CHAPTER ONE
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1.1 Introductory

Protection of consumers’ interests has been one of the priorities of the national as well as of state governments in India. Notwithstanding the fact that India had some of the very well drafted pieces of legislation relating to consumer protection on the statute book in the pre-independence era,\(^1\) the *Sale of Goods Act, 1930*\(^2\) being one of those, a galaxy of laws have also been enacted in the post-independence era. The enactment of these pieces of legislations clearly brings home the point that protection of overall consumers’ interests and providing them safety and information in the marketplace has primarily been the sole aim and object of all these pieces of legislation. The point as to whether these legislations have been successful in their object or not, is also a topic of detailed discussion and debate.

In the post-independence era in particular, that is, from 1948 to 1986, consumers in India have certainly been the beneficiaries of some of the most articulate and effective pieces of legislation. Prominent among these legislations are: The *Drugs Control Act, 1950*\(^3\); the

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\(^1\) Prominent among these were: The *Indian Penal Code, 1860*; the *Indian Contract Act, 1872*; the *Sale of Goods Act, 1930*; the *Agriculture Produce (Grading and Marketing) Act, 1937*; and the *Drugs and Cosmetics Act, 1940*.

\(^2\) Act No. 3 of 1930. This Act was enacted “to define and amend the law relating to the sale of goods”. It came into force on 15th March 1930. As a matter of fact, substantive consumer rights pertaining to goods and services are contained in the *Sale of Goods Act, 1930* and the *Indian Contract Act, 1872*. The *Sale of Goods Act, 1930*, in particular, contains the principles developed by the British Courts with the modifications here and there “to suit the Indian conditions” to regulate the sales in the marketplace.

\(^3\) Act No. 26 of 1950. The Act was enacted “to provide for the control of the sale, supply and distribution of drugs”. It came into force on 07th April 1950.
Industries (Development and Regulation) Act, 1951⁴; the Indian Standards Institution (Certification Marks) Act, 1952⁵; the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954⁶; the Prevention of Food Adulteration Act, 1954⁷; the Essential

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⁴ Act No. 65 of 1951. This Act was enacted “to provide for the development and regulation of certain industries”. It came into force on 31st October 1951. The Industries (Development and Regulation) Act, 1951 provides a legal framework within which policies and procedures are to be worked out for the utilisation of the limited resources of the country and foreign exchange available, for maximum industrialisation. This Act with its registration and licencing provisions and provisions empowering the Central Government to make investigations, to give direction, to assume management and control of business and to control the distribution, supply and prices of their products serves consumer interest to a great extent.

⁵ Act No. 13 of 1952. From the point of view of administrative protection, the Indian Standards Institution has been rendering remarkable service ever since its establishment. It provides the standardisation and marking of goods which is a pre-requisite for establishment of a healthy trade and to compare favourably with the established makes of foreign products. This Act has been amended from time to time to make more effective provisions in order to achieve its objectives. The ISI prescribes specification for most of the commodities and manufactured articles which figured in India’s export trade with foreign countries and also in the home markets.

⁶ Act No. 21 of 1954. This Act was enacted “to control the advertisement of drugs in certain cases, to prohibit the advertisement for certain purposes of remedies alleged to possess magic qualities and to provide for matters connected therewith”. It came into force on 30th April 1954. As mentioned above, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 seeks to control the advertisements of drugs for certain purposes of remedies alleged to possess magic qualities. The Act prohibits advertisement of only certain drugs for treatment of certain diseases and disorders and puts bans on misleading advertisement relating to drugs, magic remedies for treatment and regulation of certain advertisements of Indian imports and exports. The Act prohibits only those advertisements and the advertisements of only those drugs whose magically curative properties were intended to influence the organic function of the human body.

⁷ Act No. 37 of 1954. This Act was enacted “to make provision for the prevention of adulteration of food”. It came into force on 29th September 1954. As mentioned above, the Prevention of Food Adulteration Act, 1954 was enacted by the Parliament with the sole aim of preventing of food adulteration hazardous to human life and health. On the basis of the recommendations of a Committee appointed by the Central Advisory Board of Health, a Bill was introduced in Parliament which culminated into the Prevention of Food Adulteration Act, 1954. The primary objective of the law, as pointed out by the Supreme Court of India is “to prevent, in the interest of the health of the community, the supply of adulterated food stuffs by a person as a part of his business activity.” It is a highly technical and complex piece of legislation. The Rules framed under the Act deal with diverse matters ranging from fixing standards of quality of numerous articles of food, qualifications of public analysts and food inspectors, collection, fastening of despatch of samples, use of preservatives and flavouring agents,
Commodities Act, 1955\(^8\); the Trade and Merchandise Marks Act, 1958\(^9\); the Essential Services Maintenance Act, 1968\(^{10}\); the Monopolies and Restrictive Trade Practices Act, 1969\(^{11}\); the Maintenance of Internal Security Act, 1971\(^{12}\); the Hire Purchase Act, 1972\(^{13}\); the licencing procedures for packing and labelling of foods. In order to curb the increasing tendencies of adulteration and to make the machinery provided under it more effective, this Act was amended many times. The Act has laid emphasis on the supply of articles of food and drink which are fit for human consumption by prohibiting the manufacture for sale or store, to sell or distribute any adulterated food, misbranded food which is prohibited for sale by health authorities to prevent the spread of diseases etc. All the measures provided in the original Act of 1955 and the subsequent amendments are designed for the prevention of adulteration in food to ensure safety and health to the consuming public at large. Deterrent punishment to the extent of life imprisonment have been provided for the habitual food adulterators, if the product when consumed by any person is likely to cause death or grievous hurt. A provision for summary trial for food adulteration has also been made. The offences under the Act can be tried only by metropolitan magistrates or judicial magistrates first class and serious offences have been made cognizable and non-bailable. Criminal liability has also been fixed on the officers of the company responsible for offences committed under the Act. Several amendments have been made in this law from time to time. However, there has been widespread criticism of the enforcement of this important law.

\(^8\) Act No. 10 of 1955. This Act was enacted “to provide, in the interests of the general public, for the control of the production, supply and distribution of, and trade and commerce, in certain commodities”. It came into force on 01th April 1955. Due to chronic shortage of certain necessities of life and their non-availability at the reasonable rates to all, it was found necessary to empower the government to control production, supply and distribution of essential commodities under the Essential Commodities Act, 1955. Thus the Essential Commodities Act is one of the significant pieces of legislation passed by the Government of India to deal effectively with the trading activities that are averse to the consumers. The very object of this Act as well as its predecessor enactment, namely, the Essential Supplies (Temporary Powers) Act are to check the inflationary trends in prices and to ensure equitable distribution of consumer commodities. For that purpose, wide powers were conferred on the government by this Act.

\(^9\) Act No. 43 of 1958. This Act was enacted “to provide for the registration and better protection of trademarks and for the prevention of the use of fraudulent marks on merchandise”. It came into force on 17th October 1958.

\(^{10}\) Act No. 59 of 1968. This Act was enacted “to provide for the maintenance of certain essential services and the normal life of the community”. It came into force on 28th December 1968.

