

Consumer Protection Act, 2019



Important Definitions –

1) Advertisement – Section 2(1)

Advertisement means any –

- audio or visual publicity,
- representation,
- endorsement or
- pronouncement

made by means of light, sound, smoke, gas, print, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice or such other documents.

2) Complainant – Section 2(5)

Complainant means –

- a consumer; or
- any voluntary consumer association registered under any law; or
- the Central Government or any State Government; or
- the Central Authority; or
- one or more consumers, where there are numerous consumers having the same interest; or
- in case of death of a consumer, his legal heir or legal representative; or
- in case of a consumer being a minor, his parent or legal guardian.

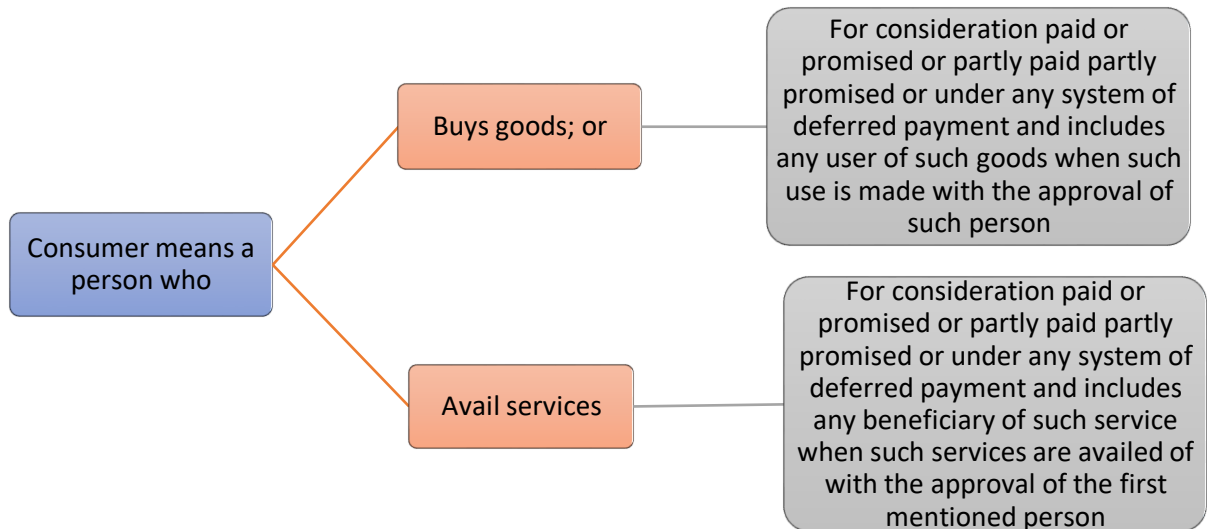
3) Complaint – Section 2(6)

Complaint means any allegation in writing, made by a complainant for obtaining any relief provided under the Consumer Protection Act, 2019, that –

- a) an **unfair contract** or **unfair trade practice** or a **restrictive trade practice** has been adopted by any trader or service provider;
- b) the **goods** bought by him or agreed to be bought by him **suffer from one or more defects**;
- c) the **services hired or availed** of or agreed to be hired or availed of by him **suffer from any deficiency**;
- d) a trader or a service provider has charged for the goods or for the services mentioned in the complaint, **a price in excess of the price** –
 - Fixed under any law; or
 - displayed on the goods or any package containing such goods; or
 - displayed on the price list exhibited by him by or under any law; or
 - agreed between the parties;
- e) the goods, which are **hazardous to life and safety** when used, are being offered for sale to the public –
 - in contravention of standards relating to safety of such goods as required to be complied with

- where the trader knows that the goods so offered are unsafe to the public;
- f) the services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by a person who provides any service and who knows it to be injurious to life and safety;

4) Consumer –



Note –

- ✓ Consumer does not include a person who buys goods or avails service for commercial purpose.
- ✓ “Commercial purpose” does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment
- ✓ “buys any goods” and “hires or avails any services” includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing.

Important Points (from past case laws) –

- 1) **Whether a person purchasing the machine is a consumer?**
 - a) If a person purchased a machine to operate it himself for earning his livelihood, he would be a consumer.
 - b) If such person took the assistance of one or two persons to assist him in operating the machine, he would still be a consumer.
 - c) But if a person purchases a machine and appoint or engage another person exclusively to operate the machine, then such person would not be a consumer.
- 2) **Whether a person purchasing the machine for tilling land and letting out during idle time a consumer?**
 - a) a tractor purchased primarily to till the land of the purchaser and let out on hire during the idle time to till the lands of others would not amount to commercial use and such person will be consumer.
- 3) **Whether the widow of the deceased policy holder is a ‘consumer’?**
 - a) The term ‘consumer’ includes any beneficiary of service other than the person who hires the services for consideration, the widow being the beneficiary of services is a ‘consumer’
- 4) **Tenant entering into lease agreement with the landlord –**
 - a) Tenant entering into lease agreement with the landlord cannot be considered as consumer if there was no provision in the lease agreement in respect of cleaning, repairing and maintaining the

building, the rent paid by tenant is not the consideration for availing these services and therefore, no question of deficiency in service.

5) Defect – Section 2(10)

Defect means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law or under any contract or as is claimed by the trader in any manner whatsoever in relation to any goods or product.

