CHAPTER – 4

Role of Judiciary to upliftment

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Health Insurance
Role of Judiciary to upliftment of Health Insurance:

Introduction

The Indian Judiciary is an Independent body separate from the Executive and legislature and has got very important powers under the constitution. The Judiciary hierarchy in India is as follows: At the First high level is the supreme court of India which has got power like original, appellate Write and advisory Jurisdictions. At the next level is state level there are High courts which has also got powers like appellate and write Jurisdictions and the lower Judiciary of India are consists of the District courts and other courts. The Supreme Court and high court has a power to issue write for securing fundamental Right situated in constitution.¹

In this regard the Role of the Judiciary can be described as one of protecting the counter majoritarian safeguard enumerated in the constitution.² It is apt to refer to an opinion given by Justice Robert Jackson where it was held that citizens could not be compelled to salute the U.S. national Flag if the same offended their religious belief. He observed as follows:³

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   www.Teriin.org
2. Hon’ble Mr. K. G. Balakrishnan, chief Justice of India “Judicial Activism under the Indian constitution (Trinity college Dublin, Ireland-October 14, 2009)
3. West Virginia state Board of Education V. Barnette, 319US624 (1943)
“The very purpose of the Bill of rights was to withdraw certain subjects from the vicissitudes of political controversy to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One’s Right to life, liberty and property, to Free speech, a free press, Freedom of worship and Assembly and other fundamental right may not be submitted to vote: they depend on the outcome of no elections.”

The UN Committee on Economic, social and cultured Rights in General comment No-14 adopted a wider definition of health to include social determinants such as access to safe water and food, adequate nutrition and housing, healthy environmental conditions access to health related education and information including on several and Reproductive health. Health has been recognized as a fundamental human right indispensable for the exercise of other human rights. Right to health finds mention in the international human rights documents right from the days of Universal Declaration of human Rights.⁴ Health is a state of complete physical, mental and social well-being. The term ‘Health’ implies more than mere absence of sickness as held by the Supreme Court. The Apex court in India has played a decision role in realization of the right to health by recognizing the right as a part of the fundamental right to life and issuing suitable directions to the state authorities for the discharge of their duties.

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The court has recognized that maintenance of health is a most imperative constitutional goal whose realization requires interaction of many social and economic factor.\

“Judicial Review”

In the post-independence India the inclusion of explicit provisions for ‘Judicial Review’ were necessary in order to give effect to the individual and group rights guaranteed in the last of the constitution Dr B. R. Ambedker, who chaired the drafting committee of our constituent Assembly had described the provision related to the same as the ‘heart of the constitution’ Article 13(2) of the constitution of India prescribes that the Union or the state shall not make any law that takes away or abridges any of the fundamental rights and any law made in contravention of the a fear mentioned mandate shall to the extent of the contravention be void. While Judicial Review over administration action has evolved on the lines of common law doctrines such as ‘proportionality’, ‘legitimate expectations’, ‘Reasonableness’ and principles on natural Justice, the supreme court of India and the various High courts were given power to rule on the constitutionality of legislative as well as administrative actions. In most cases the power of Judicial Review is exercised to protect and enforce the fundamental rights guaranteed in part III of the constitution.

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The Higher courts are also approached to rule on questions of legislative competence, mostly in the context of center state relations since Article 246 of the constitution with 7th schedule contemplates a clear demarcation as well as a zone of intersection between the law making powers of the union Parliament and the various state legislatures.  

Hence the scope of Judicial Review before Indian courts has evolved in three dimensions- firstly (1) to ensure fairness in administrative action. Second (2) to protect the constitutionally guaranteed fundamental rights of citizens and third (3) to rule on questions of legislative competence between the center and the state.

