutes such as, Sale of Goods Act, 1930; Essential Commodities Act, 1955; Prevention of Food Adulteration Act, 1954; Drugs & Cosmetics Act, 1954; Monopolies & Restrictive Trade Practices Act, 1969; Standards of Weights & Measures Act, 1976, etc., which provided for penal provisions.

However, these remedies were found by the consumers not only time consuming and expensive, but also involving complicated and lengthy procedures. After the enactment of Consumer Protection Act, 1986, there has been a remarkable shift in the attitude of the parties. They prefer consumer fora for complaining about deficiency in services, defective goods, unfair trade practices, etc.

(a) Parties' Viewpoint – How and why do they make a choice the way to settle their problems?

Three factors are mainly responsible for the preference shown by the people to consumer fora set up under the Consumer Protection Act, 1986. These are:

- (i) the procedure is simple
- (ii) no court fee is required for filing the case in the consumer fora
- (iii) consumer fora are special courts to deal with consumer cases only and therefore the proceedings before it are less time consuming than the proceedings before the regular courts.

Be that as it may, the parties feel that the consumer fora suffers from three main defects:

- (i) There is heavy volume of cases pending before the consumer fora leading to delay in disposal of complaints.
- (ii) The parties generally file appeal in the higher fora / the Supreme Court of India from National Commission.
- (iii) The consumer fora sometimes lack the technical competence to investigate the case in depth.

In India there is very little awareness amongst the people about the rights of the consumers. Some people accept 'defect' or deficiency as a part of their liege and bother very little for eradication of this menace or evil from the society.⁵⁵

(b) The role of the lawyers

A burning issue is whether or not lawyers be allowed to argue in consumer courts and use their skills and contacts in securing the adjournments, which have been the bane of the regular courts. Many consumers are forced to hire a lawyer after they found themselves not matching up to the slick lawyers of the opposite party, who manage to drag the case.⁵⁶

6. Case Study

The provisions of the CPA cover 'products' as well as 'services'. The products are those, which are manufactured or produced and sold to consumers through wholesalers and retailers. The services are of the nature of transport, telephones, electricity, constructions, banking, insurance, medical treatment etc. etc. The services, by and large, include those provided by professionals such as doctors, engineers, architects, lawyers, etc.⁵⁷ Examples of some decisions taken by consumer courts are given here below. These are clear-cut verdicts and serve as illustrative examples.

Housing

In *Akhilesh Verma v. Skipper Builders Pvt. Ltd.*⁵⁸ the National Commission took serious note of the escalation of real estate prices day by day. In granting compensation it made the observation that "a consumer cannot be allowed to be swindled by an unscrupulous builder".

General Insurance

Consumer fora at all levels have been flooded with complaints relating to general insurance. In *B. Nagaraju v. Oriental Insurance Co.*⁵⁹, the Supreme Court disapproved the reasoning of the National Commission that extra passengers carried in a goods vehicle in violation of the terms of

⁵⁵ Mr. Mohinder Singh (President, Patiala consumers, Patiala, *Consumer should not grumble instead must make a complaint*, <http://www.consumerindia.com/articles.html>

⁵⁶ R. Dev Raj, *Consumer Courts Slowing Down*, <http://www.consumerindia.com/articlesnew.html#india>

⁵⁷ *Supra* note 21.

⁵⁸ I (1996) CPJ 51 (NC).

⁵⁹ II (1996) CPJ 18 (SC).

the policy constituted such a fundamental breach as to afford ground to the insurer to eschew liability altogether. The court held that the exclusion term of policy of insurance must be read down to subserve the main purpose of the policy, which is to indemnify the damage caused to the vehicle. This judgment is a contrast to the order of the National Commission that liability of the insurer to compensate the insured for any loss occurring to the vehicle is conditional on the driver of vehicle possessing an effective license at the time of occurrence of the loss.⁶⁰