6) Deficiency – Section 2(11)

Deficiency means 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 or has been undertaken to be performed by a person in pursuance of a contract in relation to any service and includes –

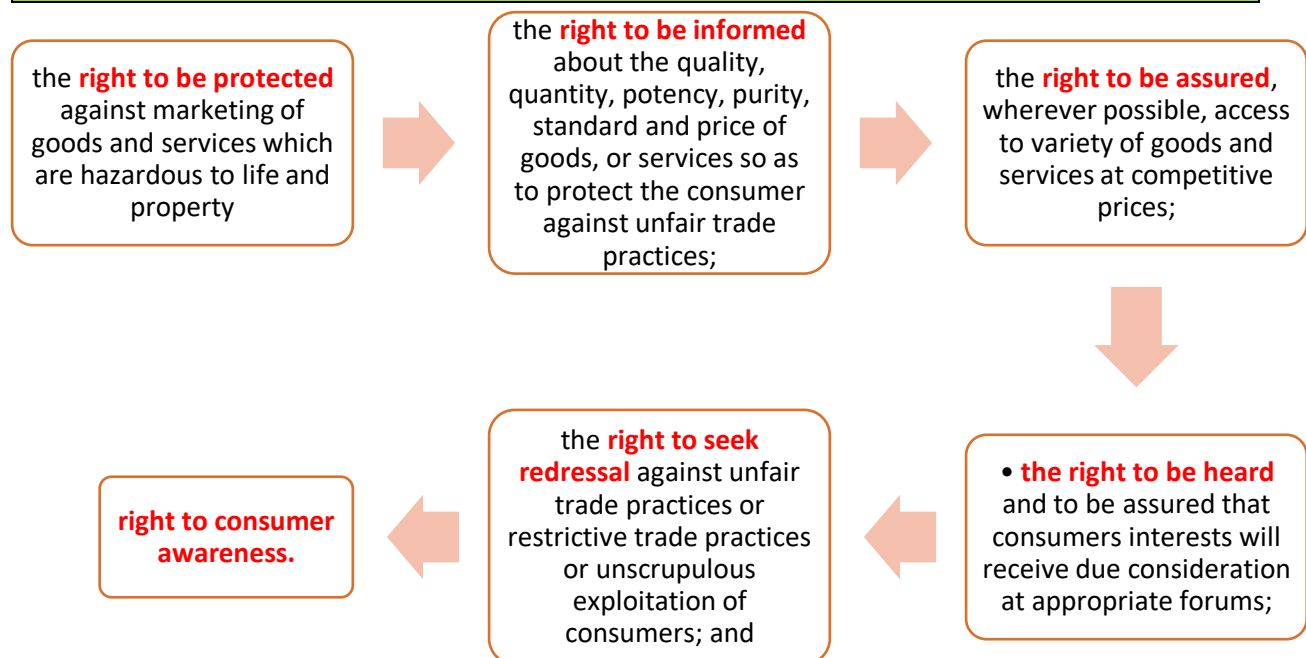
- a) any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and
- b) deliberate withholding of relevant information by such person to the consumer.

7) Misleading Advertisement – Section 2(28)

Misleading Advertisement, means an advertisement, which –

- a) falsely describes product or service; or
- b) gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service; or
- c) conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or
- d) deliberately conceals important information.

Consumer Rights –



Consumer Protection Council –

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| <p>Central Consumer Protection Council</p> | <p>About Central Council –</p> <ul style="list-style-type: none"> • The Central Government has the power to establish the Central Consumer Protection Council to be known as the Central Council. • The Central Council shall be an advisory council • Chairperson of central council shall be Minister-in-charge of the Department of Consumer Affairs in the Central Government. • Central council will have such number of other official or non-official members representing such interests as may be prescribed. <p>Meeting of Central Council –</p> <ul style="list-style-type: none"> • The Central Council shall meet as and when necessary, but at least one meeting of the Council shall be held every year. • The Central Council shall meet at such time and place as the Chairperson may think fit <p>Objective of Central Council –</p> <ul style="list-style-type: none"> • The objects of the Central Council shall be to render advice on promotion and protection of the consumers’ rights under the Act. |
| <p>State Consumer Protection Councils</p> | <p>About State Council –</p> <ul style="list-style-type: none"> • Every State Government empowers to establish a State Consumer Protection Council for such State to be known as the State Council. • The State Council shall be an advisory council • Chairperson of state council shall be Minister-in-charge of Consumer Affairs in the State Government • State council will have such number of other official or non-official members representing such interests as may be prescribed. • State council shall also have such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government. <p>Meeting of State Council –</p> <ul style="list-style-type: none"> • The State Council shall meet as and when necessary but not less than two meetings shall be held every year. • The State Council shall meet at such time and place as the Chairperson may think fit <p>Objective of Central Council –</p> <ul style="list-style-type: none"> • The objects of every State Council shall be to render advice on promotion and protection of consumer rights under the Act within the State. |
| <p>District Consumer Protection Council</p> | <p>About District Council –</p> <ul style="list-style-type: none"> • The State Government empowers to establish for every District a District Consumer Protection Council to be known as the District Council. • The District Council shall be an advisory council • Chairperson of the District Council shall be Collector of the district. |

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| | <ul style="list-style-type: none"> District council shall have such number of other official and non-official members representing such interests as may be prescribed. <p>Meeting of State Council –</p> <ul style="list-style-type: none"> The District Council shall meet as and when necessary but not less than two meetings shall be held every year. The District Council shall meet at such time and place within the district as the Chairperson may think fit <p>Objective of Central Council –</p> <ul style="list-style-type: none"> The objects of every District Council shall be to render advice on promotion and protection of consumer rights under the Act within the district |
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Central Consumer Protection Authority (CCPA)