The supreme court of the India to enforce these fundamental Rights is derived from Article 32 of the constitution. It gives citizens the rights directly approach the Supreme Court for seeking remedies against the violation of these fundamental rights. These entitlement of constitutional remedies is itself a fundamental right[y] and can be enforced in the form of writ evolve in common law – Such as Habeas corpus (To direct the release of a person detained unlawfully). Mandamus (to direct a public authority to do its duty), quo warranto (to direct a person to vacate an office assumed wrongfully). Prohibition (to prohibit a lower court from proceeding on a case) and certiorari (power of the high court to remove a proceeding from a lower court and bring it before itself). Besides the Supreme Court, the High court’s located in the various states are also designated as constitutional

7. Article 226 of Indian constitution.
8. Ibid,
9. Article 32 of Indian constitution.
courts and Articles 226 permits citizens to file similar writs before the High court. Similarly Article 226 recognizes the right to move the High court for the purpose of enforcing fundamental Rights. Through these remedies the aggrieved person is entitled to redress his or her grievance.

**Legislative competence:-**

The state legislature is under entry 6 of the state list contained in the seventy schedule to the constitution of India, empowered to make law with Related or Respect to public Health and sanitation, hospitals and dispensaries, Both the center and the states have power to legislate in the matters of social security and social insurance, medical professions, and prevention of the extension from one state to another of infectious or contagious diseases or pests affecting man, animals or plants by entries 23, 26 & 29 respectively contained in the concurrent list of seventh schedule.¹⁰

Judiciary has vital Role play in ensuring access to essential services for all citizens, irrespective of their ability to pay, in present state also play important Role to providing Health services (care) through the public health system and an increasing investment in expensive private Health care. The right to health and the availability of health care issues that have been addressed all over the world. Health care issues are world famous issue at present. The United Nations has adopted various resolution protecting health rights of people like the universal declaration of human Rights the¹¹

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(ICESCR) world Health organization constitution states: - The constitution of India also covers health and healthcare, but does not explicitly recognize right to health as a fundamental right. The Directive principles of state policy cover various health related issues like provisions for just and human conditions of work wages for workers level of nutrition and living conditions for workers protection of environment.

**Health and Health care: National perspective**

Health and health care have been covered both under the constitution of India and in different legislation. Health care passed time to line by different legislation According to circumstances or peoples need. The constitution does not directly recognize right to health as fundamental right but different legislative enactments passed with regard to health and health care deal more with the regulatory aspects rather than the right to health. Preamble to the constitution of India categorically directs the state to initiate measures aiming at improving the health of the people. This is to be inferred from the broader parameters of social and economic Justice.\(^\text{12}\)

**Fundamental Rights:**

Part III of the Indian constitution deals with various fundamental rights. The fundamental Right to life, as stated in Article 21 of the Indian constitution\(^\text{13}\), guarantees to the individuals life and personal liberty which cannot be taken away except by a procedure established by law. The Supreme Court has widely interpreted this fundamental right and has included in Article 21 the


\(^{13}\) Dr. Archana Gadekar, right to health: a myth or a reality?” Journal of the Institute of Human right 2009 12(2):41-50P.
right to live with dignity and “all the necessities of life such as adequate nutrition clothing…….The recognition that the right to health is essential for human existence and maintain his proper life for live with dignity so it is evolve the integral part of Right to life supreme court has also already that Right to Health care is fundamental Right involve in the Right to life. A personal of the same reveals the following fundamental rights which or related to the health and health care of the people.

**Equality before law:**
According to this fundamental Right, the state shall not deny to any person equality before the law or equal protection of the laws within the territory of India.  

However, the Indian Supreme court in the true with the spirit of Article 21 and Directive principle has come up as location of liberty for such little Indians who are crying for Justice. Indian Judiciary has truly come forward to provide social justice to most vulnerable section those who deprived of their fundamental Rights. Judiciary provides social justice to these poor Masses and has played a vital Role in implementing laws or provisions of health facilities and ensures that they are maintaining standard of care.  

**The Supreme court in its land mark Judgment in Paramanand KataraVs union of India:** AIR 1989 SC 2039 - Held that every doctor whether government or private or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or state action can intervene to avoid delay.

15. Dr. G. A. Solanki “Striking the balance between the laborers Right to Health and constitutional Guarantee” H.Sunversity of Baroda.
The discharge of the paramount obligation cast upon member of the medical profession or provide medical assistances to the needy as tight to health is a fundamental Right. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained, and must therefore, give way. The court laid down the following guidelines for doctors. When an injured person approaches them:

1. Duty of a doctor when an injured person approaches him whenever, on such occasions, a man of the medical profession is approached by an injured he could give is not really sufficient to save the life of the person, but some better assistance is necessary, it is the duty of the man is the medical profession so approached to send all the help which he could, not also see that the person reaches the proper expert as early as possible.