\(^{11}\) Act No. 54 of 1969. This Act was enacted “to provide that the operation of the economic system does not result in the concentration of economic power to the common detriment, for the control of monopolies, for the prohibition of monopolistic and restrictive trade practices and for matters connected therewith or incident thereto”. It came into force on 27th December 1969. The enactment of the Monopolies and Restrictive Trade Practices Act, 1969 (now repealed) can be said to be the
beginning towards the consumer protection movement. As a result of the finding of the Mahalanobis Committee on Distribution of Incomes and Levels of Living in October 1960, it was revealed that there was concentration of economic power in the hands of the few, that is, a mere ten per cent controlled resources to the extent of 40 per cent. The Monopolies Inquiry Commission also found that nearly 75 big business houses had the assets that constituted about 47 per cent of the total assets of non-government companies. Accordingly, it was decided to regulate the monopolies. For this purpose, the British system obtaining at the relevant period became the model in the Monopolies and Restrictive Trade Practices Act, 1969. The Act came into force in June 1970. The Act dealt with three types of practices: (i) Monopolistic Trade Practices; (ii) Restrictive Trade Practices; and (iii) Unfair Trade Practices. The enforcement of the Act was attempted through the Central Government as well as through the Monopolies and Trade Practices Institution created under the statute. For the purposes of control of the big industrial houses, the MRTP Act, 1969 envisaged that their expansion schemes, establishment of new undertakings, mergers, amalgamations and takeovers were to be processed by the government and application for that purpose should be made to the government and if the government so desired, it could refer to the MRTP Commission any inquiry that had to be made before taking a decision on the application of those houses. For further details, see: D.N. Saraf, Law of Consumer Protection in India, N.M. Tripathi, Bombay, 1995, pp. 18-19.

Act No. 26 of 1971.

Act No. 26 of 1972. This was Act was enacted “to define and regulate the rights and duties of parties to hire purchase agreements and for matters connected therewith or incidental thereto”. It came into force on 08th June 1972. In order to prevent exploitation of consumers, there has been an urgent need of enacting legislation on the subject. The matter was considered by the Law Commission of India which made certain recommendations. It was on the basis of the recommendations of the Law Commission that the Hire Purchase Act, 1972 was passed by the Parliament. The Act became a highly controversial piece of legislation inasmuch as notification for its coming into force and withdrawal of these notifications has taken place twice. As the Act did not come into force, it was subsequently repealed by the Parliament on 23 June 2005 by way of passing of the Hire Purchase (Repeal) Act, 2005.

Act No. 49 of 1975. This Act was enacted “to provide for certain restrictions in relation to trade and commerce in, and production, supply and distribution of, cigarettes and for matters connected therewith or incidental thereto”. This Act came into force on 16th August 1975. As stated above, the Act regulates supply and distribution of cigarettes as well as simultaneously and sufficiently warns about the hazards of smoking.

Act No. 60 of 1976. This Act was enacted “to establish standards of weights and measures, to regulate inter-State trade or commerce in weights, measures and other goods which are sold or distributed by weight, measure or number, and to provide for matters connected therewith or incidental thereto”. It came into force on 08th April 1976.
Essential Commodities Act, 1980\(^{16}\); the Standard of Weights and Measures (Enforcement) Act, 1985\(^{17}\); the Narcotics Drugs and Psychotropic Substances Act, 1985\(^{18}\); the Bureau of Indian Standards Act, 1986\(^{19}\); and the Consumer Protection Act, 1986\(^{20}\) etc.

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16 Act No. 7 of 1980. This Act was enacted “to provide for Retention in certain cases for the purpose of black-marketing and maintenance of supplies of commodities essential to the community, and for matters connected therewith”. It came into force on 12th February 1980.

17 Act No. 54 of 1985. This Act was enacted “to provide for the enforcement of the standards of weights and measures established by or under the Standards of Weights and Measures Act, 1976, and for matters connected therewith or incidental thereto”. It came into force on 04th September 1985.

18 Act No. 61 of 1985. This Act was enacted “to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Convention on Narcotic Drugs and Psychotropic Substances and for matter connected therewith”. It came into force on 16th September 1985.

19 Act No. 63 of 1986. This Act was enacted “to provide for the establishment of a Bureau for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith or incidental thereto”. It came into force on 23rd December 1986.

20 Act No. 68 of 1986. This Act was enacted “to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumer disputes and for matters connected therewith”. It came into force on 24th December 1986. It may, however, be appropriate to mention here that the Consumer Protection Act, 1986 has been amended thrice, once each in the year 1991 [by the Consumer Protection (Amendment) Act, 1991], 1993 [by the Consumer Protection (Amendment) Act, 1993] and 2002 [by the Consumer Protection (Amendment) Act, 2002] and another amendment is also on the anvil as the Bill for amendment of this Act [The Consumer Protection (Amendment) Bill 2011] has already been introduced in the Lok Sabha.

21 It may be appropriate to mention here that except for the Monopolies and Restrictive Trade Practices (MRTP) Act, 1969 (now repealed), all other Acts, broadly speaking, were punitive as well as preventive in nature. A consumer could not seek remedy or redressal against the offending trader or the manufacturer and negligent as well as the careless providers of services. However, the MRTP Commission enabled the consumers to approach it in case of complaints. Notwithstanding a large number of laws to protect consumers, the latter did not have an effective mechanism or any other institutional arrangement for the speedy redressal of their grievances and also the lack of an effective popular movement isolated the consumer and his plight only increased. Seeing the pressure mounting from various consumer protection groups and the consumers themselves, the parliament in India enacted the Consumer Protection Act, 1986. For more details, see: S.S. Singh and Sapna Chadah, Consumer Education Monograph Series - I: Consumer Protection in India Some Reflections,
The story did not end here. Even after the enactment of the *Consumer Protection Act*, 1986, the Government of India did enact some equally effective and consumer friendly pieces of legislation, all unique and unequivocal in themselves. Prominent among these were the following few enactments: The *Protection of Human Rights Act*, 1993<sup>22</sup>; the *Telecom Regulatory Authority of India Act*, 1997<sup>23</sup>; the *Trade Marks*, 1999<sup>24</sup>; the *Information Technology Act*, 2000<sup>25</sup>; the *Competition Act*, 2002<sup>26</sup>; the *Electricity Act*, 2003<sup>27</sup>; the Right to

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<sup>22</sup> Act No. 10 of 1994. This Act was enacted “to provide for the Constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto”. It came into force on 08th January 1994.

<sup>23</sup> Act No. 24 of 1997. This Act was enacted “to provide for the establishment of the [Telecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal to regulate the telecommunication services, adjudicate disputes, dispose of appeals and to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector] and for matters connected therewith or incidental thereto”. It came into force on 28th March 1997.

<sup>24</sup> Act No. 47 of 1999. This Act was enacted “to amend and consolidate the law relating to trade marks, to provide for registration and better protection of trade marks for goods and services and for the prevention of the use of fraudulent marks”. It came into force on 30th December 1999.

<sup>25</sup> Act No. 21 of 2000. This Act was enacted “to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as “electronic commerce”, which involve the use of alternative to paper-based methods of communication and storage of communication, to facilitate electronic filing of the *Indian Evidence Act*, 1872, the *Banker’s Books Evidence Act*, 1891 and the *Reserve Bank of India Act*, 1934 and for matters connected therewith or incidental thereto”. It came into force on 09th June 2000.