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| Establishment of CCPA – Section 10 | Central Government has the power to establish a Central Consumer Protection Authority to be known as the Central Authority |
| Role of Central Authority | <ul style="list-style-type: none"> To regulate matters relating to – <ol style="list-style-type: none"> violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers to promote, protect and enforce the rights of consumers as a class. |
| Composition of Central Authority | The Central Authority shall consist of a Chief Commissioner and such number of other Commissioners as may be prescribed |
| Headquarters and offices of Central Authority | The headquarters of the Central Authority shall be at Delhi, and it shall have regional and other offices in any other place in India as the Central Government may decide. |
| Vacancy, etc., not to invalidate proceedings of Central Authority | <p>No act or proceeding of the Central Authority shall be invalid only because of –</p> <ul style="list-style-type: none"> any vacancy in, or any defect in the constitution of, the Central Authority; or any defect in the appointment of a person acting as the Chief Commissioner or as a Commissioner; or any irregularity in the procedure of the Central Authority not affecting the merits of the case. |
| Appointment of officers, experts, professionals and other employees of Central Authority – Section 13 | <ol style="list-style-type: none"> The Central Government shall provide the Central Authority such number of officers and other employees as it considers necessary for the efficient performance of its functions under this Act. The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Central Authority appointed under this Act shall be such as may be prescribed. Central Authority also have the authority to appoint any expert or professionals of integrity and ability, who have special knowledge and experience in the areas of consumer rights and welfare, consumer policy, law, medicine, food safety, health, engineering, product safety, commerce, economics, public affairs or administration, as it deems necessary to assist it in the discharge of its functions under this Act. |

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| <p>Investigation Wing of Central Authority</p> | <p>About Investigation wing –</p> <ol style="list-style-type: none"> 1) The Central Authority shall have an Investigation Wing 2) Investigation wing shall be headed by a Director General 3) The purpose of investigation wing is to conduct inquiry or investigation under this Act as may be directed by the Central Authority <p>Appointment by CG –</p> <ul style="list-style-type: none"> • The Central Government may appoint a Director General and such number of Additional Director General, Director, Joint Director, Deputy Director and Assistant Director, from amongst persons who have experience in investigation and possess such qualifications, in such manner, as may be prescribed. • Every Additional Director General, Director, Joint Director, Deputy Director and Assistant Director shall exercise his powers, and discharge his functions, subject to the general control, supervision and direction of the Director-General. <p>Note – The Director General may delegate all or any of his powers to the Additional Director General or Director, Joint Director or Deputy Director or Assistant Director, while conducting inquiries or investigations under this Act.</p> |
| <p>Powers and functions of Central Authority – Section 18</p> | <p>Central Authority has the power to –</p> <ul style="list-style-type: none"> ✓ protect, promote and enforce the rights of consumers as a class, ✓ prevent violation of consumers rights under this Act; ✓ prevent unfair trade practices ✓ ensure that no person engages himself in unfair trade practices; ✓ ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of this Act or the rules or regulations ✓ ensure that no person takes part in the publication of any advertisement which is false or misleading. <p>For the above purpose Central Authority has the following powers –</p> <ul style="list-style-type: none"> ✓ inquiry or investigation to be made into violations of consumer rights or unfair trade practices, either suo motu or on a complaint received or on the directions from the Central Government; ✓ file complaints before the District Commission, the State Commission or the National Commission, as the case may be, under this Act; ✓ intervene in any proceedings before the District Commission or State Commission or National Commission, in respect of any allegation of violation of consumer rights or unfair trade practices; ✓ undertake and promote research in the field of consumer rights; ✓ spread and promote awareness on consumer rights; ✓ encourage NGOs and other institutions working in the field of consumer rights to co-operate and work with consumer protection agencies; ✓ issue safety notices to alert consumers against dangerous or hazardous or unsafe goods or services; |

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| | <ul style="list-style-type: none"> ✓ advise the Ministries and Departments of the Central and State Governments on consumer welfare measures; ✓ recommend adoption best international practices on consumer rights to ensure effective enforcement of consumer rights; ✓ issue necessary guidelines to prevent unfair trade practices and protect consumers' interest |
| <p>Power of Central Authority to refer matter for investigation or to other Regulator – Section 19</p> | <ol style="list-style-type: none"> 1) Central Authority may, after receiving any information or complaint or directions from the Central Government or of its own motion will conduct a preliminary inquiry as to whether there exists a prima facie case of violation of consumer rights or any unfair trade practice or any false or misleading advertisement, by any person, which is prejudicial to the public interest or to the interests of consumers and if it is satisfied that there exists a prima facie case, it shall cause investigation to be made by the Director General or by the District Collector. 2) If after preliminary inquiry the Central Authority is of the opinion that the matter is to be dealt with by a Regulator established under any other law for the time being in force, it may refer such matter to the concerned Regulator along with its report. |
| <p>Power of Central Authority to recall goods – Section 20</p> | <p>If Central Authority is satisfied on the basis of investigation that there is sufficient evidence to show violation of consumer rights or unfair trade practice by a person then it may pass following orders –</p> <ul style="list-style-type: none"> - recalling of goods or withdrawal of services which are dangerous, hazardous or unsafe; - reimbursement of the prices of goods or services so recalled to purchasers of such goods or services; and - Discontinuation of practices which are unfair and prejudicial to consumers' interest. <p>Note – Central Authority shall give the person an opportunity of being heard before passing an order under this section.</p> |
| <p>Power of Central Authority to issue directions and penalties against false or misleading advertisements – Section 21</p> | <ol style="list-style-type: none"> 1) If the Central Authority is satisfied after investigation that any advertisement is false or misleading and is prejudicial to the interest of any consumer or is in contravention of consumer rights, it may order to discontinue such advertisement or to modify the same 2) If the Central Authority is of the opinion that it is necessary to impose a penalty in respect of such false or misleading advertisement, by a manufacturer or an endorser, it may, by order, impose on manufacturer or endorser a penalty which may extend to 10 lakh rupees 3) The Central Authority may, for every subsequent contravention by a manufacturer or endorser, impose a penalty, which may extend to 50 lakh rupees. 4) Where the Central Authority deems it necessary, it may, by order, prohibit the endorser of a false or misleading advertisement from making endorsement of any product or service for a period which may extend to 1 year. 5) Central Authority may, for every subsequent contravention, prohibit such endorser from making endorsement in respect of any product or service for a period which may extend to 3 years. |