2. Legal protection to doctors treating injured person: A doctor does not contravene the law of the land by proceeding to treat an injured victim on his appearance before him either by himself or with others. Zonal regulations and classification cannot operate as fetters in the discharge of the obligation, even if the victim is sent elsewhere under local rules, and regardless of the involvement of police. The 1985 decision of the standing committee on forensic medicines the effective guide line.

3. No legal bar on doctor from attending to the injured persons: There is no legal impediment for a medical professional, when he is called upon or required to attend to an injured person needing his medical assistance immediately. The effort to save the person should be the top priority not only of the medical professional, but even of the police or
any other citizen who happens to be connected with the matter, or who happens to notice such as incident or a situation.

The Supreme Court, in *Paschim Banga Khet Mazdoor Samity vs. state of west Bengal*. (1996) 4SCC 37. Through its case Supreme court enshrine the light the scope of article 21 and the government is responsibility to provide medical aid to every person in the country, held that Article 21 imposes as obligation on the state to provide medical assistance to every injured person. This article imposes as obligations on the state to safe guards right to life of every person welfare state, the primary duty of the government is to secure the welfare of the people providing adequate medical facilities for the people is as obligation undertaken by the government in a welfare state. The Government discharges this obligation by proceeding medical care to the persons seeking to avail of those facilities. The government hospitals run by the state are duty bound to extend medical assistance for preserving human life. failure on the part of a government hospital to provide timely medical treatment to a person in need of such treatment, result in violation of his right to life guaranteed under Article 21. The court made certain additional direction in respect of serious medical cases:

a. Adequate facilities are provided at the public health centers where the patient can be given basic treatment and his condition stabilized.

b. Hospitals at the district and sub divisional level should be upgraded so that serious cases are treated there.

c. Facilities for given specialist treatment should be increased and having regard to the growing needs it must be made available at the district and cub divisional level hospital.
d. In order to ensure availability of bed in any emergency at state level hospitals, there should be a centralized communication system so that the patient can be sent immediately to the hospital where bed is always available in respect of the treatment, which is required.

e. Proper arrangement of ambulance should be made for transport of a patient from the public health Centre to the state hospital.

f. Ambulance should be adequate provided with necessary equipment’s and medical Personal.

Another significant decision which strengthen the recognition of the “right to health” was that in Indian medical Association V.V.P. Shantha (1995)6SCC 651, In that case, it was ruled that the provision of a medical service whether diagnosis or treatment) in return for monetary consideration amounted to a “service” for the purpose of the consumer protection Act,1986. The consequence of the same was that medical practitioners could be held liable under the Act for deficiency in service in addition to negligence. This ruling has gone a long way towards protecting the interacts of patients. However, medical services offered free of cost were considered to be beyond the purview of the said Act.

The parliament has enacted the Indian medical council Act in 1956 and other corresponding legislation governing various branches of medical/medicine such as the Indian system of medicine, Dentists’ Homeopaths of the conduct of doctor, hospitals and nursing homes and have failed to protect the interests of persons who have suffered on account of negligence or deficiency on the part of medical professionals. This field left untouched by medical council Act is covered by the law of tort in general, and now by the consumer protection Act 1986. Prior to the enactments of the consumer protection Act 1986, the field of medical negligence is perhaps not possible, rather it would
remain a somewhat, slippery word. However, the classic attempted judicial definitions of Negligence may be noticed from the authoritative treatise of salmon on the tort the law of torts as under: It is negligence in the objective sense that is referred to in the well known definition of Alderson, B: Negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do: 16 Lord Wright said: ‘In strict legal analysis, negligence means more that heedless or careless conduct, whither in omission or commissions: if properly connotes the complex concept of duty, breach and damage thereby suffered by the persons to whom the duty was during”17 Medical negligence is branch of the law of negligence, which in turn is a branch of the law of forts. The tort law is not based on any act of parliament. It is mainly a judge made law developing over the years through changing judicial decisions. The test of determines whether an act or omission amounts to medical negligence was laid down in BolamVs Friem Hospital management committee 1957. Mr. Justice Nair said, “In the case of medical. Man, negligence means failures to act in accordance with the standard of reasonably competent medical man at the time. That is a perfectly proper standard and if a medical man conformed with one of those proper standard, then he is not negligent.”18