Air Service

The National Commission came down heavily on Air India for having lost eight out of 12 cartons containing *sarees* to be displayed at an exhibition in Mauritius. It delivered the remaining four cartons after the exhibition was over. The declared value of the consignment was \$10,659.58. Holding the opposite party guilty of gross negligence, the commission ordered payment of two-thirds of \$10,659.58 i.e. Rs. 1,89,286/- and two-thirds of freight charges amounting to Rs. 2110.66. It compensated the complainant by awarding Rs. 0.3 million of mental tension caused due to non-participation in the exhibition.⁶¹

Medical

The Supreme Court in *Indian Medical Association v. P. Shantha* ruled out that:

- (i) service rendered to a patient by a medical practitioner except where the doctor renders service free of charge to every patient or under a contract of personal service), by way of consultation, diagnosis and treatment, both medicinal and surgical, are covered by the Consumer Protection Act, 1986;
- (ii) the fact that medical practitioners belong to the medical profession and are subject to the disciplinary control of the Medical Council of India and/or State Medical Councils would not exclude the service rendered by them from the ambit of the Consumer Protection Act, 1986;
- (iii) all the consumer dispute redressal agencies established under the Consumer Protection Act, 1986 are suitable for adjudicating issues arising out of medical mal-practice or negligence. Only in complicated issues requiring rendering of evidence of experts, complainant can be directed by the consumer dispute redressal agency to approach the civil court.

⁶⁰ *New India Assurance Co. v. Jadav Narendrabhai*, I (1996) CPJ 230 (NC).

⁶¹ *Shobha Global v. Air India*, O P No. 256/1993 order dated 23.02.1995.

In *Poonam Verma v. Ashwini Patel*⁶², a person registered as a medical practitioner for homoeopathic practice only, without finding the necessity of conducting pathological tests, treated Pramod Verma for an ailment “prevalent” at that time in the locality in question, by prescribing allopathic medicines. As a result of this patient died. The Maharashtra State Commission did not provide relief to the Complaint, the wife of the diseased. The Supreme Court held that the respondent, by virtue of his registration, was under a statutory duty not to enter the field of any other system of medicine. By practising in allopathy he had “trespassed into a prohibited field and was liable to be prosecuted under section 15(3) of the Indian Medical Council Act, 1956.” Having practiced in allopathy, without being qualified in that system, observed the court, “the respondent was guilty of negligence per se”. The petitioner was granted a compensation of Rs. 0.3 million and costs of Rs. 30,000.

Missing baggage from airplane

In *Capt. Satish Chandra Sharma v. K.L.M. Royal Dutch Airlines*⁶³ complainant’s baggage was declared as missing from the airplane, he boarded. Later on the same was delivered to him by the airline authorities, but in damaged conditions. Delhi State Consumer Redressal Commission held airlines cannot take benefit of normal free limits of 6- kgs. And it is liable to pay \$20 for 61kgs- and replacement of two bags under section 14(1)(d) of CPA.

In *Aeroflot Russian International Airlines v. Inderjit Singh Jaijee*⁶⁴ the complainant boarded Aeroflot Russian International Airlines to go to London. On reaching London, he was intimated by the airline authorities that his six suit case luggage was left behind by carrier in India and will be soon delivered to him via next flight. However, next flight could not take for 3-days as plague, epidemic in certain part of India was spreading. All this while, complainant had to stay at London, had to bear boarding and lodging and also purchase wollens. District forum awarded compensation to the complainant alongwith 18% interest. In appeal upheld the order. The Chandigarh State Consumer Dispute Redressal Commission.

Delay in delivery of articles/goods

In *Karur Knitting co. v. Translanka Air Travels P. Ltd*⁶⁵ complainant entrusted consignments of knitted cotton wear with opposite party on categorical assurance for timely delivery. Cargo

⁶² II (1996) CPJ 1 (SC).

⁶³ Delhi S.C.D.R.C. 685

⁶⁴ Chandigarh S.C.D.R.C. 155

⁶⁵ Tamil Nadu S.C.D.R.C. 609

reached destination after considerable delay. Consignee refused to take delivery but later on agreed to take delivery after negotiation subject to 30% trade discount. Delay in delivery resulted in loss to the complainant. Tamil Nadu State Consumer Redressal Commission awarded complainant under section 14(1)(d) compensation along with interest.