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| | <p>6) Where the Central Authority is satisfied after investigation that any person is found to publish, or is a party to the publication of, a misleading advertisement, it may impose on such person a penalty which may extend to 10 lakh rupees.</p> <p>Note –</p> <ul style="list-style-type: none"> • No endorser shall be liable to a penalty, if he has exercised due diligence to verify the validity of the claims made in the advertisement regarding the product or service being endorsed by him. • No person shall be liable to such penalty if he proves that he had published or arranged for the publication of such advertisement in the ordinary course of his business: Provided that no such defence shall be available to such person if he had previous knowledge of the order passed by the Central Authority for withdrawal or modification of such advertisement. <p>➤ While determining the penalty, Central Authority will consider following factors –</p> <ul style="list-style-type: none"> • the population and the area impacted or affected by such offence; • the frequency and duration of such offence; • the vulnerability of the class of persons likely to be adversely affected by such offence; and • the gross revenue from the sales effected by virtue of such offence. |
| <p>Search and seizure – Section 22</p> | <p>After preliminary inquiry, DG or District collector has reason to believe that any person has violated any consumer rights or committed unfair trade practice or causes any false or misleading advertisement to be made then it shall –</p> <ul style="list-style-type: none"> ✓ enter into any such premises and search for any document or record or article or any other form of evidence and seize such document, record, article or such evidence ✓ make a note or an inventory of such record or article; or ✓ require any person to produce any record, register or other document or article. <p>Maximum Period of seizure = 20 days</p> <p>Note –</p> <ol style="list-style-type: none"> 1) Where any article seized are subject to speedy or natural decay, the Director General or such other officer may dispose of the article in such manner as may be prescribed 2) If the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, obtain a sample of the goods from the complainant, seal it and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory to 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 from any other defect and to report its findings thereon to the District |

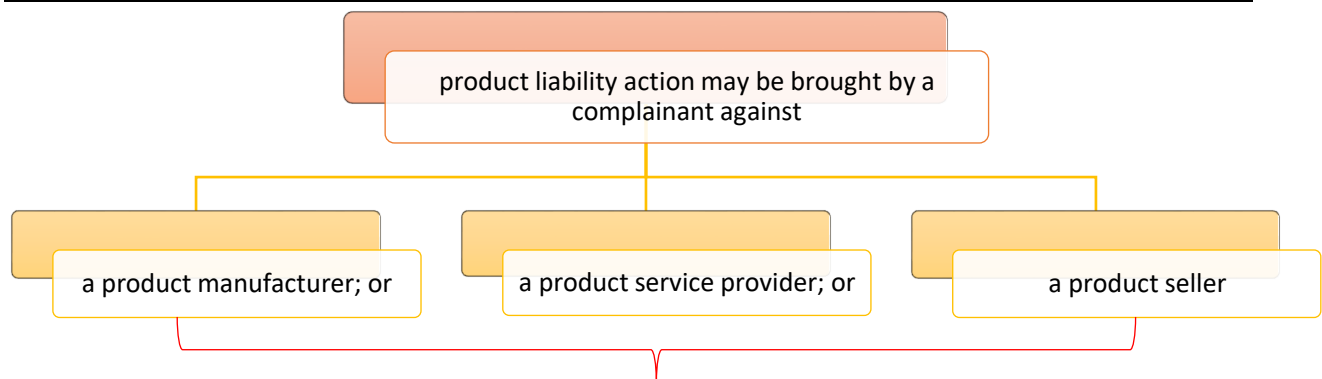
| | Commission within a period of 45 days or within such extended period as may be granted by it |
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| Vexatious Search – | The Director General or any other officer who knows that there are no reasonable grounds for so doing, and yet– a) searches, or causes to be searched any premises; or b) seizes any record, register or other document or article, shall, for every such offence, be punished with imprisonment for a term which may extend to 1 year , or with fine which may extend to 10,000 rupees or with both. |
| Appeal – Section 24 | A person aggrieved by any order passed by the Central Authority under sections 20 and 21 may file an appeal to the National Commission within a period of 30 days from the date of receipt of such order. |

Product Liability –

What is product liability?

Product liability is the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services.

Against whom product liability action can be taken? – Section 83



Reason for bringing product liability action –
 Action may be brought for any harm caused to him on account of a defective product.

Liability of Product Manufacturer – Section 84

product manufacturer shall be liable in a product liability action, if –



- the product contains a manufacturing defect; or
- the product is defective in design; or
- there is a deviation from manufacturing specifications; or
- the product does not conform to the express warranty; or
- the product fails to contain adequate instructions of correct usage to prevent any harm or any warning regarding improper or incorrect usage.



A product manufacturer shall be liable in a product liability action even if he proves that he was not negligent or fraudulent in making the express warranty of a product.

Liability of Product Service Provider – Section 85

Service provider shall be liable in a product liability action, if –

- the service provided by him was faulty or imperfect or deficient or inadequate in quality, nature or manner of performance which is required to be provided by or under any law for the time being in force, or pursuant to any contract or otherwise; or
- there was an act of omission or commission or negligence or conscious withholding any information which caused harm; or
- the service provider did not issue adequate instructions or warnings to prevent any harm; or
- the service did not conform to express warranty or the terms and conditions of the contract.

