- The need for involvement of lawyers increases the cost of litigation and makes this system more expensive.
- The CDRF have not adequate infrastructure facilities
- The overall performance of CDRF is satisfactory

At the same time they differ on some issues

- The enactment of COPRA has not created any impact on business.
- The accessibility of CDRF is very easy.
- The CDRF did not follow the principles of natural justice.
- The reasons for delay in disposal of cases.
- The total expenses involved in CDRF are less when compared with civil court.
- The CDRF normally provide frequent and long adjournments.

Hence it may be concluded that the majority of the beneficiaries have opined that the CDRF have not accomplished the objectives of the COPRA.

CHAPTER VII

SUMMARY OF FINDINGS AND SUGGESTIONS

7.1 Introduction

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CHAPTER VII

SUMMARY OF FINDINGS AND SUGGESTIONS

7.1 INTRODUCTION

This concluding chapter gives a summary of the findings and some suggestions to be considered and acted upon by the authorities concerned. The
suggestions are for the effective and efficient functioning of the CDRF not only in Tamil Nadu but also all over India. It may not be out of place to mention that efforts have been made to a great extent to eliminate hypothetical and assumptive elements from the purview of the suggestions. Therefore the suggestions and recommendations discussed have emerged from the discussion made in the previous chapters, which in turn are based on the empirical data, discussions, deliberations, views and observations with the major actors, participants and knowledgeable persons in the area of consumer protection law and the functioning of CDRF in Tamil Nadu and India.

7.2 SUMMARY OF FINDINGS

The introductory part of the first chapter has made an attempt to discuss the importance of the consumer, problems of the consumer, need for consumer movement, methods of consumer protection, role of government in consumer protection and importance of Consumer Protection Act 1986. It discusses the review of the past studies, statement of the problem, objectives of the study, methodology and the scheme of the report.

The second chapter traced the origin, salient features, objectives and limitations of the Consumer Protection Act, 1986. It examined the procedural differences in the functioning of the civil court and consumer forum. It also critically evaluates the functioning of the CDRAs in the light of theory and practice.

The study reveals that the consumer cannot redress their grievances as laid down in the act. But in practice the frequent changes in the definition of the complaint, accessibility of the fora, involvement of lawyers, presence of consumer during the hearings, too many adjournments, laws delay, environment of the fora, implementation of the orders, discretionary powers of the members, threat based withdrawals are not conducive to consumers.

The third chapter analyses the functioning of CDRAs in the light of their administrative and organizational set-up. The study reveals that (1) there is a variation in the nature and status of the fora. Some fora are regular and full time and others are
part time. In Tamil Nadu some fora are individual and some other fora are combined fora. (2) There is not uniform pattern followed in the matter of the appointment of the members of the fora. (3) There is no uniform staff pattern. (4) There are no adequate infrastructure facilities. (5) There is a variation in the working days per week and the working hours per day These lack of uniformity of approach in the creation and establishment of the CDRAs is not only intra state but also inter state.

The fourth chapter evaluates the quantitative performance of CDRAs in order to find whether these agencies provide speedy redressal to the consumer grievances as per the act (90 days) or not. All the facts and figures show that the expectation that these agencies will expedite the case settlement is only a mirage.

The approach and attitude of the consumer fora set up under the CPA, towards consumer grievances has been reflected in the nature of the order passed, the kind of relief provided to the complainants, and the time taken in the disposal of cases.

7.2.1 Nature of Order Passed

In a large majority of cases decided by the District Forum, State Commission and National Commission, the order was passed in favour of the complainant-consumer. Consumer Complaints were rejected, mainly on account of the following reasons.

The grievances of the complaint could not be established
The complainant himself was in default.
The case was beyond the scope of the Act
There was mutual settlement between the parties
With regard to the establishment of the complaint as a basis of rejection, the possible reasons were:

- The lack of requisite evidence against the opposite parties
- The lack of conceptual clarity of the nature of the complaint
- The complainant in default is almost on the same footing as frivolous or vexatious complainants, leading to wastage of time and other resources of the consumer courts, with no penalty or fine imposed on such complaints.

Another basis of rejection commonly found is that of the cases being beyond the scope of the CPA. These included the cases trial able either by the Civil Court or the Company Law Board. It seems that the complainants in these cases lacked awareness about their mechanism and that the relief sought could not be claimed from more than one forum at a time.