17. Ibid,
Other several Judgment’s through the courts were of the opinion that it was very serious matters to change a medical partitioned with want of skill and competent in treating the patient and that much stronger an much better evidence was necessary before a charge of medical negligence can be brought home to a medical practitioner.\textsuperscript{19}

According to the Supreme Court cases, both civil and criminal as well as\textsuperscript{20} in FORA, are often filed against medical practitioners and hospitals complaining of medical negligence against, doctors, hospitals, or nursing homes, hence the latter would naturally like to know about their liability. Indian society is experiencing a growing awareness regarding patient’s right. This trend is clearly discernible from the recent spurt in litigation concerning medical professional an establishment liability claiming redressed for the suffering caused due to medical negligence, vitiated consent and breach of confidentially arising out of the doctor patient protection relationship. The patient centered initiative of right protection is required to be appreciated in the economic context of the rapid decline of state spending and massive private investment in the sphere of the health care system and the Indian Supreme Court pains staking efforts to constitutionalism a right to health as a fundamental protection of patient is Right shall not be at the cost of professional integrity and autonomy.\textsuperscript{21}


\textsuperscript{20} Ibid,

**Indian Judiciary, PIL (Public interest litigation) and policy interface:**

The Indian Judiciary played a very active role by entertaining public interest Litigation (PIL) which provides an opportunity to the Judiciary to examine the socio economic and environmental conditions of the oppressed, poor and the dour trodden people through (PIL). Under Article 32 of the constitution, the Supreme Court has directed the government to implement the fundamental right to life and liberty and execute protection measures in the public interest. Likewise, the court also pointed out that fundamental rights are intended to foster the ideal of political democracy and to prevent the establishment of authoritarian rule but they are of no value unless they can be enforced by resort to courts but it does not mean that directive principle are less important than fundamental rights or they are not blinding on the various organs of the state.\(^{22}\)

This is the notable feature of the Indian Judicial system is the emergence of public interest litigation. PIL in legal terms means the Relaxation of the traditional rules of Locus & Standi. It meant that a public spirited individual or an association could bring a cause of action before the higher Judiciary on behalf of a disadvantageous group that is not capable of representing itself. The impact of PILs was that\(^ {23}\) the Supreme Court and the High court’s

22. Dr. P.K, Rana “right to health care for all-Is it a distance dream in India”? Nayana deep 2011 Oct; 12(4) pg.55-68

became a forum for adjudicating disputes which would have never come before it but for this relaxation. The cause of bonded labors, child workers, pavement dwellers, prisoners, AIDS patients, mentally retired, sex workers etc. were brought before the courts and remedies granted.

The court recognizing the Right of the group of citizens, asserted that: “Centre of gravity of Justice is to shift as indeed the preamble to the constitution mandates from the traditional individualism of locus standi to the community orientation of public interest litigation. The court must consider the issues as there is need to fours on the ordinary man.” 24 Supreme Court accepted an application by an advocate that highlighted a news items titled “Law helps the Injured to Die” Published in a national daily. The Hindustan times. The petitioner brought to light the difficulties faced by persons injured in road and other accidents in availing urgent and lifesaving medical treatment, since many hospitals and Doctors referred to treat them unless certain procedural formalities were completed in these medico legal cases. The Supreme Court directed medical establishments to provide instant medical aid to such injured people. Notwithstanding the formalities to be followed under the procedural criminal law.

The Judiciary has a play to vital Role to ensuring access to essential services for all citizens of their ability to pay. The Supreme Court has passed a number of Judgments dealing with right to access to medical treatment under 25

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24. Justice K. G. Balakrishnan, chief Justice of India “Judicial Activism under the Indian constitution (Trinity College Dublin Ireland October 14, 2009)

25. Ravi Duggal, Teena V. Ganguly “Review of Health care in India” (2005) Jan,
various conditions ranging from the right to healthy life to right to Privacy as a component of healthcare. Although these Judgments support the right to health the actual means for enforcing this right elude the system. Health having many dimensions and therefore many possible definitions, the right to health is a subjective issue to address. However, the rights to health care, ensuring access to appropriate and affordable healthcare, including necessary diagnostics and essential drugs can be produced since health care is amenable to implementation of Judicial orders.  