<sup>26</sup> Act No. 12 of 2003. This Act was enacted “to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interest of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto”. It came into force on 13th January 2003.

<sup>27</sup> Act No. 36 of 2003. This Act was enacted “to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of
Information Act, 2005\textsuperscript{28}; the Food Safety and Standards Act, 2006\textsuperscript{29}; and the Legal Metrology Act, 2009\textsuperscript{30} etc.

Notwithstanding all these radical pieces of legislation on the statute book, the focus of the present study, however, is the Consumer Protection Act, 1986.

Talking more particularly about the Consumer Protection Act, 1986, it is one of the beneficent and benevolent pieces of socio-economic legislation ever passed by the Indian Parliament, the one that has nearly revolutionized the entire legal system in India, thereby leading to the emergence of new and an effective consumer protection movement in the country, a movement aimed at promoting and protecting consumer interests as well as empowering the consumers to fight against their exploitation in the market place at the hands of the unscrupulous and unethical traders as well as against the irresponsible service providers.

The Consumer Protection Act, 1986 is the product of immaculate blend of principles of several laws, mainly of the Indian Contract Act, 1872, the Sale of Goods Act, 1930 and the Law of Torts.\textsuperscript{31} It is indeed a unique and a highly progressive piece of social welfare legislation. As mentioned above, the provisions of the 1986 Act are intended to provide effective and efficient safeguards to the consumers against various types of exploitations and unfair dealings. Unlike most other laws that are basically punitive or are preventive in nature,

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Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto”. It came into existence on 26th May 2003.

28 Act No. 22 of 2005. This Act was enacted “to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto”. It came into force on 15th June 2005.

29 Act No. 34 of 2006. This Act was enacted “to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental to”. It came into force on 23rd August 2006.

30 Act No. 01 of 2010. This Act was enacted “to establish and enforce standards of weights and measures, regulate trade and commerce in weights, measures and other goods which are sold or distributed by weight, measure or number and for matters connected therewith and incidental thereto”. It came into force on 13th January 2010.

the provisions of the *Consumer Protection Act*, 1986 Act are compensatory in nature. According to some of the leading consumer protagonists, “it is a matter of great satisfaction that we can legitimately boast that we have now in our country, a statute which provides more effective protection to the consumers than any corresponding legislation in force in countries, which are considered to be much more advanced and industrialized.”

The emergence of the new consumer protection movement owes its origin primarily to the enactment and implementation of the *Consumer Protection Act*, 1986. The 1986 Act envisages a unique Three-Tier Quasi-Judicial Consumer Disputes Redressal Mechanism, with a District Consumer Disputes Redressal Forum (DCDRF) at the lowest level, a State Consumer Disputes Redressal Commission (SCDRC) at the middle level, and the National Consumer Disputes Redressal Commission (NCDRC) at the apex level. In addition to these Three-Tier Consumer Disputes Redressal Fora, there is also a provision for the establishment of the Consumer Protection Councils at the district, state and the national levels with the sole aim of protecting consumers’ interests in the market place. Thus this new law promotes as well as protects consumers’ interests in an effective manner.

It may be appropriate to mention here that ever since these Consumer Disputes Redressal Agencies started functioning under the *Consumer Protection Act*, 1986, they have been dispensing quick, time bound and inexpensive and effective consumer justice, something which was unheard of having ever been dispensed by the judiciary in India since the attainment of the independence. A large number of consumers having grievances against the traders, manufacturers, retailers and suppliers of defective goods as well as against the providers of deficient services have been approaching these unique Consumer Disputes Redressal Agencies for the redressal of their grievances. The decision-making by the Consumer Disputes Redressal Agencies have led to the development of a new wave of consumer protection in the country, the one which has never been witnessed in the past. In sum, the ‘Consumer Protection Movement’ has emerged as one of the modern social, yet highly effective, movements that India has witnessed in the recent past, the other two prominent movements being the ‘Human Rights Movement’ and the ‘Environment Protection Movement’.

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33 It is widely believed that the Human Rights Movement took off in our country on the enactment and implementation of the *Protection of Human Rights Act*, 1993 and with the establishment of the
In the year 1986, when the Consumer Protection Redressal Mechanism envisaged under the Consumer Protection Act was being established across the country, many doubts were raised as to whether these quasi-judicial forums would really be able to work in a legal system like ours that, according to a large number of judges, jurists and academics, is on the verge of collapse, due primarily to the mounting arrears and backlog of cases pending before the courts in India at various levels and that it requires complete revamping and overhauling. However, all these apprehensions seem to have proved untrue. Notwithstanding the fact that the Consumer Protection Act was passed in the year 1986 and that Consumer Disputes Redressal Agencies established under the Act started functioning actively in the year 1991 only and that, too, due to the active and timely intervention of the Supreme Court of India.\textsuperscript{35}

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\item National Human Rights Commission (NHRC) at the central level and the various State Human Rights Commissions (SHRCs) at the state level.
\item Although a large number of cases relating to the environmental violations had been filed before the Supreme Court of India under Article 32 of the Indian Constitution (and are even now being occasionally filed), the enactment of the Environment Protection Act, 1986, however, did certainly give the much needed fillip to the emerging environment protection movement in the country. Opinions, however, certainly differ on this point, the critics often citing the example of the Bhopal Tragedy, where neither the Supreme Court of India nor any other court could come to the rescue of the victims of this disaster (whom Hon’ble Mr. Justice V.R. Krishna Iyer, former Judge of the Supreme Court of India has named as Bhoposhima).
\item It may be appropriate to mention here that notwithstanding the enactment of the Consumer Protection Act, 1986, many states did not set up the redressal machinery envisaged under the statute for about one and half year. Ultimately in the year 1988, a Delhi based consumer organisation, namely, ‘Common Cause’ filed a writ petition in the Supreme Court of India under Article 32 of the Indian Constitution challenging the non-implementation of the Act by the various states in the country. The petitioner organisation contended that even after two and half years of the enactment of the 1986 Act, Consumer Disputes Redressal Agencies were set up only in 100 of the total 455 districts in India. The Hon’ble Supreme Court accordingly directed the then President of the National Consumer Disputes Redressal Commission Mr. Justice V. Balakrishna Eradi, to go round the country and inspect the establishment of the redressal mechanism in various states. After visiting the various parts of the country, Justice Balakrishna Eradi indicated severe deficiencies in this regard. Accordingly, the Hon’ble Supreme Court took serious notice of these deficiencies and accordingly directed the erring state governments to set up the requisite machinery within two months of its orders. After the passing of that order, many states established the District Consumer Disputes Fora and the State Consumer Disputes Redressal Commission respectively. However, the extent of compliance of the court order was still not so significant. Ultimately, in March 1992, the Hon’ble Supreme Court warned the state governments either to set up the Consumer Disputes Redressal Agencies as envisaged under the Consumer Protection Act, 1986 or to face contempt proceedings, to be initiated against them in the
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However, once they were in place, the legal system in India was rejuvenated and according to some scholars, it was completely revolutionized. These forums started dispensing quick and time-bound justice to the aggrieved consumers across the country. Once their grievances were quickly, timely, effectively and inexpensively redressed, irrespective of whether their grievances were against the sale of defective goods or were against the provision of deficient services or against the denial of the after sale services etc., more and more consumers started approaching these fora with their complaints. Among other things, one of the results of this new wave was the pronouncements of some of the landmark and path breaking judgments by the National Consumer Disputes Redressal Commission. The rest is the history.

