CHAPTER - VIII

CONCLUSIONS
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After the enactment of Consumer Protection Act 1986, several books were published to explain its previsions in lucid way, with commentaries to explain their scope. Many researches were done in University level to locate the extent of use of its provisions and else to determine sate why some provisions is not being used. The concentration has been made on the reasons of there remaining unused. The main theme of the research work is "Jaan Hai to Jahan Hai" i.e. without life there is no world. Though the word 'Consumer' does not appear in the Constitution, it peeps through the preamble, the chapters on fundamental rights and directive principles of State policy. The Constitution is committed to social justice to all the people of India who are the consumer in the country.

The most important fundamental rights in our Constitution are freedom of life and liberty article 21. Consumerism is the social movement seeking to promote, preserve and protect the rights and powers of the consumers in relation to the sellers in the market place. Even today there is lack of complete awareness of the rights of the consumers. The advancement of civilization, industrialisation and establishment of big business houses are responsible for the
metamorphosis of the sellers market to the buyers market rendering
the consumer sovereignty a myth "Consumer who once sovereign
has now become a pathetic victim to the exploitation by big business
houses - nationals and multinationals.

Important steps have been taken by voluntary organisations to
enhance the Consumer Protection Movement. The voluntary
organisations appeared more in the urban areas than in the rural
areas and even in these places the organisers though very few, do
not have sincere sympathy for the consumers. They are taken more
as pass time avocation trying to get recognition for them selves than
to genuinely serve the consumer community. In this scenario
Consumer Protection Act was passed in India in 1986. This is no
doubt a good beginning but it has its shortcomings as in the case of
most social welfare legislations. "The objects of the Act are laudable
and the execution and implementation is left to the executive with
pious intentions."

Freedom of contract was the pride of the consumer when the
market was a buyer's a market. This 'freedom of contract' is equally
available to both the consumer and the seller but now a days "The
judiciary attempted by its power of interpretation to mitigate the
injustice caused to the consumer pitted against a giant
manufacturer". "The Sale of Goods Act, 1930 itself recognised two exceptions to the rule of caveat emptor and these exceptions are intended to protect the innocent consumer".

In law of torts a beginning has been to this subject in "Donogue Vs. Stevenson. In that case house of Lords by a majority held that a manufacturer of goods owes a duty to the ultimate consumer though he has contractual relationship with the consumer and he is made liable for negligence". The manufacturer owes a duty not only to the buyer but to any other person who may actually use the goods like the guest, the family members, friends of the buyer. This principle has been adapted by the Consumer Protection Act by expanding the concept of consumer. "In another direction the rule has been extended from articles of food and drink to include interlaid industrial chemicals, lifts, motor cars, parts and hair-dye. This duty of reasonable care extended not only to the manufacture, erection or repair of the product itself but else to any container, package pipe in which it is distributed and to the labels, directions instructions for use that accompany the goods." This has an impact on the product in case of dangerous product. There is now no necessity to prove contractual relation or the negligee of the manufacturer for getting damages for injuries caused by dangerous
products." Except in Civil Case compensation legislature turned its attention to the field of criminal law and administration of criminal justices for according in direct but effective consumer protection, adulteration of food and drinks, drugs and cosmetics using of false weights and measures are made punishable. Hoarding and black marketing of essential commodities have been made offences. These statutes only provided indirect benefit to the consumers.

There is acute necessity of specific remedy in Consumer Protection Act for those crimes which damage the health and life of consumer directly. This will be in accordance with the spirit of constitution, because for man, the main reason for living social life are love, care appreciation, hope, emotional satisfaction, and safety. Only man prefers life time relationships. The main reason to select this topic for research is inability of forums to be active to solve the problems of health and life in consumer's cases. Though this State Forum has been awarded the equal status of State High Court and at national level the forum has status equal to Supreme Court. The problem of saving the life of consumer who is the chief character of society still remains out of this social legislation. Consumer protections laws are the only laws that directly and more than any other law, touch and affect human socio-economic behaviour,
consumer laws affect, and protect, everybody even a child in mother’s womb.

In this research work most important books, research papers, journals have been thoroughly studied. The views of important persons related to Consumer Forums have been incorporated and due weightage has been given to the plight of poor consumers. It has also been tried to locate the difference areas of society where people are making use of Consumer Protection Act. Out of these areas, there are some where remedies are not available inspite of keen desires of consumers and what are those reasons? Have been analysed.