In addition, society has also witnessed active judicial intervention in recognizing and constitutionalizing the right to health as a fundamental right. The Judiciary has shouldered the responsibility in two different ways in the context of health care, namely, recognizing and enforcing right to health care delivery. The recent pronouncements and directives by the Supreme Court pertaining to mentally ill and pre-natal diagnostic techniques regulation clearly indicates this trend.

26. Ibid,

Remember early times when I fight with my brother for riding cycle and watching T.V. at first. This type of disputes is solved by the elder or older person of the family. Ombudsman is similar concept like this; ombudsman is generally appointed by government of India for the policy older to settlement their complaints regarding health insurance cases. Ombudsman an act as an impartial judge who listens to both parties and gives judgement or recommendation for settlement the dispute.

Generally disputes are arising between policy holder and insurance companies. Ombudsman is mediate between policy holder and insurance company if the claim is valid ombudsman can rule the settlement the dispute for all health insurance companies operating in India efficiently, impartial way.

**Ombudsman in India: - Lokpal**

The concept of ombudsman at first in Sweden, Sweden govt. appointed an independent executive for resolving disputes their citizens. Government of India with notification date 11\textsuperscript{th} Nov, 1998. Ombudsman was appointed for quick solution of customers problems involved in redressed of those grievances. The institution impacts the importance of policy holder’s interest and helped to generate and sustain the faith and confidence amongst the consumers and insurers. Ombudsman is an independent officer usually appointed by govt. or be parliament with responsibility to secure public interest when the violation of their right.

**Why an Ombudsman required is:**
Generally dispute between two parties they go to the court for the settlement of their dispute, but the ombudsman solve the dispute or complaint about health insurance without having to go to court, consumer’s satisfaction and quick way of addressing consumer complaint. Regarding policies IRDA gives a platform to the consumers to express their issues with health insurance companies and get the settlement. A great importance of the institution of ombudsman in India for protecting and securing the interest of the policy holder.

**Functions of the ombudsman:-**

A function of the ombudsman is mainly two types. Firstly for reconciliation or settlement of a grievance between people, who has a complaint and the insurance company? Secondly to award compensation to the complaint. The awards that ombudsman India announces are binding on the insurance companies.

The ombudsman is independent body and impartial approach at the time of investigations as well as the fairness is included when he observe or investigate the cases regarding the customer. The information obtain by the ombudsman in an investigation is confidential.

**Power of Ombudsman:**

The ombudsman of Insurance has empowered to receive and consider complaints in respect of personal lines of insurance from any person who has any grievance against an insurer. The complaint may relate to the grievance against the insurer i.e.

- Any partial or total repudiation of claims by the insurance companies.
- Dispute with regard to premium paid or payable in terms of the policy.
- Dispute on legal construction of the policy wordings in case such disputes relates to claims.
• Delay in settlement of claims.
• Non insurance of any insurance document to customer after receipt of premium.

Powers of the ombudsman are restricted to insurance contracts of value not exceeding Rs 20 lakhs. The insurance companies are required to honour the awards passed by an insurance ombudsman within three months.

**Manner of lodging complaint:** The complaint by an aggrieved person those who feeling resentment at having been unfairly treated has to be in writing and addressed to the insurance ombudsman of the jurisdiction under which the office of the insurer falls. The complaint can also be lodged through the legal heirs of the insured. Before lodging a complaint:

• The complaint should have made a representation to the insurer named in the complaint and the insurer either should have rejected the complaint or the complainant have not received any reply within a period of one month after the concerned insurer has received his complaint or he is not satisfied with the reply of the insurer.
• The complaint is not made later than one year after the insurer had replied.
• The same complaint on the subject should not be pending with before any court, consumer forum or arbitrator.

**Recommendations of the ombudsman:** Settlement of the complaint through the mediation of the ombudsman. Judgement or recommendation which he thinks fair in according the circumstances of the cases.