Liability of Product Sellers – Section 86

product seller who is not a product manufacturer shall be liable in a product liability action, if –

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

Exceptions to Product Liability Action – Section 87

- 1) A product liability action cannot be brought against the product seller if, at the time of harm, the product was misused, altered, or modified.
- 2) In any product liability action based on the failure to provide adequate warnings or instructions, the product manufacturer shall not be liable, if –
 - a) the product was purchased by an employer for use at the workplace and the product manufacturer had provided warnings or instructions to such employer;
 - b) the product was sold as a component or material to be used in another product and necessary warnings or instructions were given by the product manufacturer to the purchaser of such component or material, but the harm was caused to the complainant by use of the end product in which such component or material was used;
 - c) the product was one which was legally meant to be used or dispensed only by or under the supervision of an expert or a class of experts and the product manufacturer had employed reasonable means to give the warnings or instructions for usage of such product to such expert or class of experts; or
 - d) the complainant, while using such product, was under the influence of alcohol or any prescription drug which had not been prescribed by a medical practitioner.

Note –

A product manufacturer shall not be liable for failure to instruct or warn about a danger which is obvious or commonly known to the user or consumer of such product or which, such user or consumer, ought to have known, taking into account the characteristics of such product.

Mediation –

Establishment of Consumer Mediation Cell – Section 74

- 1) **About Consumer Mediation Cell –**

- a) Section 74 empowers the State Government to establish a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of that State.
- b) Central Government also empowers to establish a consumer mediation cell to be attached to the National Commission and each of the regional Benches.

2) Every consumer mediation cell shall maintain –

- a) a list of empanelled mediators;
- b) a list of cases handled by the cell;
- c) record of proceeding; and
- d) any other information as may be specified by regulations.

3) Every consumer mediation cell shall submit a quarterly report to the District Commission, State Commission or the National Commission to which it is attached.

Empanelment of Mediators – Section 75

- 1) For the purpose of mediation, the National Commission or the State Commission or the District Commission, as the case may be, shall prepare a panel of the mediators to be maintained by the consumer mediation cell attached to it, on the recommendation of a selection committee.
- 2) Selection Committee consists of the President and a member of that Commission.
- 3) The panel of mediators shall be valid for a **period of 5 years**, and the empanelled mediators shall be eligible to be considered for re-empanelment for another term.

Note –

The qualifications and experience required for empanelment as mediator, the procedure for empanelment, the manner of training empanelled mediators, the fee payable to empanelled mediator, the terms and conditions for empanelment, the code of conduct for empanelled mediators, the grounds on which, and the manner in which, empanelled mediators shall be removed or empanelment shall be cancelled and other matters relating thereto, shall be such as may be specified by regulations.

Duty of Mediator to Disclose Certain Fact – Section 77

It shall be the duty of the mediator to disclose –

- any personal, professional or financial interest in the outcome of the consumer dispute;
- the circumstances which may give rise to a justifiable doubt as to his independence or impartiality; and
- such other facts as may be specified by regulations.

Replacement of Mediator in Certain Cases – Section 78

Where the District Commission or the State Commission or the National Commission, as the case may be, is satisfied, on the information furnished by the mediator or on the information received from any other person including parties to the complaint and after hearing the mediator, it shall replace such mediator by another mediator.

Procedure for Mediation – Section 79

- 1) Mediation shall be held in the consumer mediation cell attached to the District Commission, the State Commission or the National Commission.
- 2) Where a consumer dispute is referred for mediation by the District Commission or the State Commission or the National Commission, as the case may be, the mediator nominated by such

Commission shall have regard to the rights and obligations of the parties, the usages of trade, if any, the circumstances giving rise to the consumer dispute and such other relevant factors, as he may deem necessary and shall be guided by the principles of natural justice while carrying out mediation.

- 3) The mediator so nominated shall conduct mediation within such time and in such manner as may be specified by regulations.

Settlement through Mediation – Section 80

- 1) Pursuant to mediation, if an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the terms of such agreement shall be recorded in writing, and signed by the parties to such dispute or their authorised representatives.
- 2) Mediator shall prepare a settlement report of the settlement and forward the signed agreement along with such report to the concerned Commission.
- 3) Where no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to the concerned Commission.

Recording Settlement and Passing of Order – Section 81

- The District Commission or the State Commission or the National Commission, as the case may be, shall, within seven days of the receipt of the settlement report, pass suitable order recording such settlement of consumer dispute and dispose of the matter.
- Where the consumer dispute is settled only in part, the District Commission or the State Commission or the National Commission, as the case may be, shall record settlement of the issues which have been so settled and continue to hear other issues involved in such consumer dispute.
- Where the consumer dispute could not be settled by mediation, the District Commission or the State Commission or the National Commission, as the case may be, shall continue to hear all the issues involved in such consumer dispute.

District Consumer Disputes Redressal Commission –

| Topic | Explanation |
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| Establishment of District Commission – Section 28 | <ul style="list-style-type: none"> • SG has the power to establish a District Consumer Disputes Redressal Commission, to be known as the District Commission, in each district of the State. • State Government may also establish more than one District Commission in a district. |
| Composition of District Commission – | Each District Commission shall consist of– <ol style="list-style-type: none"> a) a President; and b) not less than two and not more than such number of members as may be prescribed, in consultation with the Central Government. |
| Qualifications of President and members of District Commission | The Central Government may, by notification, make rules to provide for the – <ol style="list-style-type: none"> a) qualifications, b) method of recruitment, c) procedure for appointment, d) term of office, |

