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E-Commerce Vs. Consumer Rights

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ABSTRACT

Consumer protection is one of the necessary elements in the present scenario as consumers are easily exploited particularly in E-Commerce. The internet has provided consumers with a wide range of platforms for conveniently buying goods and services. This e-platform saves the time as well as the money of the consumers. Thus its become an integral part of people's day-to-day life. On the other hand, the government has made some initiatives for the interest and the protection of the consumers. The government has provided many rights for the protection of the consumers to reduce the violation against them. This article briefly discussed the growth of consumer rights particularly in E-Commerce. It mentioned the different provisions under various Acts regarding consumer protection and also made some suggestions for the same.

I. INTRODUCTION

A consumer is a person who purchases any goods or obtains any services after paying a certain amount to the seller as a consideration. The purchase can be made in several ways. It may be online, offline, or teleshopping, etc. electronic commerce refers to the buying and selling of goods and services using internet. This E-Commerce can make anything under a single roof. Consumers can get a 'n' number of products with a single click. On the other end, the same has some drawbacks too.

Everything around the world is getting digitalized day by day. Our street petty shop is also having an e-payment mode of purchase. Likewise, e-commerce is also having a great impact on people's lives. It has made some easy ways to save the time the people through its broader platform. A recent study states that more than 90% of people prefer the online platform. At the same time people should also aware of their rights and responsibilities before making any purchase.

The impact of E-Commerce has caught the attention of many consumers and business organizations. This portal not only saves the time but also having the global access, greater choice, splendid service and huge customer satisfaction. Simultaneously fraudulent criminals mainly target the personal and financial information when it comes to E-Commerce. And also

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having certain threats like unfair trade practices, insecure payment methods, quality of products etc. For example making undisclosed information about the products like their warranty period, refund policies which will lead to unfair trade practices.

II. NEED FOR PROTECTION OF E-COMMERCE

People started utilize e-commerce more efficiently nowadays and the government also promoted e-commerce aggressively. There comes the need for protection of consumers from the same.

When it comes to judicial concern, one of the primary issue is that whether the said court is having jurisdiction to deal with that particular e-commerce dispute. According to traditional method the court must have the jurisdiction on both parties and territorial jurisdiction. In e-commerce there are certain provisions which provides long arm jurisdiction.

(A) Information Technology Act, 2000; [Section 1(2) & Section 75]

The Act shall extended to the whole of India and also it provides that the Act shall also apply to any contravention which is committed outside India. Any contravention or offenses which is committed outside India involves a computer network located in India the Act shall apply for the same too.

The IT Act also gives legal recognition for the electronic signatures as long as it is in compliance with provisions of IT Act. This Act also provides some regulatory framework and guidelines regarding electronic signature.

(B) Indian Penal Code,1869:[Section 3]

Section 3 of IPC provides that any person who committed any offense beyond India shall be liable as if such offense had been committed within india.However there is no transparent provisions regarding the jurisdiction of courts in e-commerce dispute.

(C) Lok Adalats and PIL

Consumers are also protected by providing speedy justice. In India lok adalats plays a vital role in a efficient manner. The main objective of this scheme is speedy trails and remedies. The next is Public Interest Litigation which ensures the citizen's liberty under Article 32 of Indian constitution.

III. KEY HIGHLIGHTS OF CONSUMER PROTECTION GROWTH IN INDIA

India enacted its first act on Consumer protection on 1986.there is no specific provisions for E-Commerce.section2 (1) g deals with the deficiency in service and section 2(1) r deals with

the unfair trade practice, still there is lack of confidence among consumers. The reason behind the issue is that the Act covers the misrepresentation of goods and services, product quality, warranty etc. under the unfair trade practices. But when it comes to inadequate information about the supplier, products the act remains silence.

In *Amazon Seller Service Private Limited vs. Love Kumar Sahoo*², the consumer received defective product and replacing it thrice yet he is not satisfied as he received it with some defects. The frustrated sahoo raised a refund complaint which is not accepted by the retailer as their refund exists 15 days from the date of purchase. Then he filled a complaint in district consumer forum. However, this raised a question that the IT Act is not that much effective to protect consumer rights.

Another issue which consumer suffered in earlier days is lack of jurisdiction. In the case of *Rajinder Singh Chawla v. makemytrip.com*³ the court rejected the case due to lack of jurisdiction. The court couldn't entertain the case as the ecommerce have no specific geographical limits. To address this issue in National Commission in *Marwar Engineering College and Research Centre v. Hanwant Singh*⁴ the court held that consumer's place of transaction will be the jurisdiction to file a complaint.

Next comes the Consumer Protection Bill, 2015 which introduce some significant provisions to deal with the jurisdiction and the adequacy in information.