In other cases, the complaints were withdrawn after the parties arrived at mutual settlements. This has obviously been due to the following reasons:

1. The opposite party was afraid of the likelihood of strictures that may be passed against him
2. The opposite party was scared of the loss of goodwill as a result of adverse media publicity.
3. The requirement of attending the hearing before the forum time and again.
However this kind of settlement indicates the positive impact of the redressal mechanism provided under the Act.

7.2.2 Kind and Quantum of Relief Provided

In this regard, the approach of the consumer courts has been to provide relief of compensation, including interest thereon, award of litigation costs, followed by the refund of price/charges paid (all of which monetary in nature). These have been the most common kinds of relief provided by the consumer courts.

While awarding costs, a conservative approach has been adopted by these fora, despite the longer time taken in deciding the cases. The relief offering protection of public interest, by way of cease-and-desist orders, has not been given due importance in any case. Thus, the quantum and kind of relief provided by each of the fora by and large, keep in view the principles of natural justice.

7.2.3 Time Taken in Disposal of Cases

Though the Act has fixed 90 days’ time limit for the disposal of cases, in actual practice, this time frame has hardly ever been adhered to. In fact, most cases have taken far longer in all the three fora on an average, more than three years. The slowness can be attributed to the following reasons;

1. Large inflow of cases with growing consumer awareness of the grievance redressal machinery;
2. Limited time for the court hearings;
3. Lack of necessary infrastructure with the fora;
4. Legal technicalities involved in the cases, especially in cases relating to insurance and medical services;
5. Dilatory tactics often adopted by advocates engaged by the opposite party;
6. Non-availability of requisite evidence; and
7. Some cases being of a complex nature.

Though the disposal of cases by the consumer fora has been rather tardy, they have provided succour to the needy and hapless consumers.

7.2.4 Types of Complaints Involved

Although provision under the Act exists for as many as five types of entities to file a complaint at the forums, only the individual consumers have taken the initiative. It is disheartening to note that consumer associations did not come forward, as complainants in matters pertaining to the common cause of consumers. It appears that consumer associations, and the Central and State Governments, have played hardly any role in invoking the provisions of the Act for the protection of consumers. Efforts of individual consumers could have been saved to a large extent if voluntary consumer organisations and the Central and State Governments were vigilant and active enough in this regard. The fact that no case of class action has come to light is an indicator of the slow progress of the consumer movement in the country.

7.2.5 Types of Grievance Involved

It is interesting to note that a relatively larger number of cases handled by the consumer fora at all the three levels pertained to deficiency in service. The major services involved in the cases decided by the consumer fora are arranged in descending order as follows:

1. Electricity supply;
2. Financial service;
3. Telephone service;
4. Housing construction; and
5. Insurance service.

Incidentally a large majority of cases of these services belonged to the public sector, which is generally perceived as being insensitive to the needs of the consumers. The study shows that cases of deficiency in these services have shown an upward trend. Despite the strictures passed against them repeatedly in a number of cases by the consumer courts, these service organisations do not seem to have mended their ways. They also seem to be caring less for the consumer fora than the private sector organisations. This is due to relatively milder orders passed against the unscrupulous practices of the former.

Moreover, the approach of the consumer fora has been to penalize only the organisations rather than the officials responsible for the objectionable practice.

Providing speedy justice to large masses is indeed a formidable task. However, the consumer fora have made a good beginning. The larger inflow of complaints at various consumer fora has proved it to be an easily accessible instrument. The old dictum, ‘Justice delayed is justice denied’, should not be applied to consumer fora. Otherwise, the very purpose of this wonderful piece of legislation will be defeated.

The fifth chapter evaluates the qualitative performance of CDRAs in order to find whether these agencies provide simple and inexpensive redressal to the consumer or not. An attempt has been made to analyse the attitude of the complainant, defendant, advocates, office bearers of voluntary consumer organizations, and members of the fora. The study reveals that

- The majority (53.5 per cent) of the complainants belong to the age group of between 26 and 50.
Both males and females approach the CDRAs seeking redressal for their grievances.

The majority (79 per cent) of the complainants are graduates.

The majority (69 per cent) of the complainants belong to the middle-income group.

The majority of the complainants (78.5 per cent) are employees working in the government and private sector undertakings especially retired persons.

The majority of the complainants belong to the backward community.