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| | <p>e) resignation and removal of the President and members of the District Commission.</p> |
| <p>Jurisdiction of District Commission (Cases to be handled by District Commission) – Section 34</p> | <p>District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed 1 crore rupees.</p> <p><u>District commission where case to be filed –</u></p> <p>A complaint shall be instituted in a District Commission within the local limits of whose jurisdiction –</p> <ul style="list-style-type: none"> • <u>the opposite party or each of the opposite parties, where there are more than one,</u> at the time of the institution of the complaint, <ul style="list-style-type: none"> a) ordinarily resides or b) carries on business or c) has a branch office or d) personally works for gain; or • <u>any of the opposite parties, where there are more than one,</u> at the time of the institution of the complaint, <ul style="list-style-type: none"> a) actually, and voluntarily resides, or b) carries on business or c) has a branch office, or d) personally works for gain, <p>provided that in such case the permission of the District Commission is given; or</p> • <u>the cause of action, wholly or in part, arises; or</u> • <u>the complainant resides or personally works for gain.</u> |
| <p>Who may file complaint? – Section 35</p> | <ol style="list-style-type: none"> 1) <u>Consumer –</u> <ul style="list-style-type: none"> a) to whom such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided; or b) who alleges unfair trade practice in respect of such goods or service; 2) <u>More than 1 consumer –</u> More than 1 consumer where there are numerous consumers having the same interest, with the permission of the District Commission on behalf of all the consumers 3) <u>Consumer Association –</u> Any recognised consumer association, whether the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service is provided or agreed to be provided, or who alleges unfair trade practice in respect of such goods or service, is a member of such association or not; 4) <u>The Central Government, the Central Authority or the State Government, as the case may be.</u> <p><u>Note –</u> Complaint may be filed electronically in prescribed manner.</p> |
| <p>Proceedings before District Commission – Section 36</p> | <ol style="list-style-type: none"> A) <u>Who shall conduct Proceedings –</u> <ul style="list-style-type: none"> a) Every proceeding before the District Commission shall be conducted by the President of that Commission and at least one member, sitting together. b) Where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member. |

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| | <p>B) <u>Power of DC –</u></p> <ol style="list-style-type: none"> a) On receipt of a complaint, the District Commission may admit the complaint for being proceeded with or reject the same. b) A complaint shall not be rejected unless an opportunity of being heard has been given to the complainant. <p>C) <u>Period within which complaint shall be accepted –</u></p> <ol style="list-style-type: none"> a) Complaint shall be accepted within 21 days from the date on which the complaint was filed. b) Where the District Commission does not decide the issue of admissibility of the complaint within 21 days, it shall be deemed to have been admitted. |
| <p>Reference to mediation – Section 37</p> | <ul style="list-style-type: none"> • At the first hearing of the complaint after its admission, or at any later stage, if it appears to the District Commission that there exists elements of a settlement which may be acceptable to the parties then it may direct the parties to give in writing, within 5 days, consent to have their dispute settled by mediation. • Where the parties agree for settlement by mediation and give their consent in writing, the District Commission shall, within 5 days of receipt of such consent, refer the matter for mediation |
| <p>Procedure on admission of complaint – Section 38</p> | <p>A) <u>When DC will proceed with the complaint?</u></p> <ol style="list-style-type: none"> a) On admission of complaint; or b) If case was referred to mediation then on failure of settlement through mediation. <p>B) <u>Procedure to be followed when complaint relates to any goods –</u></p> <ol style="list-style-type: none"> 1) Send a copy of complaint to the opposite party within 21 days of admission. 2) Direct the opposite party to give his version of the case within a period of 30 days or such extended period not exceeding 15 days 3) if the opposite party on receipt of a complaint – <ol style="list-style-type: none"> a) denies or disputes the allegations contained in the complaint, or b) omits or fails to take any action to represent his case within the time given by the District Commission, <p>DC will then proceed to settle the consumer dispute in the following manner – if the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, obtain a sample of the goods from the complainant, seal it and authenticate it and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory to 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 from any other defect and to report its findings thereon to the District Commission within a period of 45 days of the receipt of the reference or within such extended period as may be granted by it;</p> 4) Before any sample of the goods is referred to any appropriate laboratory, DC will require the party to deposit with the commission such 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. 5) DC will then remit the amount to the appropriate laboratory to enable it to carry out the analysis or test and on receipt of the report from the appropriate |