The copy of the Judgement shall be made not later than one month and copies of the settlement are sent to complainant and the insurance company concerned. In other words copies of the recommendation sent to the both parties. If the complainant accepts recommendations, he will send a communication in writing within 15 day of the date of receipt accepting the settlement.\(^{29}\)

**Award:** The ombudsman shall pass an award within a period of three month from the receipt of the complaint. The awards are binding upon the insurance companies. If the policy holder is not satisfied with the award of the ombudsman he can approach other venues like consumer forums and courts of law for redressed of his grievances. As per the policy holder’s protection regulations, every insurer shall inform the policy holder along with the policy document in respect of the insurance ombudsman in whose jurisdiction his office falls for the purpose of grievances redressed arising if any subsequently. Steady increase in number of complaint received by various ombudsman shows that the policy holders are responding their confidence in the institution of insurance ombudsman.\(^{30}\)

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29. Ibid,
30. Ibid,
CONSUMER PROTECTION ACT 1986

Consumer protection is not a new concept. An ancient period there is references to the concept of consumer protection against expiration by producer. Consumer protection Act 1986 has important act in the history of the consumer movement in the country. In this act provide rights of consumer and protection from unfair trade practices or exploration by the producer. It is the milestone in the history of socio economic legislation and directed towards public welfare and public benefits. The CPA was passed by LOK SABHA On 5th Dec. and RAJYA SABHA On 10th Dec. 1986 and assented to by the President in the gazette of India.

Preamble of the Act: 31

“An Act Provide for better Protection of the interest of the consumers and for that purpose to make provisions for the establishment of Consumer Councils and other Authorities for the settlement of Consumers Dispute and for matters connected there with”

Under the Act, consumer dispute redressal agencies have been set up throughout the country with the district forum at the district level, state commission at the state level and national commission at national level to provide simple inexpensive and speedy justice to the consumer with complaints against defective goods, deficient services and unfair and restrictive trade practices.

CONSUMER RIGHTS

Protection against Hazardous Goods:-
The first aim of the act to protect consumer from hazardous goods, this is the right of the consumer to be protected against the goods which is hazardous nature which is harmful for life and property.

Right to Consumer Information:-
This right is a basic right of an individual. When consumer buys some good, produces or seller should be informed about the goods. Like quality, potency, purity, standard and prices of goods. It is the duty of the producer to inform consumer about goods. When buyer willing to purchase.

Right to Access to variety of goods and at competitive prices:
For securing right of the consumer, consumer must know the access variety of good and at competitive prices.

Right Against unscrupulous exploitation, Restrictive and unfair trade practices: - If the consumer feel about unscrupulous exploitation or unfair trade practices the consumer has given right to seek redress against restrictive or unfair trade practices.

Right to Education: - Central consumer protection council under the consumer Protection Act 1986 has been charged with responsibility to the provide to the People proper education in terms of their remedies under the Act.

Right to Due Attention at Appropriate Forums: - Protect consumers interest is aim of the act. Right to be heared and to be assured that consumers interest will receive due consideration at appropriate forums.
CONSUMER: MEANING

Consumer is a person who purchases goods for paying money. A person who buys products or services for personal use and not for manufacture or resale.

A. An individual buys any goods for a consideration which has been paid or promised or partly paid and partially promised, or under any system of deferred payment and includes any use of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose.

B. Hires or avails of any services for a considerations which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised or partially paid and partially promised, or under any system of deferred payment. When such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purpose.32

32. According section 2 (d) of consumer protection Act 1986
Legislative Measures on consumer protection:-

The Act is milestones in the area of consumer protection. The necessary of this act the well organised sectors of manufactures traders, and goods provider manipulate and attempt to exploit of the consumers. There are various laws and different provisions to protect consumer’s rights but all provisions are failed because of increase population than result is pendency and delay in disposal of cases in the civil courts. This is the reason govt enact consumer protection Act 1986 for better protect the increase of consumers. It is rightly says that the act is also called as umbrella act because it is one of the most progressive and comprehensive pieces of legislation and is umbrella legislation covering all goods and services.