In *Giri Trading Agency v. M/s. East West Airlines*⁶⁶ it was held that in absence of evidence of booking through the agency, non-transporting and non-delivering of baggages by it cannot be held as deficiency in service under the section 2(1)(c)(iii) of the CPA.

Non-fulfilment of Contract

In *Jagdish Singh v. Jagmohan Ka Asli Lahore Band*⁶⁷ complainant booked band for marriage of his son. But the Band Party did not reach. On complaint to the district forum, opposite party was directed to refund advance of Rs.800/- only. In an appeal for enhancement of compensation, the Punjab state commission held that the complainant is entitled to more than mere return of advance and granted Rs. 1000/- as compensation under section 14(d) of CPA.

In *Inturi Venkaiah v. General Manager P.D.C.C. Bank Ltd*⁶⁸ by the Andhra Pradesh State Consumer Commission held that no deficiency in service under section 2(1)(c)(iii) of CPA is proved on account of the bank when balance amount of loan was not released by it as complainant did not fulfill the condition of filing utilization certificates as agreed by him for release of balance instalment.

In *T.K. Soundararajan v. Secretary, Chenagalpattu Co-op Urban Bank*⁶⁹ it was ruled that the collection of service charges from the complainant who received loan by pledging jewels, by the bank is not illegal and does not amount to deficiency in service on the part of bank under the section 2(1)(c)(iii) of the CPA.

Delay in clearance of cheque

In *S.P.K. Gupta v. ANZ Grindlays Bank*⁷⁰ instructions from London to Bombay received next day in the bank. It took 9 days to transfer from Bombay to Delhi. Bank, instead of seeking clarification caused further delay of 4 days. Cheque ultimately received by SBI after delay of 37 days. Delhi State Commission held this delay as deficiency in service under section 2(1)(c)(iii) of the CPA. It directed bank to compensate for delay.

⁶⁶ Tamil Nadu S.C.D.R.C.328

⁶⁷ Punjab S.C.D.R.C 385

⁶⁸ Andhra Pradesh S.C.D.R.C 511

⁶⁹ Tamilnadu S.C.D.R.C 524

⁷⁰ PLC Delhi S.C.D.R.C. 717

Enhancement of rent of locker by the Bank without notice

In *Giridharilal Chawla v. Corporation Bank*⁷¹ Andhra Pradesh Consumer Commission laid down that enhancement of rent without prior intimation by the bank of locker services it provides to the consumers, amounts to deficiency in service under sections 2(1)(c)(iii), 14(1)(d) of the CPA. It directed the bank to compensate the complainant for the same.

Non-sanction of loan by the Bank

In *Manager, Syndicate Bank v. Brahmananda Kumar*⁷² Andhra Pradesh State Consumer Commission made it clear that non-sanctioning of loan does not amount to deficiency in service. In this case, complainant, an unemployed graduate, was selected under Prime Minister's Rozgar Yojana Scheme and was directed to approach bank for loan. He applied for loan, furnished security thereon. But bank refused to sanction the loan. District forum awarded Rs. 10,000/- towards compensation. In appeal against the order of district forum, state commission set aside the order of district forum and held that the bank has considerable discretion to sanction loan keeping in view the viability of Scheme. As the scheme found not viable owing to existing competition, bank rejected loan application. But this does not amount to deficiency on the part of the bank.

Loss by Carrier

In *Lucky Forwarding Agency v. Smt. Binder Devi & Anr*⁷³, goods were sent through the truck of Agency. Driver disappeared with goods. Madhya Pradesh State Consumer Commission held carrier liable for loss.

Defective Car

In *Techno Aids & Associates v. Tata Electric Locomotive Co., Ltd.*⁷⁴ complainant, a partnership firm, purchased car for commercial purpose. This car was found to be defective. But Tamil Nadu State Consumer Commission held that complainant is not a consumer within the meaning of section 2(1)(d)(1) of CPA and therefore, cannot claim replacement or value thereof.