As mentioned above, there is a provision in the Consumer Protection Act, 1986 for the establishment of Consumer Disputes Redressal Agencies at various levels and for establishment of the National Consumer Disputes Redressal Commission at the apex level. This was the institution that was established in the first instance by the Government of India. Once it was well in place, it never seems to have ever looked back. With some of the highly articulate, activist and far-sighted retired Hon’ble Supreme Court judges consecutively in the saddle, the National Consumer Disputes Redressal Commission has pronounced a large number of far reaching, landmark and path breaking judgements, thereby deciding some of

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the highly controversial issues like the applicability of the *Consumer Protection Act*, 1986 to various goods and to various services and in turn leading to the growth, development and ultimately to the consolidation of a new consumer protection movement in India that became enviable for most jurisdictions across the world, including the neighbouring ones. This is certainly a subject of a full-fledged and an intensive as well as an in-depth study.

A lot of issues of far reaching significance have come for adjudication before the National Consumer Disputes Redressal Commission during the course of its decision-making. It is heartening to state that the National Commission has made its presence felt on the scenario and has all through stood by consumers, thereby vindicating their interests from time to time. The moments of crisis did arise many a times whenever a controversial issue came up for adjudication before the apex Commission, be it the applicability of the *Consumer Protection Act*, 1986 to the educational services, or to the housing industry, or to the legal profession as well as to the medical profession. There is no denying the fact that the National Commission has handled all such situations in a mature and a sagacious manner and by way of pronouncing certain radical as well as thought-provoking judgments, it has brought these services within the ambit and jurisdiction of the *Consumer Protection Act*, 1986, leaving no scope for any of these services to claim any more immunity from their being governed by the provisions of the Act.

Notwithstanding the positive picture about the role and performance of the National Consumer Disputes Redressal Commission depicted and portrayed above, there is no denying the fact that many of the judgments pronounced by the National Commission have had also come in for sharp criticism. Besides, many of these were overruled by the Hon’ble Supreme Court of India also. However, that did not really deter the National Consumer Disputes Redressal Commission to pronounce a large number of consumer oriented decisions with much wider ramifications, that according to most consumer activists, are absolutely and timely required for the much needed boost and fillip to an emerging consumer protection movement in the country. And it is perhaps due to some of such path-breaking judgments pronounced by the apex Consumer Disputes Redressal Agency that it has made its presence felt in the Indian legal system in general and in the arena of consumer protection decision making in particular. As a result of what I have mentioned in the above paragraphs, the decision-making by the National Consumer Disputes Redressal Commission has become a subject matter for an intense debate, discussion, indepth study and an advanced level research.
1.2 Object and Purpose of the Study

The present study is aimed at analysing the role and performance of the National Consumer Disputes Redressal Commission in the growth and consolidation of the consumer protection movement in India. I have endeavoured to evaluate the performance of this apex consumer disputes redressal agency in the light of some of its prominent as well as the monumental decisions, the ones that have gone a long way in clarifying doubts and satisfying queries with regard to the applicability of the Consumer Protection Act, 1986 to various services, that is, educational services, housing industry, legal profession and medical profession as well as in highlighting the role of a national institution as a catalyst of change in a contemporary civil and a democratic society. It may be recalled here that whereas the applicability of the Consumer Protection Act, 1986 to various services had created a lot of confusion and controversy, doubts had also been expressed with regard to the efficacy and otherwise of such an institution.

After analysing the role of the National Consumer Disputes Redressal Commission, whereas on the one hand, I have suggested certain suitable modifications in the Consumer Protection Act, 1986, on the other hand, I have also suggested certain overall measures that need to be taken to strengthen the consumer protection movement in India. It may also be appropriate to mention here that the Consumer Protection Act, 1986 has already been amended thrice, once each in the years 1991, 1993 and in 2002 respectively. However, quite happily another amendment in the law is also on the anvil as the new Consumer Protection (Amendment) Bill, 2011 has already been introduced in the Lok Sabha on 16 December 2011. According to the Statement of Objects and Reasons for the introduction of the Amendment Bill of 2011, the aforesaid Bill has been introduced in the Parliament with a view “to widening and amplifying the scope of some of the provisions of the said Act, to facilitate faster disposal of cases and to rationalize the qualifications and procedure of selection of the Presidents and Members of the National Commission, State Commission and District Forum.” Accordingly, I have endeavoured to comment in the body of the present thesis, some of the provisions that have been incorporated in this Bill.

Notwithstanding the introduction of the Amendment Bill 2011, the present study also contains a few suggestions that have been advanced in order to recommend further amendment to the law. Each of the amendments have been suggested keeping in view the need for the

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37 Amendment Bill No. 27 of 2011. It was introduced on 16 December 2011.
Consumer Protection Act, 1986 to be more simple, non-technical, consumer-friendly and, above all, socially relevant. Further, I also deem it proper to mention here that a majority of the suggestions have been offered after analysing the prominent cases decided by the National Consumer Disputes Redressal Commission. Thus, a comprehensive as well as an indepth study of the decision making by the National Consumer Disputes Redressal Commission established under the Consumer Protection Act, 1986 was a virgin topic for study and research that has certainly enabled me to make a modest contribution to the existing knowledge on the subject.

1.3 Hypothesis for the Study and the Resultant Outcome

While undertaking the research of this magnitude, the researcher, in consultation with her learned supervisor, had formulated a workable and a well thought hypothesis that by virtue of its decision making, the National Consumer Disputes Redressal Commission had made a signal as well as unparallel contribution in the field of consumer protection. Many of its decisions, besides democratising consumer justice system to a considerable extent, had also given a face lift to the consumer protection law in India. The hypothesis was based on the argument that when the National Consumer Disputes Redressal Commission had started functioning, initially most services, that is, airlines, banking industry, educational services, electricity boards, housing boards, insurance industry, legal profession, medical profession, posts and telegraphy department, railways, roadways, or telecommunications etc.etc. had claimed complete immunity from their governance by the provisions of the Consumer Protection Act, 1986. However, by way of showing the far-sighted approach, the National Consumer Disputes Redressal Commission had declared that all these services were very much within the ambit of the Consumer Protection Act, 1986 thereby leaving hardly any scope for anyone of these services to claim any immunity from their governance by the provisions of the 1986 Act.

Thus, if one observes everything in totality, all these radical pronouncements by the National Consumer Disputes Redressal Commission have indeed proved to be the milestones on the road to development of the consumer protection law and policy in India. By way of studying each and every case, including the ones that were either upheld or were overruled by the Supreme Court of India for one reason or the other, one could conveniently demonstrate and portray the effective and activist role played by the National Consumer Disputes Redressal
Commission in the furtherance and consolidation of the new consumer protection movement in India.

However, as to what extent this had been possible could be mentioned and commented upon only on the basis of the thorough study and detailed analysis of almost each and every significant case decided by the National Consumer Disputes Redressal Commission and the repercussion of each of the cases decided by the apex consumer disputes redressal body on the newly emerging consumer protection jurisprudence in India.