- Cooling off period for 30 days on any purchase of good and services. (If there is any failure on part of this will be considered as unfair trade practices under section 2 (41) of this bill).
- This bill introduced a new provision on territorial jurisdiction which enable the consumer to make any complaint in the place where he actually resides.
- Dispute resolution through mediation: the establishment of court annexed mediation cells ensures speedy justice for the consumers.

Furthermore, in 2016 the ministry of consumer affairs established the 'online consumer mediation center 'to manage and resolve conflicts. In *Anita Kushwaha v. PushapSuda*⁵, the Supreme Court held that Access to justice is a fundamental right.

Despite several amendments and changes being brought out to protect the consumers, still some

² In *Amazon Seller Service Private Limited vs. Love Kumar Sahoo*, A.I.R 2018 (India)

³ *Rajinder Singh Chawla v. makemytrip.com*, (RP No.4656 of 2012)

⁴ National Commission in *Marwar Engineering College and Research Centre v. Hanwant Singh* (First Appeal 355/2013, SCDRC Chandigarh)

⁵ *Anita Kushwaha v. PushapSuda*, (2016) 8 S.C.C 509 (India)

pending tasks are there for the government. The next consumer protection bill introduced in the year 2017. This bill seeks to address the misleading advertisement and food adulteration. It imposes penalty and jail in terms of such cases. The bill also introduced central consumer protection authority to protect the right of the consumers.

In order to extent the scope of consumer protection, another bill introduced in the year 2019. Along with some changed salient features the consumer protection Act 2019 came into force on 20th July 2020 which includes the establishment of Central Consumer Protection Authority(CCPA) for the protection and enforcement of the rights of consumers. When there is a violation of consumer rights thus CCPA will empower to investigate complaints regarding unfair trade practices and misleading advertisements. The rights of the consumers are also get protected through the various provisions of this Act like Consumer Protection Councils, Consumer Dispute Redressal Commision,Mediation etc.Some significant changes in this bill are discussed below;

- ✓ The first and obvious change that this act brought is the definition of the consumer. It includes the consumers of both online and offline,
- Consumer can file any complaint in any district or state level consumer courts irrespective of the jurisdiction. Only the pecuniary will be taken into account. This will change the concept of **Caveat Emptor to Caveat Venditor**.
- Next comes the product liability. Under this compensation can be claimed by the consumer in case of any deficiency in goods or services which causes any physical or mental harm to the consumer.
- If there is any negative impact on the part of the consumer rights or any one side favored contracts, then the contract will be termed as unfair contracts.
- Consumer can file any complaint before the CCPA, if there is any false advertisement or description. This CCPA can initiate action suo moto and class action against the manufacturer.
- It also made some changes in the pecuniary jurisdiction of the courts. In case of district level commission cases up to 1 crore, for state level commission cases up to 10 crores and finally for the nation level commission cases up to 50 crores INR.
- The new Act also established the mediation cell in every district and state consumer forum.
- Regarding misleading advertisements the new Act says that any seller or manufacturer who misleads in the advertisement shall be charged with fine of 10 lakhs or with

imprisonment which may extend to 2 years. If he/she is a repeated offender then the fine will be up to 15 laths or with imprisonment which may extended to 3 to 5 years.

IV. COMPARATIVE ANALYSIS

CONSUMER PROTECTION ACT,1986	CONSUMER PROTECTION ACT, 2019
There is no separate regulator to deal with Consumer disputes.	Specific regulator like CCPA is formed To deal with such disputes.
The complaint could be filled in the place where the defendants office is located.	The complaint can be filled in any consumer court where the complainant resides.
There is no provision for product liability.consumers have to approach civil courts for compensation.	Consumers can seek compensation from the consumer court itself.
Pecuniary jurisdiction: District: up to 20 laths State: 20 lakhs to 1 crore National: above 1 crore	Pecuniary Jurisdiction: District: up to 1 crore State: 1 crore to 10 crore National: above 10 crore

V. SUGGESTIONS

Thus in India the rights of the consumers are protected in a well organized manner. Though the Consumer Protection Laws are intended to safeguard consumers, there is some practical impossibility to apply the provisions.

- Price manipulation should be clear defined like it should be clearly understand by everyone that what constitute the price manipulation.
- Levying charge for cancellation post by e-commerce entities should be discussed.
- The vague which remains in the e-commerce entity to navigate their roadblocks should be changed into concise manner.

- People have to get awareness about the newly changed consumer rules through some advertisements, awareness programs etc.

VI. CONCLUSION

Consumers are becoming an integral part of the E-Commerce portal. To protect the rights of the consumers the government making its best efforts as much as possible. At the other end the E-Commerce portals give their 100% potential to lash out the lack of confidence among the consumers. Adequate and transparent information about their goods and services, business entity and the transaction details should be disclosed accordingly. Lack of awareness among the people should also be noticed and the government should make adequate steps to make a better tomorrow.

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