Conclusions:

(1) One very unjustifiable content of Consumer Protection Act is this; goods supplied or services rendered free of charge are exempt. The very simple question is this; A doctor treated a patient without taking any fee. Can the patient not sue the doctor for deficiency or negligence shown by the doctor, merely because he has rendered treatment free of charge? The other side of the coin; where a doctor has not issued receipt and a patient has not insisted for one, can such doctor take a valid defense that he had rendered treatment free of
charge and therefore he had no responsibility, there is no question of negligence this service is not subject to judicial examination, he is above natural law, he is above human law? Is negligence no negligence simply because one has not paid for care? Any and every polity and society lays down for its people to act with sense of responsibility whether for profit purpose or otherwise, thus, the exemption contemplated by Consumer Protection Act makes itself crippled.

(2) The researcher has got the impression that though there were and are many legislation prohibiting, curbing or restricting goods, services, food and medicine of poor quality or of injurious effect, these are enacted with the basic idea that state has to protect public health and public life. These legislations do not have tendency or importance for protecting individual consumer. Individual consumer-user in not the centre of these laws.

(3) After making an deep study on the subject conclusion comes that it has made only a beginning and what is done is nothing when compared to what is yet to be done, "The problem is gigantic and it is concerning a huge mass of unorganised people scattered throughout the length and breadth of this
vast country, the majority of whom are illiterate, impoverished and innocent and the Act aims to protect them from commercial exploitation by well organised, rich, greedy and cunning business people including the organised retailers, producer sand big business houses, national and multinational companies."

(4) **Problems of Protection**: is that the victim is not aware of his rights and the nature of the damage he is put to; just as a protector who trains the child to learn walking is better than the one who carries the child to any place desired by it, the consumer protectors first duty is to make the consumer aware of his problems. "This should be done by educating them to form voluntary organisation." The consumer movement to be effective and successful has to be four dimensional namely government, business houses, voluntary organisations and consumers. The Government in India, both Central and State are putting their efforts to build strong consumer movement.

(5) The main thrust is on government officers for enforcement of laws other than Consumer Protection Act.

(6) No, strict rule of burden of proof on complainant, inclusion of women on board, provision for State and Central Consumer
Protection Councils, provisions of appointing women members in those Councils, there are some bright aspects and hope raising prospects of Consumer Protection Act.

(7) Though representation is provided to the registered consumer associations in the councils the associations themselves are neither adequate nor as active as they ought to be. There are hardly about five hundred voluntary organisations in the country having a population of over one hundred crore. The minimum requirement even at the modest estimation of one association for one lakh requires eight thousand five hundred voluntary associations.

(8) One National Consumer Protection Council and one Consumer Protection Council for each State are too me agree and these established with high and laudable objects are grossly insufficient to carry out the objects for which they are constituted. Their composition is so unwieldy that they are not able to meet even the minimum number of times in a year.

(9) Requirement of no court fee, men of commerce and industry on chair, not mandatory to adhere to civil procedure code or evidence act, provision of one forum or even more for every district power or civil and criminal for inspection, inventory,
discovery, right to consumer organisations to submit individual consumer's complaints without requiring individual consumers to file complaint or to participate in complaints filed by consumer organisations, exclusion of High Court from State level appellate jurisdiction.

(10) The three tier Consumer Redressal Agencies are not to achieve the purposes for which they are established. Their number is also equally insufficient. On the village level there is practically no agency working in this direction of consumer movement, though 75% population resides in villages.

(11) In Consumer Protection Act, a speedy procedure has been included to settle the consumer case in 90 days or 150 days but is practice, it is not done and the wrong doers enjoy the advantage of it.

(12) The protection councils at the centre and the state did not, as a matter of fact could not, achieve any of the objects set before them by the Act though more than a decade has passed since the passing of Consumer Protection Act.

(13) The appointment of the members of the tribunals is to be made by the Government. There are number of posts of
presidents and members of the consumer tribunals which remain unfilled for a long time.

(14) The unnecessary delay is caused due to absence of members of the forum without assigning any reason. There is no check on this practice. Hence the proceedings do not take place for lack of forum and delay in justice is caused.

(15) The Act saves the existing law relating to Consumer Protection in various segments of civil and criminal laws of the country and enacts by itself any substantive law.

(16) The Act inserting the provisions relating to hazardous goods in 1993 has introduced the concept of product liability in the field of consumer justice in India.

(17) It is not possible to take action against the sales man coming from outside without disclosing or leaving, their home address and committing all sorts of wrongs against consumers.

(18) Normally the sellers of small goods or goods sold in small quantity do not give receipt to consumers. The legal action in there cases of wrong cannot be taken in the absence of receipt. The sellers cheating the consumers, easily denies the sale by him and escape legal action.