1.4 Review of the Existing Literature

In order to carry out a meaningful research on any topic, a researcher has to review a mountain of literature (both published as well as unpublished). I am no exception. For the purposes of doing research on the topic chosen by me, I have consulted as well as referred to a large number of research writings by some of the eminent scholars, intellectuals, consumer activists and academics on the subject. Most of these have been duly acknowledged by me both in the foot notes as well as in the bibliography appended at the end of the dissertation. Without their scholarly and creative writings and contributions, I would not have been able to complete this work on time, and above all, with authenticity. I have certainly been immensely benefited by some of the writings because it was these writings that instilled in me the sense of inquisitiveness with which a student of law should really venture into the field of research. I have reviewed a few of these writings in the following paragraphs.

*Taxman’s Consumer Protection Law* is a comprehensive guide to the *Consumer Protection Act*, 1986. The book contains in it the commentary on the various provisions of the *Consumer Protection (Amendment) Act*, 2002. Besides, it also contains the *Consumer Protection Rules* (both the Central as well as the State Rules). One finds in the book, a comprehensive and practical analysis of the *Amendment Act* of 2002 as well as a comprehensive analysis of the various changes made in the *Consumer Protection Act*, 1986 by the *Consumer Protection (Amendment) Act*, 2002. The book consists of Three Divisions. In Division One, there are further eight sub-chapters consisting of the Introduction, Consumer Disputes, Complaint and Complainant, Deficiency in Service, Restrictive and Unfair Trade Practices, Redressal of Complaints - basic provisions relating to the Consumer Dispute Redressal Agencies, particularly the ones relating to the enforcement and penalties. Division Two consists of the *Consumer Protection Act*, 1986 (The Principal Act), and Division Three consists of the *Consumer Protection Rules*. 

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A Handbook of Consumer Protection Laws and Procedure for the Lawman and the Layman by R.K. Bangia is one of the most popular books dealing with the subject of consumer protection. It is indeed a handy book and guides one regarding the basics of consumer protection law. The book contains seven chapters. Apart from the Consumer Protection Act, it consists of a commentary on the Competition Act, 2002 also. It covers within its ambit the minutest of details about the consumer protection like important guidelines for protecting one’s rights. It consists of model forms of notice, complaints etc. etc. Besides, there is also a detailed discussion on some of the recent cases decided by the Consumer Disputes Redressal Agencies, High Courts and the Hon’ble Supreme Court of India on various issues relating to consumer protection. The book contains five appendices at the end. Appendix I consists of the Consumer Protection Act, 1986 and the Consumer Protection Rules, 1987; Appendix II consists of the Competition Act, 2002; Appendix III contains the list of recognized consumer associations in the country; Appendix IV consists of the addresses of all the Consumer Disputes Redressal Forums; and Appendix V consists of the list of appropriate laboratories.

Consumer Protection Law: Provisions and Procedure by Ram Naresh Prasad Chaudhary is another relevant book for the lawyers, corporate businessmen, service providers and professionals. This book contains an authoritative literature on the Consumer Protection Law which has been arranged in a lucid manner. The book contains up-to-date critical commentary on the Consumer Protection Act, 1986. It also contains an upto-date case law on the subject of consumer protection. The book also carries an elaborate discussion on the various provisions of the Consumer Protection (Amendment) Act, 2002. It has been written in a plain, simple and lucide manner, covering almost all the significant developments in the arena of banking in particular. The book also contains detailed discussion on the United Nations Guidelines for Consumer Protection, besides containing a chapter on the service providers. Useful practice notes for the consumer law practitioners have also been provided at the end of the book for filing complaints and preparation of written statements. In sum, the above mentioned book, besides being an informative book for the researchers, is also a wonderful companion for the consumer lawyers. The author of the book stresses that every civilized nation of the world has its own legislation which protects the consumers. In India, it was at the end of the twentieth century that the Consumer Protection Act, 1986 was enacted. According to the author, and rightly so, the chief object of the 1986 Act is to provide for better protection of the overall interests of consumers and for the said purpose, to make
provisions for the establishment of consumer councils and other authorities for the settlement of consumer disputes and for matters connected therewith. Chaudhary has offered thoughtful comments on almost each of the provisions of the Consumer Protection Act, 1986.

**Consumer Grievance Redressal Under the Consumer Protection Act** by Deepa Sharma provides a simple, up-to-date, concise and yet complete treatment of the Consumer Protection Act, 1986 which concerns not only consumers but also business organisations supplying goods and providing services, public utilities like electricity, telephone and transport, professionals, educational institutions and hospitals. About five hundred cases decided by various consumer disputes redressal agencies, that is, the National Consumer Disputes Redressal Commission, the State Consumer Disputes Redressal Commissions, the District Consumer Disputes Redressal Forums and the Supreme Court of India have been analysed by the author in the book in order to identify the kind and the extent of the relief provided, the time taken in disposal of cases, nature and the pattern of complaints, and the types of products and services involved in the complaints.

**Consumer Grievances Redressal Mechanism** by Renu Arora is another authoritative book on the subject that contains discussion on the topic of effectiveness of otherwise of the consumer grievances redressal machinery envisaged and established under the Consumer Protection Act, 1986. The author in this book has examined the issues like consumer satisfaction, dissatisfaction of purchase, decision and complaining behaviour of consumers. Further the effectiveness or otherwise of the implementation of the Consumer Protection Act, 1986 has extensively dealt with by the author. The role played by the voluntary consumer organisations across the country in redressing consumer grievances by way of representing the aggrieved consumers before the Consumer Disputes Redressal Agencies has also been detailed out. The consumer movement has been viewed by the author as a social movement seeking to augment the rights and powers of the buyers in relation to sellers. Consumers being ignored are not fully protected despite many legal provisions and the efforts of voluntary consumer organisations have appreciated in this context. According to the author, there lies a gap between the consumers and the service providers and the redressal of consumer grievances has not been possible due to ineffective implementation of the policies and procedures adopted for their protection in the market place.

**Consumer Empowerment: Rights and Responsibilities** by P. Sivapraksam and S. Rajmohan is an attempt made by the two authors to bring to light various consumer
protection measures adopted by the successive governments in India from the independence period. The author portrays the steps taken in the direction of creating awareness and for bringing radical change in the attitude of rural as well urban consumers. The author goes on record to state that the numerous legal measures taken by the governments in India from time to time have not been able to provide remedies to the aggrieved consumers and that a lot more still needs to be done in this regard. The author pleads for the empowerment of the consumers by way of education, awareness and litigation by the voluntary organisation on their behalf.

**Consumer Protection in India** by Man Chand Khandela offers reliable and practicable solutions for the common problems being faced by consumers in their day to day lives and describes the rights and duties of consumers in the market place. The author clearly says that consumer rights, without consumer duties are a myth. According to him, most consumers claim their rights and always forget their duties that they are expected to perform as consumers. The author categorically asserts that if everyone as a consumer performs his/her own duties, consumer rights will automatically follow. In the above mentioned book, the author, besides informing consumers about their rights, also reminds them about their duties, which according to him, is the pre-requisite for getting the best deal for the consumers.