Defective diesel generators

⁷¹ Andhra Pradesh S.C.D.R.C.44

⁷² Andhra Pradesh S.C.D.R.C 489

⁷³ Madhya Pradesh, S.C.D.R.C 400

⁷⁴ Tamil Nadu S.C.D.R.C 291

Similarly, in *Vasanthi Medical Centre v. Captipower Engineers (P) Ltd.*,⁷⁵ when it was found that complainant of defective diesel generator, purchased for the hospital, was a company, no compensation or replacement thereof was ordered by the state commission as complainant could not be held as consumer within meaning of section 2(1)(d)(1) of the CPA.

In *Chandrika v. Ms. Shashi Jain*⁷⁶ on account of defect in fixing marble during the construction, compensation was granted.

Delay in payment of salary by schools

In *Principal, R.S.M. Inter College v. Smt. Rekha & Ors.*⁷⁷ - Complainants of arrears of salary due were teachers in Inter College, employed in government - aided schools / colleges. Uttar Pradesh State Consumer Commission overruled the decision of district forum that held these teachers as consumers within meaning of section 2(1)(d) of the CPA. It held that district forum erred and it has no jurisdiction to adjudicate.

Non-refund of tuition fee by school

In *Vivek Garg v. Rajeev Kumar & Ors.*⁷⁸ Consumer commission ordered refund of tuition fee alongwith 15% interest towards compensation to the complainant who for doing diploma Course in Computer Application deposited Rs.6,900/-. The amount collected for imparting was not implemented by the organization. The organization was transferred without informing complainant.

Dealy in Delivery of possession

*Shakuntla Devi v. Chief Administrator, HUDA*⁷⁹ Haryana State Commission directed HUDA to deliver possession and pay interest of 12% on amount deposited by the complainant for escalation in cost, monetary loss and mental harassment caused by deficiency in service on its part. In this case, plot was allotted to complainant, but vacant physical possession not delivered for another 5 years.

Negligence by health providers

In *A.Ravi v. Dr.(Mrs.) Usha Rani & Ors.*⁸⁰ compensation of Rs.4,00,000/- alongwith 18% interest was awarded for negligence in family planning operation in which a patient lost her life.

⁷⁵ Tamilnadu S.C.D.R.C. 658

⁷⁶ Chandigarh S.C.D.R.C. 330

⁷⁷ Uttar Pradesh S.C.D.R.C. 478

⁷⁸ Chandigarh S.C.D.R.C. 172

⁷⁹ Harayana S.C.D.R.C. 495

⁸⁰ Tamil Nadu S.C.D.R.C. 581

In *D.Venkateshwarlu v. Dr. P. Sudarshan Reddy*⁸¹ district forum awarded Rs.10,00,000/- towards compensation on account of negligence that resulted in death of 2 years' old child. The same was declared by the state commission as absurdly exorbitant. It returned the complaint to district forum having pecuniary jurisdiction with the directions that the award must be much below Rs.5,00,000/ for the death of 2 years' old child.

In *Calcutta Medical Research Institute v. Bimalesh Chatterjee & Ors.*⁸² the National Consumer Commission set aside order of State Commission awarding Rs.2,00,000/- towards compensation on account of wrong blood transfusion. It held that as the patient survived 4 years after treatment and no evidence is adduced to link blood transfusion with any resultant complications, onus of proving negligence lies on complainant, which was not discharged. Hence, no negligence/deficiency is proved so as to award compensation.

Delivery of damaged car

In *Jasbir Singh Grewal v. Mahindra ford India Ltd.*⁸³ the complainant booked 'Ford Escort' car. However, he was delivered accidented and repainted car in damaged condition. On these facts the Chandigarh State Redressal Commission held that respondents was expected delivery of brand new car without any defect. Hence, deficiency well established under section 2(1)(c)(iii) of the CPA. It therefore, ordered refund of the amount paid alongwith 18% interest to the respondents.