The majority (69 per cent) of the complainants reside in the urban areas.

The majority (45 per cent) of the complainants approaching the fora for deficiencies of service providers.

The majority of the cases filed in the district fora relate to public sector undertakings.

The majority of the complainants demand replacement and compensation.

Press and Electronic media are the most effective measures for educating the consumers and for conveying information to the public about the consumer protection movement.

A good percentage (67.0 per cent) of the complainants observed that the CDRAs had their first hearing within the stipulated time of one month as per the Consumer Protection Act 1986.

More than 50 per cent of the complainants said that they had not needed any adjournments.

More than 50 per cent of the complainants observed that more than four adjournments were granted to the opposite parties.

Forty-three per cent of the sample complainants observed that more than twelve months were taken by the CDRAs for completing the hearing of complaints.

The majority (80 per cent) of the sample complainants said that two months time were taken by the CDRAs for issuing orders from the last date of hearing.
A majority (77.5 per cent) of the respondents said that CDRAs had taken one-month for issuing the certified copy of the orders.

Seventeen per cent of the sample respondents said that CDRAs had taken more than three months for executing their orders.

The majority of the complainants (52.5 per cent) reported that CDRAs had taken more than 180 days to redress their grievances.

The majority of the complainants (52.3 per cent) complained that the total time taken by the CDRAs to redress their grievances was very high.

The majority of the complainants (59.1 per cent) were not satisfied with the total time taken for the settlement of complaints.

More than 50 per cent of the complainants said that they had to appear before the fora more than five times.

Sixty per cent of the complainants did not appear personally for hearing because they had engaged lawyers.

The majority of the complainants (62 per cent) felt that the total expenses involved in their cases were moderate.

About 50 per cent of the sample complainants observed that a very long time was involved in the trial of complainants by the CDRAs.

Forty-four percent of the complainants were extremely dissatisfied with the total time taken by the CDRAs in settling the complaints.

Sixty-three percent of the complainants observed that expense on conducting the cases through CDRAs was low.

Seventy-six per cent of the complainants availed of the services of advocates for the trial of their cases.

Forty-two per cent of complainants felt that the fee charged by the advocates was high.

Fifty-one per cent of the complainants were of the opinion that advocates were frequently necessary for the trial of the cases.
➢ Fifty-six per cent of the complainants had prior knowledge of the functioning of CDRAs.

➢ Fifty-seven per cent of the complainants did not avail of any service of voluntary consumer organizations for redressal of their grievances.

➢ More than 50 per cent of the sample complainants approached the voluntary consumer organizations for advice and assistance.

➢ Sixty-per cent of the complainants opined that the fees charged by VCOs are moderate.

➢ Among the complainants who availed of the services of voluntary consumer organizations, more than 55 per cent were dissatisfied with the services extended to them by the voluntary consumer organizations.

➢ The majority of the complainants opined that the proceedings of the fora are simple and inexpensive when compared with the civil courts but at the same time they opined that the proceedings of the fora are not speedy as specified in the Consumer Protection Act 1986.

➢ The majority (59 per cent) of the complainants were not found satisfied with the overall performance of the consumer disputes redressal agencies.

➢ The majority (50 per cent) of the complainants demanded, offered and actually received less than Rs. One lakh as compensation from the opposite parties.

➢ The majority (81.82 per cent) of the complainants felt satisfied with the judgments pronounced by the forum.

➢ The majority (80 per cent) of the complainants did not take any further steps even though they received unsatisfactory judgments from the forum.

➢ Only five per cent of the complainants could get the benefit fully through the fora as per the Consumer Protection Act 1986.

➢ Creating awareness, settling the cases within the stipulated time of 90 days, functioning of fora without break, appointing members in time, and reducing the appearance of the parties were the principal suggestions made by the majority of the complainants.
Opinion of the Dependents

- The majority of the private business houses were found ignorant of the CDRAs before the case was filed them.
- The majority of the defendants opined that the non observation of punctuality of the members of the fora is the most important factor responsible for slow disposal of cases.
- The majority of the defendants opined that the procedure followed by the CDRF in settling the complaints is time consuming.
- The majority of the defendants opined that engagement of advocate is desirable because they represent the case effectively and efficiently.
- The majority of the defendants opined that the proposal to establish forum at sub-divisional level would not improve the working of the fora in anyway.
- The majority of the defendants were not satisfied with the infrastructure facilities available in the fora.
- The majority of the defendants were not satisfied with decisions of the fora.