**Consumer Protection in India: Problems and Prospects** by Farooq Ahmad contains law relating to unfair trade practices as covered under the *Monopolies and Restrictive Trade Practices Act*, 1969 as amended by the *Monopolies and Restrictive Trade Practices (Amendment) Act*, 1986 and the *Consumer Protection Act*, 1986. The book traces the origin, evolution and development of the law on unfair and restrictive business practices. The catch phrases like ‘privities’, ‘freedom’, and ‘sanctity of contract’ and the golden principle of yester-years, that is, principle of ‘caveat emptor’ (let the buyer beware) have critically been evaluated in the light of the changing marketing paradigms. Ahmad’s book presents a critical appraisal of the definition of the terms like ‘unfair trade practice’ and the concepts like ‘unfair method’, ‘unfair and deceptive acts’ that have been borrowed from the *American Federal Trade Commission Act*, 1914 as amended by the *Wheeler Lea Amendment Act*, 1938. Both these Acts have thoroughly been analysed and acted upon. According to the author, commercial advertisements have not received the attention of the legal luminaries in India. The book contains discussion on constitutional protection, defence of puffing, application of mens rea, standard of protection, television advertising, comparative advertising, corrective advertising, interpretation of advertising etc.etc. in the light of the American, the Australian,
the Canadian and the English developments. The specific categories of commercial advertisements and the issues of per se and the rule of reason to determine the true nature of commercial advertisements have been given. Finally, the book provides a critical evaluation of the powers of the Monopolies and Restrictive Trade Practices Commission established under the *Monopolies and Restrictive Trade Practices Act*, 1969. Ahmad has also given a brief analysis of some of the prominent provisions of the *Consumer Protection Act*, 1986. The loopholes in both the *MRTP Act*, 1969 as well as in the *Consumer Protection Act*, 1986 and the proposed suggestions to improve both the Acts have been discussed in details. In the end, the author gives a brief account of the whole work in the shape of conclusion and suggestions.

*The Law of Consumer Protection in India: Justice Within Reach* by Gurjeet Singh is one of the authoritative textbooks on the subject of Consumer Protection Law in India. The book carries a well worded Foreword by the former Director of the National Law School of India University, Bangalore who underlines the significance of the consumer protection movement in the modern times. Then there is a detailed Introduction to the book by a foreign professor who amply makes his point that the *Consumer Protection Act*, 1986 ushered in a new era of consumer concern and that it ultimately led to the democratisation of consumer justice in India unparallel of any such thing that could have happened in this regard. The author has traced the history of consumer movement from the ancient times. The book highlights the role of voluntary consumer organisations in getting the consumer law passed by from the Indian Parliament and further highlights the consumers’ grievances before the Consumer Disputes Redressal Mechanism. The author has devoted one full chapter on the working of the Consumer Disputes Redressal Mechanism envisaged and established under the *Consumer Protection Act*, 1986 wherein he has highlighted the role and functioning of the various Consumer Disputes Redressal Agencies. He has critically analysed the role, the decision-making and performance of the National Consumer Disputes Redressal Commission in particular. The present researcher could indeed benefit considerably from the technique in which the author has analysed the role of the Consumer Disputes Redressal Agencies. The book also deals with the non-legal measures like lobbying and boycotting in getting the consumer grievances highlighted at appropriate forums. These tools indeed help consumer organisations in their day to day functioning and in strengthening the consumer movement in the country. As a matter of fact, India is yet to adopt these techniques in the modern times in order to get justice to the consumers. The book contains a very comprehensive bibliography.
that could be a source of detailed information and study and research material for any researcher working in the area of consumer protection.

**Consumer Crimes and the Law** by H.N. Giri concentrates on various measures required for protecting Indian consumers. The book contains an extensive case analysis, references to development in the western countries and one also finds mention about the remedies to protect interests of consumers in India. The author has examined the current state of the law highlighting to the problem of false and fraudulent practices of manufacturers or dealers in food and drugs. The author has also evaluated the effectiveness of the existing legal mechanism in the light of the current knowledge of the causes and treatment of disorders; he studies and interprets the factors which contributes to the perpetration of such offences; and considers the role of the judiciary in control over these evils. Recommendations have also been made for the incorporation in relevant consumer oriented provisions in the legislations like the *Drugs and Cosmetics Act*, 1949, the *Dangerous Drugs Act*, 1969, the *Sale of Goods Act*, 1930 etc.etc. have been explained.

**Consumer Co-Operatives in India and Western Countries** by A.K. Saxena is a comparative study of the co-operative movements in India and the western countries. The present book is divided into four sections. The first section is a general survey of the consumer co-operatives. The second section concentrates on the pioneers and their achievements. The Rochdales pioneers, a group of simple workers, had formulated a few objectives and principles, some of which are applicable to India as well. These are open membership, democratic control, united interest on dividend on patronage basis, sale membership, democratic control, and cash trading. The third section is an analysis of the growth of the consumer co-operative movement in the United Kingdom, the United States of America, the USSR and Sweden. The last section in the book takes up the development of consumer co-operative in India, especially in the states of Assam and in Uttar Pradesh. Co-operative in India were introduced when in 1904 the *Co-Operative Credit Societies Act* was passed. This was not the result of spontaneous growth but a way to gain relief from the inflationary tendencies. The book has been of immense use for me in understanding and compiling and suggesting measures for consumer protection.

**Consumer Protection in India** by V.K. Aggarwal contains a descriptive analysis of the legal protection available to consumer in India in various statutes. The author critically evaluates the legal protection available to consumers in India under various laws. He has thoroughly
evaluated almost all the consumer oriented provisions incorporated in the *Monopolies and Restrictive Trade Practices Act, 1969* and the *Consumer Protection Act, 1986* in the context of restrictive/unfair trade practices and rights of the consumers. Presented in six parts, the book summarizes various sections of the above said Acts. Elucidation of the historical background of the Acts in India and similar legislations in different nations of the world like Belgium, Germany and the United Kingdom etc.etc. from the content of the introductory part of the book. The scope, provision and penalties under the *Monopolies and Restrictive Trade Practices Act, 1969* have minutely been examined. Legal rights of consumer and the establishment of the three tier redressal machinery for the redressal of consumer grievances and its working have been discussed in detail by the author. The concluding part of the book provided reference materials on the subject with inclusion of the latest amendment to the *Consumer Protection Act, 1986* making the text current upto date.

**International Consumer Directory** contains a list and mentions about the activities of over thirty worldwide consumer organisations in terms of their names. IOCU-membership category, address, telephone-tele-face, officers, year of establishment, own membership details, sources of funds, staff affiliation, principal area of work and publications etc.etc. have elaborately been discussed in the book. It is published annually by IOCU. The book also contains some discussion on the functioning of Consumer Disputes Redressal Agencies in various countries. That could indeed be very helpful for any researcher working on the subject of role played or the role expected to be played by the redressal agencies in redressing the consumer grievances.