Delivery of defective scooter

Delhi State Consumer Redressal Commission in *L.M.L. Ltd.v. Mr.B.P. Tyagi*⁸⁴ directed refund of price paid along with 18% interest in a case wherein complainant purchased scooter, which started giving trouble from third day of purchase. His genuine grievances were not attended by the dealer's workshop for which complainant visited a number of times.

Delay in delivery of parcel by post office

In *Union of India v. Anwar Ahemad Qureshi*⁸⁵ complainant, a literary figure in Urdu Literature, sent books by post parcel under speed post on 8.1.1999 to U.P. Urdu Academy. Parcel was delivered on 22.1.1996. Academy refused to accept the same. District forum awarded Rs. 5,000/- towards compensation alongwith 18% interest to the complainant. In appeal, contention was

⁸¹ Andhra Pradesh S.C.D.R.C. 472

⁸² National C.D.R.C 13

⁸³ Chandigarh S.C.D.R.C. 48

⁸⁴ Delhi S.C.D.R.C. 219

⁸⁵ Maharashtra S.C.D.R.C. 373

raised by the postal authorities that address was not proper. Appeal turned down such contention holding that the contention is dishonest and address clear enough to locate Urdu Academy. It held the award of compensation by district forum quite proper.

Delay in payment of money on maturity of bond

In *Sub-post Master & Ors. v. M.V. Satyanarayana*⁸⁶ delayed payment by the opposite party to the complainant on account of maturing *Indira Vikas Patras*⁸⁷ was held as amounting to deficiency in service. Complainant was awarded 15% interest from 1.12.1995, as compensation.

Supply of defective seeds

In *National Forum for Consumer Education v. Sanjay Krishi Seva Kendra & Ors*⁸⁸ defective seeds were planted and sown. It was later found out that the majority of the plants were sterile. Evidence of defective seeds supported by grievance committee was adduced before the district forum. Extensive inspection of various fields was carried out and sterility percentage was recorded to be 65-70%. It was also proved that true type of plants were only 10%. But district forum, guided by technicalities rejected complaints. On appeal, such decision by the district forum was held to be unfortunate. The Maharashtra State Consumer Commission ruled out that committee has no reason to tender false report detrimental to producer's interest. Defective seeds were sold without legal warranty and therefore, dealers and producers equally liable. They were directed to compensate the complainants.

Non payment of sale proceeds of shares

In *Pulomaja Misra v. Kailash Chand Gupta*⁸⁹ In this case, complainant hired opposite party's service for sale of shares on payment of brokerage. Shares were sold and sale proceeds amounting to Rs. 2,50,119/- was received. Amount was not paid by the opposite party to the complainant. Delhi State Consumer Commission directed the opposite party to return Rs. 2,43,810/- after deducting brokerage alongwith 18% interest. Such an act amounted to deficiency in service under section 2(1)(g) of the Consumer Protection Act.

Wrong Message delivered by telegraph office

⁸⁶ Andhra Pradesh S.C.D.R.C. 222

⁸⁷ money securities

⁸⁸ Maharashtra S.C.D.R.C. 451

⁸⁹ Delhi S.C.D.R.C. 56

In *Superintendent of Telegraphic Office Tuticorin v. K. Andi Dhevar*⁹⁰ Tamil Nadu State Consumer Commission set aside order of compensation awarded by district forum to the complainant on account of wrong message delivered by the telegraph office saying that as wrong message was not intentional but by mistake and such errors/mistake being covered under Rule 5 of Indian Telegraph Act. The Commission therefore, held that it cannot be made liable for any compensation.

Again Tamil Nadu State Consumer Commission set aside order of compensation awarded by district forum to the complainant on account of delay in delivering message by the telegram office, holding that no deficiency in service could be claimed when delay was because of insufficiency in address. In this case, door number was not given.⁹¹

Excessive telephone bill

In *Sub-Divisional Officer (Telecom) Department v. Gurbachan Singh*⁹² the Himachal Pradesh State Consumer Commission ruled that when complaint is made regarding excessive telephone bill, onus lies on the telecommunication department to prove that metering equipment was not defective. In the case before it, the department failed to establish the same. The commission cancelled the complainant and held that reasonable amount has to be paid for the period in dispute. It upheld the order of the district forum, wherein it was held, that the amount of Rs. 8,516/- deposited by complainant, should be refunded alongwith 12% interest.