**Suggestions**

The utility of law is possible only when the residents or users of law may be well informed about the prevailing laws, its results, or effects and the procedure to get remedies there in.

So far Consumer Protection Act of 1986 is concerned, the first phase relating to awareness is practically over. About 50% needy consumers in urban areas are making use of this Act. About 25% residents know that there is some law to provide them security against exploiters but they do not know the proper way of making use of it. Still it is very important to create public awareness; in urban and rural areas to uproot the deep rooted monad of adulteration damaging the health and life of consumers.

The learned justice N. Krishna Murthy has very deeply analysed the situation of consumer exploitation legal analysis, in chartered secretary 1990 vol. 20 October at p. 835 indicates that: "The consumer pays high fares for dirty railway compartments and dirtier toilets. He pays rent for telephone even when it does not serve him. He uses buildings that are unsafe. He motors on roads that are dangerous. He has no pavements to walk on. The mail does not reach him on time. He eats food that is adulterated. He drinks the water that is polluted and breaths the air that is poisonous. Does
he know that Kesari dal causes paralysis; that artificial colouring of food damages the livers; that the shelf life of bread is just 72 hours; that the drugs banned in the west are dumped here and that excessive in take of glucose is bad; that a toy can be a weapon in child's hand; that many of the kerosene stoves in the market are faulty; that the LPG cylinder must be carried in a vertical position and that all electrical appliances do not confirm to ISI standards? Advertisements made fool of him. Filters do not give you bacteria free water; sex clinics make tall claims; slimming centres taller. The government was the largest supplier of goods and services enjoying monopoly rights. Over most of them whether it was in the supply of essential commodities of public services such as electricity, transport, communication and banking all the available evidence pointed out a woeful lack of concern for the consumer."

It is true that the advertisement of only 2 seconds in T.V. brought lot of awareness in urban area but it the percentage of the use of Consumer Protection Act, remained short. In rural areas the effects of advertisement were very nominal.

(1) There is need of a full-fledged documentary on Consumer Protection Act, its aims, the procedure to achieve relief with easy examples. This documentary should be telecast in T.V.
and showed in Cinema. The use of News-papers, Magazines will also add speed to awareness. One act play or Nukkad drama against the adulteration and exploitation of consumer will be very useful in this project.

(2) Voluntary Consumer Forum and other organisations are capable of spreading the awareness from house to house in villages. This programme of consumer awareness should be organised side by side of literacy drive.

In Sec. 33 and 34 of A.I.R. 1997 journal much light has been thrown on position activity of voluntary organisation as under:

**Education to Consumer Voluntary Organisation:** Every member of society, manufacturer or trade is a consumer. Consumer does not constitute a separate class. Every body is included. Even then the consumer awareness is a distant goal to be achieved. The ignorance of the Indian consumer of their rights and remedies available is the single major obstacle in the growth of consumer movement. Mass education of the consumer is very much necessary to make them conscious of their rights. In this regard voluntary organisations have a major part to play, to take up the cause of consumerism most effectively. It is fact that trading community is well-organised while consumers are still unorganised, ignorant
consequently their exploitation continues unchecked. The Consumer Protection Act also stressed the role of the voluntary organisations to educate the consumer to protect their rights and privileges.

(3) Consumers assemble in great number on the occasion of festivals and poojas. The short booklets on local languages should be distributed in these public occasions.

(4) The decisions of Consumer Protection Forums should be brought to the notice of public. This information's will encourage the consumers and they will have more trust on the Consumer Protection Act and its remedies.

(5) The simple gist of Consumer Protection Act and its procedure to seek remedy against consumer's exploitation should be kept in syllabus on different educational levels. So far legal studies are concerned, it should be taught as an additional subject.

(6) A periodic seminar on district level including members of panchayats, voluntary organisations and active social workers of the society, should be arranged and information's about Consumer Protection Act and its advantages to consumers in particular and society in general, along with the procedure to
seek remedy should be given as that this message would spread amongst people upto far places.

(7) In rural and poor areas, a consumer welfare fund should be established to help the poor consumers to bear the expenses of procedure in seeking remedy in Consumer Forums. This will enhance the utility of Consumer Protection Act because the poverty is one of the factors which hinders poor to approach Consumer Forum and causes delay also. The situation of "Delay denied justice" becomes apparent. The interest of consumers normally ends if the procedure becomes long and time consuming. The wrong doers take the benefit of the so caused delay.