**Practical Handbook for Consumers** by Anju D. Aggarwal aims at educating Indian consumers on the right methods of purchasing goods and services without being taken for a ride. The book enlightens the consumers about the remedies available to them under various circumstances. The book is divided into four parts. In the introductory part of the book, the author offers guidance to a consumer on choosing and buying good quality consumer products like canned food, electrical appliances, utensils etc. etc. at reasonable prices. The dos and donts in case of each product have also been mentioned. Direction for adequate utilization of public utility services like banking, postal services, ration shop etc.etc. have elaborately been touched upon. Information about the function of public utility services, hints on the right method using information. In one of the chapters, the author defines consumer education and explains its significance. He spells out the customer rights and responsibilities, discusses consumer movements abroad and in India; deliberates on the use of mass media for
consumer purposes and explores the possible constraints in the process. It is suggested that consumer groups need to maintain close liaison with media; provide factual, unbiased information for public interest and take advantage of public service advertising over TV and AIR. It asserts that consumer groups and the mass media must work hand in hand for appreciating their common interests and work in consonance with each other to provide information as well as protection to consumers.

**Consumer Protection Act, 1986** by O.P. Garg has been addressed to all types of consumers. The book provides information relating to the procedure for handling different types of complaints on drugs, trade practices, advertising etc. A brief idea about the activities of voluntary consumer organisations, international agencies, Consumer Protection Councils, their procedures, funds and members have also been provided in the book. The features, objectives, penalties and functions of District Forum and State Commission have also been elaborately mentioned in the book. The method of appealing in the Consumer Disputes Redressal Agencies and tribunals has been discussed along with the ways of enforcing their orders. The author expands the meaning and scope of the terms used in the 1986 Act. The rights of consumer have also been discussed with regard to services being provided by banks, and insurance companies etc.

**Law of Consumer Protection in India** by D.N. Saraf is one of the most authentic and authoritative works on the subject of consumer protection law and policy that the present researcher has come across. Till date, Saraf’s book is considered to be the magnum opus on the subject of consumer protection. Saraf briefly traces the evolution of consumer protection law and states its development in the United States of America, the United Kingdom and India. The author gives a profile of an Indian consumer and highlights almost all the major consumer problems arising out of operation of public utility services, e.g., railways, road transport, air transport, telephones, banking service and insurance which are peculiar to India due to the monopolization of production, distribution and control of some essential goods and services by the state. The author critically examines the utility of certain documents like the doctrine of caveat emptor and safeguards contained in the Sale of Goods Act, 1930 like condition relating to description, implied condition as to merchantable quality and fitness of purpose and suggests some reforms for protection of consumers particularly in relation to exclusion of liability in contracts. There is lively discussion on the topics like ‘consumer credit’ with special reference to the ‘hire purchase agreements.’ Saraf devoted one lengthy chapter on Tort Based Remedies for ‘defective consumer products’ with emphasis on
‘product liability’. Remedies under the *Monopolies and Restrictive Trade Practices Act*, 1969 covers one full chapter giving details about the categories of restrictive trade practices and unfair trade practices with critical examination of the case law. Procedures followed by Consumer Disputes Redressal Agencies, that is, the District Forum, the State Commission and the National Commission has also been discussed by the author. Saraf in his book has also dealt with the topic of Criminal Law and Consumer Protection. He has critically examined the essential features of some of the prominent legislations like the *Essential Commodities Act*, the *Prevention of Food Adulteration Act*, the *Drugs and Cosmetics Act*, and the *Standards of Weights and Measures Act*, 1976. According to Saraf, and rightly so, the *Consumer Protection Act*, 1986 has no doubt brought far-reaching changes in the overall consumer protection scenario, but a lot is yet to be done. He has suggested certain radical modifications in the law and those that were incorporated in the *Consumer Protection (Amendment) Act*, 1993. However, there are still some lacunae that exist in the 1986 Act that need attention and should be reflected in the forthcoming amendment that is likely to come in the year 2014.

*Consumer Protection Jurisprudence by V Balakrishna Eradi* is also an authoritative book having been written by the First President of the National Consumer Disputes Redressal Commission. In this book the text of the *Consumer Protection Act* and the rules which are promulgated under the Act have comprehensively and exhaustively been dealt till date along with the amendments made to it. The author, in this book, recognizes the necessity to promote and protect the socio-economic interests of consumers where the consumers often face disparity in economic terms and bargaining power and the availability of effective Consumer Disputes Redressal Fora and consumer awareness. The author has also exhaustively dealt with the case laws under the various types of services such as agriculture, banking, insurance, hospitals, and telecommunications which will be an aid to the professionals, institutions and more important the consumer. The author has discussed in detail the case law decided by the Hon’ble Supreme Court of India. The author has also referred to the judgments of the National Consumer Disputes Redressal Commission. Further, various provisions of the allied Acts, the latest amendments, the relevant notifications and the UN Guidelines dealing with the consumer have been dealt with which has proved to be an invaluable guide for the completion of my research work.

*Consumer Is King !! - Know Your Rights and Remedies* by Rajyalakshmi Rao is a revised edition of the original book *Consumer Is King* and specifically contains information about the
latest judgments of the Hon’ble Supreme Court as well as of the National Commission in every field. Hence, it can provide adequate guidance to consumers, service providers and to the Consumer Disputes Redressal Fora established under the *Consumer Protection Act*. In addition to referring to some of the landmark cases, the book also gives a brief introduction to the concepts and definitions of the expressions like ‘complaint’, ‘complainant’, ‘persons who can file a complaint’ and in what manner, the jurisdiction of the Consumer Disputes Redressal Commissions, reliefs available to the consumers under the *Consumer Protection Act*, 1986 etc.etc. In others words, this book is essentially meant to provide the basic information even to a layman regarding the rights of the consumers in this country. In each chapter of the book, the author has touched every aspect of various public utility services as well as medical, legal and educational professions with special reference to the case laws, on which consumer complaints for deficient services can be filed against them. Thus, this book has also been of immense help to me in enhancing my knowledge on the case laws.

In the context of publication of literature on the subject of consumer protection in general and on the sub-topics in particular, the contribution made by the Indian Institute of Public Administration (IIPA), New Delhi can hardly be over-emphasised. In the year 2005 as well as in the following years, the IIPA, New Delhi, in collaboration with the Department of Consumer Affairs, Ministry of Food Consumer Affairs and Public Distribution, Government of India, New Delhi brought out some valuable publications. They were in three categories: (I) Books; (II) Consumer Case Law Series; and (III) Consumer Education Monograph Series. The publications in each of these categories are very important and informative one. After going through each one of the publications in the different categories, I can safely say that any type of research on the subject of consumer protection law and policy as well as on the related topics or sub-topics done by any scholar worth the name shall in all probability be incomplete without reference made to the above named three categories of publications brought out by the IIPA, New Delhi.

The titles of two of the important books, which are essentially the collection of articles written on the various facets of the subject of consumer protection, are titled as follows: The first book is entitled as *Emerging Perspectives in Consumer Welfare: Twenty Five Years of Consumer Protection*. This book has been edited by Suresh Misra and Sapna Chadah. The title of the second book is: *Consumer Protection in India: Issues and Concerns*. This book has also been edited once again by Suresh Misra and Sapna Chadah. Both the books
contain well researched articles by some of the leading consumer law experts from across the
country.

The titles in the Consumer Case Law Series, inter alia, include the following: (i) Consumer

Some of the important titles in the Consumer Education Monograph Series are as follows:

It may be appropriate to mention here that the publication of the above named titles by the Centre for Consumer Studies, Indian Institute of Public Administration, New Delhi in collaboration with the Department of Consumer Affairs, Government of India, New Delhi, has certainly enriched the literature already available on the subject of consumer protection in general and on the sub-topics of consumer protection e.g. advertising ethics; alternative disputes resolution in case of consumer complaints; doctor-patient relationship; electricity;
ethical consumerism and its components; consumer movement; consumer rights; general insurance and health insurance, housing, green consumerism; medical negligence; role of local bodies and the regulatory agencies in particular.