Salient features of the Act:-Are as Follows:-

1. The act is provides three tier consumer dispute redressal machinery at the national, state and district levels.
2. It applies to all goods and services.
3. It covers the entire sector like Public, private, person.
4. The act is providing relief to consumer, like compensation.
5. The provision of the Act is in addition to and not in derogation of the provision of any other law for the time being in force.
6. The Act is also provide Board or committees for providing protection of consumers right like consumer protection councils at the central , state and district levels and advisory Boards.
Consumer Disputes Redressal Agencies

Consumer dispute redressal agencies is to be known as “District Forum” established by the state govt in every district of the states & most than one District forum can establish with consent of the state govt. It is a like court at a district level that deals with cases valuing up to 20 Lakhs.

A consumer dispute redressal commission to be known as the “State Commission” established by the state govt in the state by notifications; A national consumer dispute redressal commission established by the central govt notification.33

Power of Civil court to district forum:-

District forum have power of civil court while trying a suit in respect of the following matters:-

a. The summoning and enforcing attendance of any defendant witness and examining the witness an oath.

b. The discovery and production of any document or other material object producible as evidence.

c. The reception of evidence on affidavit.

d. The requisition of the report of the concerned analysis or or test from the appropriate laboratory of from any other relevant source.

e. Any other matter which may be prescribed.34

Consumer protection Act 1986 enables the ordinary consumers to secure less experience and speedy redressal of their griessness.

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33. According to section (9) of consumer protection Act 1986
34. www.icsi.in/study%20material%20professional/newsyllabus/electivessubject/IL&P.pdf
The Act mandates establishment of consumer protection council at the centre as well in each states and district, with a view to promoting the consumer awareness. It also provide for a three tier structure of the national and state commissions and district forums for speedy resolution of consumer dispute. At present there are 632 district forums. 35 estate commissions with the national consumer disputes redressal commission (NCDRC). The Act is covered goods as well as services. The goods are those which are manufactured or produced or sold to consumer through whole sellers and retailers. The services are in the nature of transport, telephone, electricity, housing, banking, insurance, medical, treatment etc. If the consumer is not satisfied by the decision of the District forum, than after consumer can appeal to the state commission and against the order of the state commission and against the order of state commission a consumer can appeal in the national commission. 35

**Consumer Protection (Amendment) Bill 2011.**

The Aim of the bill to cover the loopholes of the early last Act of consumer protection and enlarge the scope of areas covered and interest more power to the redressal agencies under the Act.

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35. Report of the parliament in consumer protection reference note No.1/RN/Ref./2013 p.g. no.6
Main Objective of the proposed bill is:-

1. Widening the scope and amplifying the provision of the Act.
2. Facilities quicker disposal of complaints.
3. Rationalising the qualifications and procedure of selection of the presidents and members of consumer Forum.
4. Strengthening penal provision 36

Future Road Map

Department of consumer affairs has the strategic plan, to protect the right and interest of the consumers, consumer should know their rights this way to spread awareness about consumer rights and duties, responsibility for the consumer welfare participants must be required of state govt, academic and research institutions, school and voluntary organisations.

Tariff Advisory Committee

Tariff advisory committee (TAC) is a body corporate, which controls and regulates the rates, advantages, terms and conditions offered by insures in the general insurance business. The advisory committee has the authority to require any insures to supply such information or statement necessary for discharge of its functions. Any insures failing to comply with such provision shall be deemed to have contravened the provisions of the insurance Act. Every insures is insure is required to make an annual payment of fees to the advisory committee of an amount not exceeding in case of reinsurance business in India. 37

one percent of total premium in respect of facultative insurance accept by him in India; in case of any other insurance business, one percent of the total gross premium written directly by him in India. Every Division of the advisory committee shall be valid only after and to the extent it is rectified by the authority and every such decision shall taken effect from the date on which it is so rate feed by the authority, or if the authority to order in any case, from such earlier date as he may specify in the order.  

38. The insurance amendment act 1968 section 64U (1)
**General Insurance Council:** Through its executive committee may fix the limits by which the actual expenses of management incurred by an insurer carrying on general insurance business may exceed the limits as prescribed in the insurance Act.\(^{39}\)

All the insures and provident societies incorporated or domiciled in India shall be known as members of the insurance Association of India. The insurance Association of India shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of all property both moveable and immovable and shall by the said name sue and be sured.\(^{40}\)

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40. The insurance amendment act 1950 section 64A (1)