Hence in accordance with the spirit of Consumer Protection Act, to provide justice in time, suggestions are very necessary. When we classify the reasons of delay, the following facts come across: (1) Infrastructural (2) Expert opinion (3) Strict following of procedure (4) Executers.

(8) For reforms in infrastructure, Consumer Forum should be established on Panchayat level also. Necessary amendment in Consumer Protection Act may be done i.e. in place of 3 tier system, 4 tier system be adopted.
(9) Every Consumer Court should be given "SUO-MOTTO" power to entertain the cases.

(10) Expert opinion is always necessary to decide the quality of goods or defacing in services sold. Hence the experts of medical, commerce and law should Consumer Forum and cases should be classified in groups. And a particular expert be invited to give his opinion. This will diminish the unnecessary delay. Amendment in Act may be done to this effect.

(11) The compensation for damages should be awarded by Consumer Redressal Forums.

(12) The cost should be imposed to the party causing delay and for malicious, complaints and fine should be taken.

(13) It is suggested that something concrete must be done to remove the common belief that though a judgment given by a consumer court is speedy, yet it suffers from lack of easy enforceability. People believe that order of consumer court remains a paper-justice for long, till reaches. Yet another popular belief that justice delayed is justice denied. It is suggested that every complaint must be viewed whether bearing facie case or not. If so, then the dealer-accused must
be required to deposit the claimed amount in some nationalised bank through the court and the complainant be allowed to enjoy interest thereon every month.

(14) In prima facie cases the compensation amount should taken from the wrong doers and be deposited in Consumer Forum Security Account in Bank. After the decision, this amount be distributed in accordance with the direction of the court alongwith due interest.

(15) A separate District Judge should be appointed in permanent body of District Forum in place of regular District Judge of the district. This will not cause delay or pending of work due to busy routine and work of regular District Judge.

(16) Lawyers should be allowed for complainant in condition or his inability otherwise their role makes it difficult for tribunal to dispose of the cases expeditiously.

(17) Law Professors who possess expert knowledge of the subject can be appointed as President of the District Forum after minimum teaching experience of 7 years.

(18) It is suggested to prescribe a procedure on the lines of admission bench in the High Court, where in any complaint received by the CDRA initially is scrutinised by authorised
and competent personnel to determine whether the case falls within the purview of the Consumer Protection Act and whether it should be pursued as opposed to the present practice of sending straights way a copy of the complaint to the other party in every case.

(19) It is suggested that a Consumer Redressal Agencies be given the exclusive jurisdiction in all matters of consumer disputes to avoid confusion created by concurrent jurisdiction with other bodies.

(20) The poor consumers who purchase goods in small quantity do not get receipt and do not have base for complaint. Hence receipt giving should be made compulsory and in case of refusal to forward receipt, fine should be imposed on sellers of those goods.

(21) Salesmen from distant areas come to sell their goods. If their goods are found of inferior quality, injurious to human health and life, no action becomes possible against them for want of their identity and address. So it should be compulsory for the entire salesman to record their name and address in local Police Station or in some office meant for it in the market.
(22) In the cases related to consumer's health or life the compulsion of 'Consideration' in the definition of consumer should be abolished in the Act and definition should be made wide. This will enable those consumers who go to Govt. Hospitals or Charitable Hospitals and during treatment become the victim of negligence, to put forth their complaint against the management, though they do not pay any fees for treatment there.

(23) The concept of consumer should be widened in definition by excluding the requirement of 'Consideration'. It is very essential to curb the anti-effects of poisonous gases, from industries, and transport vehicles, water pollution or noise pollution, pollution due to negligence of local Nagar Palikas etc, to safeguard the health and life of people.

(24) It is the need of the day that Consumer Forum should be empowered to establish vicarious liability and award compensation to sufferers. For this, proper amendment be made in Consumer Protection Act.

Health is the pivot around or on which all the activities of life of a person revolves." Hence to provide various securities to consumers by Consumer Protection Act becomes meaningless
without due protection of health. The attitudes of courts have been found very soft towards health and life protection. They have even relaxed the prevailing rules. The Consumers Forum should also take similar attitude.

The spirit of modern consumer protection is the consumer itself and its existence is based on health. The pollution due to unscientific industrialisation and blind capitalism are to be checked by the Consumer Protection Act. The role of this Act depends on the completeness of Act, which is very essential. The main object of Consumer Protection Act is to divert the tendency of wrong doers towards the welfare of the consumer. If the above described suggestions are kept in view and proper amendments are made in Consumer Protection Act, it will not be wrong to call this Act, a milestone in the way of social revolution.

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