In *Junior Sub-Divisional Officer v. Abdu.K. Rehna Manzil*⁹³ a complaint was made regarding highly inflated telephone bills. District forum asked the opposite party to produce computer print out of calls. The same was not produced by the telephone authorities. The district forum held that subscriber has every right to know the basis on which these bills were prepared. The forum after taking account of 10 previous bills, produced by the complainant, took average charges of those 10 bills, and ordered for payment of Rs. 393/ (an average of 10 previous bills produced by the complainant). On appeal, Kerala State Consumer Commission upheld the order of district forum as it found no ground to interfere with the order.

Omission of name in telephone directory

⁹⁰ Tamil Nadu S.C.D.R.C. 422

⁹¹ *Asstt. Supdt. of Telegraph Traffic v. Sakthivel Tamil Nadu S.C.D.R.C. 382*

⁹² Himachal Pradesh S.C.D.R.C. 17

⁹³ Kerala S.C.D.R.C. 59

In *M&N Publications Ltd. v. Dr. (Mrs.) Athurrinissa Begum*⁹⁴ Delhi Consumer Redressal Commission, granted compensation to the complainant whose name from the telephone directory was omitted for the year 1994. The omission was held to be deficiency in service in this case.

Non-delivery of goods for safe carriage

In *Gujarat Co-operative Milk Marketing Federation v. Trans Continental*⁹⁵ Complainant entrusted goods to opposite party for safe carriage. Those goods were not delivered at destination and opposite party contended that driver was murdered and the goods were taken away. It was held that opposite party not absolved by his liability and has to make up for the loss incurred by the complainant.

U.T.I. matured but amount did not reach to the complainant. Held to be deficiency in service under Section 2(1)(g) of CPA and the Unit Trust of India was directed to pay the amount to the complainant.⁹⁶

Under Invoice

In *Tribhuvandas Bhimji Zaveri v. Rajesh Gupta* Complainant purchased gold ornaments in September 1991 alleging Rs. 390/- per gram as purchase price. The re-sale price was paid at Rs. 370/- per gram. He complainant alleged under paying the price. It was held that the opposite party did not indulge in unfair trade practice.⁹⁷

Non payment of entry tax

In *G. Sadanandan Pillai v. S. Babu & Ors. Kerala* complainant purchased autorickshaw from the opposite party. The opposite party did not disclose the fact that entry tax was not paid. The autorickshaw was seized by police and complainant had to pay the tax. The Kerala State Consumer Dispute Redressal Commission held it amounts to unfair trade practice.⁹⁸

In *Hira Moti Spices Pvt. Ltd., & Anr. v. Amar Chand & Anr. Himachal Pradesh* lucky draw scheme floated by manufacturer of spices announced that on purchase of 20 kgs spices at a stretch, lucky coupon would be given. Maruti car was announced against coupon issued to the complainant. But car was not delivered. Held, unfair trade practice is established under section

⁹⁴ Delhi S.C.D.R.C. 135

⁹⁵ Gujarat S.C.D.R.C. 361

⁹⁶ *Unit Trust of India v. S. Subramaniam & Ors.* Tamil Nadu S.C.D.R.C. 459

⁹⁷ *Tribhuvandas Bhimji Zaveri v. Rajesh Gupta* National C.D.R.C. 40

⁹⁸ *G. Sadanandan Pillai v. S. Babu & Ors. Kerala* S.C.D.R.C. 696

2(1) (r) of the CPA and complaint is entitled to new 800 Maruti car irrespective of market value.⁹⁹

⁹⁹ *Hira Moti Spices Pvt. Ltd., & Anr. v. Amar Chand & Anr. Himachal Pradesh S.C.D.R.C.* 40