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| | <p>laboratory, it shall forward a copy of the report along with such remarks as it may feel appropriate to the opposite party;</p> <p>6) if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, then DC will direct the opposite party or the complainant to submit in writing his objections with regard to the report made by the appropriate laboratory;</p> <p>7) DC will give both the parties an opportunity of being heard.</p> <p>C) Procedure to be followed when complaint relates to any services or where complaint relates to goods but procedure under point B cannot be followed –</p> <p>1) Direct the opposite party to give his version of the case within a period of 30 days or such extended period not exceeding 15 days.</p> <p>2) if the opposite party on receipt of a complaint –</p> <p>a) denies or disputes the allegations contained in the complaint, or</p> <p>b) omits or fails to take any action to represent his case within the time given by the District Commission,</p> <p>DC will then proceed to settle the consumer dispute in the following manner –</p> <p>a) if the opposite party denies or disputes the allegations contained in the complaint – on the basis of evidence brought to its notice by the complainant and the opposite party, or</p> <p>b) where the opposite party omits or fails to take any action to represent his case within the time given by the Commission – ex parte on the basis of evidence brought to its notice by the complainant.</p> <p>3) Decide the complaint on merits if the complainant fails to appear on the date of hearing</p> <p>D) Other Important Points –</p> <p>a) Proceedings conducted according to points B and C mentioned above shall not be called in question in any court on the ground that the principles of natural justice have not been complied with.</p> <p>b) Every complaint shall be heard by the District Commission on the basis of affidavit and documentary evidence placed on record.</p> <p>c) where an application is made for hearing or for examination of parties in person or through video conferencing then DC may allow it on sufficient cause being shown and after recording its reasons in writing.</p> <p>d) DC has the power to pass interim orders during the pendency of the complaint.</p> <p>E) Time within which proceedings shall be completed –</p> <p>a) where the complaint does not require analysis or testing of commodities – within a period of 3 months from the date of receipt of notice by opposite party</p> <p>b) if the complaint requires analysis or testing of commodities – within five months of receipt of notice by opposite party</p> |
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| | <p>c) no adjournment shall ordinarily be granted by the District Commission unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Commission</p> <p>d) if DC resolves the complaint after the maximum time allowed then it shall record the reasons in writing for the delay.</p> <p>F) Powers of DC – District Commission shall have 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 following matters –</p> <p>(a) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;</p> <p>(b) requiring the discovery and production of any document or other material object as evidence;</p> <p>(c) receiving of evidence on affidavits;</p> <p>(d) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;</p> <p>(e) issuing of commissions for the examination of any witness, or document; and</p> <p>(f) any other matter which may be prescribed by the Central Government.</p> <p>Note – Every proceeding before the District Commission shall be deemed to be a judicial proceeding</p> |
| <p>Findings of District Commission – Section 39</p> | <p>Where the District Commission is satisfied that –</p> <ul style="list-style-type: none"> • the goods complained against suffer from any of the defects specified in the complaint; or • that any of the allegations contained in the complaint about the services or any unfair trade practices is correct; or • claims for compensation under product liability are proved <p>Then it shall issue an order to the opposite party directing him to do one or more of the following –</p> <p>a) to remove the defect pointed out by the appropriate laboratory from the goods in question;</p> <p>b) to replace the goods with new goods of similar description which shall be free from any defect;</p> <p>c) to return to the complainant the price or the charges paid by the complainant along with such interest on such price or charges as may be decided;</p> <p>d) to remove the defects in goods or deficiencies in the services in question;</p> <p>e) to discontinue the unfair trade practice or restrictive trade practice and not to repeat them;</p> <p>f) not to offer the hazardous or unsafe goods for sale;</p> <p>g) to withdraw the hazardous goods from being offered for sale;</p> <p>h) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;</p> <p>i) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party</p> |

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| | <p>j) to pay such amount as may be awarded by it as compensation in a product liability action</p> <p>k) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently. it may be noted that the minimum amount of sum so payable shall not be less than 25% of the value of such defective goods sold or service provided, as the case may be, to such consumers;</p> <p>l) to issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;</p> <p>m) to provide for adequate costs to parties; and</p> <p>n) to cease and desist from issuing any misleading advertisement.</p> <p>Note –</p> <ul style="list-style-type: none"> • If there is difference in opinions of president and a member then they shall state the point or points on which they differ and refer the same to another member for hearing on such point or points and the opinion of the majority shall be the order of the District Commission. • The other member shall give his opinion on such point or points referred to him within a period of one month from the date of such reference. • Every order made by the District Commission shall be signed by the President and the member who conducted the proceeding. |
| Review by District Commission in Certain Case – Section 40 | DC has the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within 30 days of such order |
| Appeal against order of District Commission – Section 41 | <p>1) Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission within a period of 45 days.</p> <p>2) State Commission may entertain an appeal after the expiry of the said period of forty-five days, if it is satisfied that there was sufficient cause for not filing it within that period</p> <p>Conditions for appeal before State Commission (SC) –</p> <p>1) For making appeal to SC, person who is required to pay any amount in terms of an order of the District Commission shall first deposit 50% of the amount in the manner as may be prescribed</p> <p>2) Appeal cannot be made if the parties have already agreed for settlement through mediation.</p> |

State Consumer Disputes Redressal Commission –

| Topic | Explanation |
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| Establishment of State Commission – Section 42 | SG has the power to establish a State Consumer Disputes Redressal Commission, to be known as the State Commission, in the State |
| Composition of SC – | Each State Commission shall consist of – a) a President; and |

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| | <p>b) not less than 4 or not more than such number of members as may be prescribed in consultation with the Central Government.</p> |
| <p>Qualifications, etc., of President and members of State Commission</p> | <p>The Central Government may, by notification, make rules to provide for the –</p> <ol style="list-style-type: none"> qualifications, method of recruitment, procedure for appointment, term of office, resignation and removal <p>of the President and members of the State Commission.</p> |
| <p>Jurisdiction of State Commission – Section 47</p> | <p>State Commission shall have jurisdiction to entertain complaints –</p> <ol style="list-style-type: none"> where the value of the goods or services paid as consideration exceeds rupees 1 crore but does not exceed 10 crore rupees. complaints against unfair contracts, where the value of goods or services paid as consideration does not exceed ten crore rupees; appeals against the orders of any District Commission within the State; and <p><u>Note –</u></p> <ul style="list-style-type: none"> SC shall also has the power to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the State where it appears to the State Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity. jurisdiction, powers and authority of the State Commission may be exercised by Benches constituted by the President with one or more members as the President may deem fit. |
| <p>Jurisdiction where case should be filed –</p> | <p><u>State commission where case to be filed –</u></p> <p>A complaint shall be instituted in a District Commission within the local limits of whose jurisdiction –</p> <ul style="list-style-type: none"> <u>the opposite party or each of the opposite parties, where there are more than one,</u> at the time of the institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain; or <u>any of the opposite parties, where there are more than one,</u> at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office, or personally works for gain, provided that in such case the permission of the State Commission is given; or <u>the cause of action, wholly or in part, arises; or</u> <u>the complainant resides or personally works for gain.</u> |
| <p>Procedure applicable to State Commission – Section 49</p> | <ol style="list-style-type: none"> Provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be necessary, be applicable to the disposal of complaints by the State Commission The State Commission may also declare any terms of contract, which is unfair to any consumer, to be null and void. |
| <p>Review by State Commission in Certain Case – Section 50</p> | <p>SC has the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.</p> |