In the light of the above review of literature, I can very well reiterate that there is a considerable gap in the research literature available on the subject. Although there are a large number of books, articles published in law journals, reporters and periodicals, write ups published in newspapers etc.etc. are available on the subject, however, I have not come across any standard work on the topic of the role and performance of the National Consumer Disputes Redressal Commission in India in the arena of consumer protection. A compilation of some of the prominent judgments delivered by the National Commission is available, however, one hardly finds original comments by any legal commentator on any of these judgments. What is at best available are the case comments on some of the judgments that hardly serve the purpose of a researchers. These appear to be incomplete works from a researcher’s angle thereby considerable research gap to be filed in. Thus, by way of presenting the present research work, I plan to fill the research gap that exists on the subject.

1.5 Data Base and Methodology

The present study is both analytical as well as an empirical study. Besides studying various relevant provisions of the Consumer Protection Act, 1986, I have analysed some of the prominent cases decided by the National Consumer Disputes Redressal Commission on different topics that have gone a long way in the furtherance and consolidation of the consumer protection movement in India. In order to do so, I have personally visited the National Consumer Disputes Redressal Commission and met the President of the Commission as well as the other members. I have also interviewed some lawyers as well as some of the litigants whose cases have been lying pending before the National Commission. Besides visiting the Commission to observe its actual functioning, I have done a lot of analytical study on my topic. Besides consulting some of the authoritative text books on the subject of consumer protection law in general as well as on the topic of the Consumer Protection Act, 1986, I have consulted a number of commentaries on the subject. Some of these commentaries have enabled me to understand, comprehend, analyse and appreciate the crisp and critical comments offered by the authors of these commentaries on some of the decisions pronounced by the National Consumer Disputes Redressal Commission. This is notwithstanding the fact that some of the comments by the authors lack logic and originality.
Nevertheless, as mentioned above, having studied some of the authoritative consumer law texts, I have immensely been benefitted by these commentaries. These commentaries have given me deep insight into the working of the Consumer Disputes Redressal Agencies envisaged and established under the *Consumer Protection Act, 1986* in general and of the National Consumer Disputes Redressal Commission in particular.

### 1.6 Research Questions

An attempt has been made by the present researcher to deal with the following research questions in the body of the thesis. These are as follows:  

(I) What are the salient features of the *Consumer Protection Act, 1986* and how is this law a step towards democratisation of justice in India?

(II) How the Three-Tier Consumer Disputes Redressal Mechanism established under the *Consumer Protection Act, 1986*, and more particularly, the National Consumer Disputes Redressal Commission functions in reality?

(III) What are some of the major difficulties that are being faced by the National Consumer Disputes Redressal Commission in its decision-making?

(IV) What role the National Consumer Disputes Redressal Commission has played in the furtherance of consumer protection movement in India?

(V) What are some of the path breaking and landmark decisions that the National Consumer Disputes Redressal Commission has pronounced and how far these decision have gone in consolidating the newly emerging consumer protection movement in India?

(VI) On the basis of the some of the aforementioned decisions, what modifications can be suggested in the *Consumer Protection Act, 1986* that has already been amended thrice in the past, that is, once each in the year 1991, 1993 and 2002 respectively?

(VII) In the light of the decision-making by the National Consumer Disputes Redressal Commission, what projections can be made with regard to the future of the consumer movement in India?

(VIII) What were some of the prominent cases that were decided by the National Consumer Disputes Redressal Commission and how these cases became grounds for
decision-making by the Supreme Court of Indian and led to the consolidation of consumer protection movement in India?

(IX) What has been the general opinion about the functioning and decision-making by the National Consumer Disputes Redressal Commission in the arena of consumer protection movement?

(X) In the light of the various decision pronounced by the National Consumer Disputes Redressal Commission, what modifications can be suggested in the existing Consumer Protection Act, 1986?

1.7 Significance of the Study

The significance of the present study lies in my studying, analysing and evaluating the role and performance of the National Consumer Disputes Redressal Commission that could only be undertaken by a keen and an inquisitive researcher like me by way of making a thorough and a critical examination of the prominent decisions pronounced by the apex consumer dispute redressal agency. The significance of the study further lies in my effort to highlight the role and responsibilities of the National Commission as well as to highlight the difficulties faced by the apex consumer body in its day to day functioning. The study has assumed added significance as hardly has any researcher so far ventured into this area of consumer protection law. That is precisely the reason why this study is going to be the pioneer one in this field.

1.8 Likely Contribution of the Study

It may be mentioned here that any original work is a contribution to the field in which it has been carried out. The fact that so far no doctoral study on the topic of the role and performance of the National Consumer Disputes Redressal Commission seems to have been done is enough indication of the likely contribution that the present study shall make in the field of consumer protection law. My study and research on the decision making by the National Consumer Disputes Redressal Commission has enabled me to draw the implications of these decisions for the emerging Indian Consumer Protection jurisprudence as well as to suggest certain suitable modification in the Consumer Protection Act, 1986. Once my thesis is approved and once I am awarded the Ph.D. degree, I shall be able to offer some workable suggestions to the Ministry of Consumer Affairs, Government of India with the objective of proposing suitable amendments in the Consumer Protection Act, 1986. I shall be doing the
needful keeping in view the fact that the Consumer Protection Act has already been amended thrice in the past, once each in the years 1991, 1993 and in 2002 and that a major amendment is once again on the anvil in the shape of the Consumer Protection (Amendment) Bill, 2011.

1.9 The Chapterisation Plan

Chapter One contains the statement of the problem, object and purpose of the study, database and methodology, hypothesis, research questions, significance and likely contribution of the study etc.

Chapter Two contains discussion on the terminology and the salient features of the Consumer Protection Act, 1986. An attempt has been made by the researcher to highlight the various important sections and sub-sections in the Act and to analyse them microscopically.

Chapter Three contains a detailed discussion on the statutory provisions relating to the establishment, composition, jurisdiction, as well as the actual working and performance appraisal of the Three Tier Consumer Disputes Redressal Mechanism within the framework of the Consumer Protection Act, 1986.

Chapter Four being more topic specific and absolutely focussed, deals with the decision making by the apex Consumer Disputes Redressal Agency, that is, the National Consumer Disputes Redressal Commission. An attempt has been made to highlight the contribution of the National Commission in the arena of consumer protection law to further demonstrate as to how some of the prominent decisions pronounced by the aforesaid apex Consumer Disputes Redressal Agency has led to the furtherance and consolidation of the newly emerging consumer jurisprudence in the country.

Chapter Five deals with the performance appraisal of the National Consumer Disputes Redressal Commission and with the measures offered by the researcher in strengthening its role in development of consumer protection law and policy in India.

Chapter Six contains an overview and the critical evaluation of the Consumer Protection (Amendment) Acts of 1991, 1993 and 2002. Besides this, the researcher has also offered a few suggestions to strengthen the role of the Consumer Disputes Redressal Agencies.

Chapter Seven deals with the conclusion and suggestions.