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| Appeal to National Commission – Section 51 | <p>1) Any person aggrieved by an order made by the State Commission may prefer an appeal against such order to the National Commission within a period of 30 days.</p> <p>2) National Commission may entertain an appeal after the expiry of the said period of 30 days, if it is satisfied that there was sufficient cause for not filing it within that period</p> <p>Conditions for appeal before State Commission (SC) –</p> <ul style="list-style-type: none"> • For making appeal to NC, person who is required to pay any amount in terms of an order of the State Commission shall first deposit 50% of the amount in the manner as may be prescribed • Appeal cannot be made if the parties have already agreed for settlement through mediation. • An appeal shall lie to the National Commission from any order passed in appeal by any State Commission, if the National Commission is satisfied that the case involves a substantial question of law. • An appeal may lie to the National Commission from an order passed ex parte by the State Commission. |
| Hearing of appeal by State Commission or National Commission – Section 52 | <ul style="list-style-type: none"> ✓ An appeal filed before the State Commission or the National Commission shall be heard and disposed within a period of 90 days from the date of its admission. ✓ Adjournment shall not ordinarily be granted by the State Commission or the National Commission unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Commission. ✓ In the event of an appeal being disposed of after the period so specified, the State Commission or the National Commission, shall record in writing the reasons for the same at the time of disposing of the said appeal |

National Consumer Disputes Redressal Commission –

| Topic | Explanation |
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| Establishment of National Commission – Section 53 | CG has the power to establish National Consumer Disputes Redressal Commission, to be known as the National Commission. |
| Composition of NC – Section 54 | National Commission shall consist of– <ol style="list-style-type: none"> a) a President; and b) not less than 4 and not more than such number of members as may be prescribed. |
| Qualifications, etc., of President and members of National Commission – Section 55 | The Central Government may, by notification, make rules to provide for the – <ol style="list-style-type: none"> a) qualifications, b) method of recruitment, c) procedure for appointment, d) term of office, e) resignation and removal of the President and members of the National Commission. <p>Tenure of office –</p> <ol style="list-style-type: none"> a) President and members of the National Commission shall hold office for a maximum period of 5 years and shall be eligible for reappointment. |

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| | <p>b) President or members shall not hold office as such after he has attained such age as specified in the rules made by the Central Government which shall not exceed –</p> <ol style="list-style-type: none"> 1) in the case of the President, the age of 70; 2) in the case of any other member, the age of 67 years |
| <p>Jurisdiction of National Commission – Section 58</p> | <p>National Commission shall have jurisdiction to entertain complaints –</p> <ol style="list-style-type: none"> 1) where the value of the goods or services paid as consideration exceed 10 crore rupees. 2) complaints against unfair contracts, where the value of goods or services paid as consideration exceeds ten crore rupees; 3) appeals against the orders of any state commission; and 4) Appeals against the orders of the Central Authority <p>Note –</p> <ul style="list-style-type: none"> • NC shall also has the power to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity. • Jurisdiction, powers and authority of the National Commission may be exercised by Benches constituted by the President with one or more members as the President may deem fit. |
| <p>Procedure Applicable to National Commission – Section 59</p> | <ol style="list-style-type: none"> 1) Provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be considered necessary, be applicable to the disposal of complaints by the National Commission. 2) National Commission may also declare any terms of contract, which is unfair to any consumer to be null and void. |
| <p>Review by National Commission in Certain Cases – Section 60</p> | <p>NC has the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order</p> |
| <p>Power to set aside ex parte Orders –</p> | <p>Where an order is passed by the National Commission ex parte, the aggrieved party may make an application to the Commission for setting aside such order.</p> |
| <p>Appeal against Order of National Commission – Section 67</p> | <ol style="list-style-type: none"> 1) Any person, aggrieved by an order made by the National Commission may prefer an appeal against such order to the Supreme Court within a period of 30 days from the date of the order. 2) Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period. 3) No appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited 50% of that amount in the manner as may be prescribed. |

Miscellaneous –

Experts to Assist National Commission or State Commission – Section 66

Where the National Commission or the State Commission, on an application by a complainant or otherwise, is of the opinion that it involves the larger interest of consumers, it may direct any individual or organisation or expert to assist the National Commission or the State Commission.

Limitation Period – Section 69

- ✓ District Commission, 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, complaint may be entertained if there was sufficient cause.

Enforcement of Orders of District Commission, State Commission and National Commission – Section 71

Every order made by a District Commission, State Commission or the National Commission shall be enforced by it in the same manner as if it were a decree made by a Court in a suit before it.

Penalty for Noncompliance of Order – Section 72

Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission, shall be punishable with imprisonment for a term which shall not be less than 1 month, but which may extend to 3 years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both.

Appeal against Order Passed under Section 72 – Section 73

- 1) An appeal shall lie, both on facts and on law from–
 - (a) the order made by the District Commission to the State Commission;
 - (b) the order made by the State Commission to the National Commission; and
 - (c) the order made by the National Commission to the Supreme Court.
- 2) Every appeal shall be preferred within a period of 30 days from the date of order of a District Commission or a State Commission or the National Commission, as the case may be.
- 3) Appeal may be entertained even after expiry of 30 days if there is sufficient cause.
- 4) Appeal shall not lie before any court, from any order of a District Commission or a State Commission or the National Commission.