From the Advocate’s point of view

The Advocates who dealt with the consumer cases were interviewed in order to get their opinion on the functioning of the fora. The study reveals that

- The majority of the complainants and defendants engaged advocates to represent the cases.
- The majority of the advocates have professional experience of more than ten years.
- The majority of the advocates engaged by the complainants are members of voluntary consumer organizations.
- The majority of the advocates engaged by the defendants are not members of voluntary consumer organizations.
The majority of the advocates opined that the non-punctuality of the officials, short duration of the sittings, and frequent adjournments are the most important causes for the slow disposal of cases.

The majority of the advocates were of the opinion that the procedure followed by the CDRAs in dealing with the cases is simple.

The majority of the advocates were of the opinion that the CDRAs took a reasonable time to settle the complaints.

The majority of the advocates from all the categories were of the view that the infrastructure facilities of the CDRAs are not sufficient.

The majority of the advocates from all the categories were of the opinion that the establishment of fora at sub-divisional level would improve the functioning of consumer fora more effectively to deliver the justice at the doorsteps of the consumers.

The majority of the advocates from all the categories were of the opinion that consumer awareness, enforcement of law, social responsibility and active role of consumer organizations are the important factors in consumer protection.

The majority of the lawyers expressed similar opinion regarding certain issues.

1. On the type of cases they agreed these should be related to goods and services transacted.

2. They felt that the environment of Fora is cooperative and helpful to the consumer.

3. There is no general problem in the implementation of orders.

4. They denied any knowledge of bribery.

5. The award of costs is based on no criteria but on the discretion of the members and they felt the need for some objective criteria.

But there are certain areas on which the opinions of the counsel differ.

1. The majority of the lawyers opined that it differs from case to case and person-to-person in spite of the existence of an Advocate’s Fee Act but some of them felt that it should be fixed at Rs.500/-
2. The majority of the lawyers felt that the involvement of lawyers in the fora is essential and is advantageous to the consumer whenever there is complication, and they felt that lawyers are not at all the cause for the delay, the delay may mainly be because of the members not following the rules regarding the adjournments. Some of the lawyers felt that the involvement of lawyers is not necessary because there is no procedural difficulty. A few counsel suggested that the involvement of the lawyers should be from the non-government organizations or from the government at free of cost.

3. The majority of the lawyers opined that the presence of the consumer in the fora is not required more than five times. The exceptional opinion was that the presence of the consumer should be five to ten times.

4. All the lawyers opined that the appointment of the members of the fora should be temporary. Fifty per cent of the interviewed lawyers opined that the members of the fora should possess basic legal knowledge. In the case of the number of members of the fora two or three members are sufficient to run the day-to-day activities of the fora.

5. The majority of the lawyers opined that consumer education should be introduced at the educational institutions. They also favoured the suggestion of local level Fora. The majority of the lawyers said that the government should create awareness among the consumers and provides financial assistance in order to strengthen the fora. The majority of the lawyers were not satisfied with the activities of the NGOs because they not only under-utilized but also misutilised the provisions for the sake of popularity.

From the Point of View of the Office Bearers of VCOs

- The majority of the office bearers of VCOs opined that the short duration, short period of sitting, non-filling of vacancies of the members of the fora are the main reasons for the delay in disposal of cases.
- The majority of the office bearers of VCOs opined that engaging advocates is not desirable because they charge heavily.
The majority of the office bearers of VCOs opined that the infrastructure facilities available in the consumer fora are not adequate.

The majority of the office bearers of VCOs favoured the proposal of establishing additional fora at sub-divisional level.

The majority of the office bearers of VCOs opined that the active role of VCOs was the most important factor in consumer protection.

From the Point of View of the Members of the Fora

The members of the State Commission and District Fora of Tamil Nadu were interviewed with the help of a questionnaire in order to get their opinion on the functioning of the CDRAs. The study reveals that

- The majority (54.2 per cent) of the members opined that they kept to the time schedule only in rare occasions.
- Heaping of number of case and parties demanding several adjournments are the main reasons for delay in disposal of cases.
- The majority (54.2 per cent) of the members said that they were not satisfied with the infrastructure facilities of the CDRAs.
- Out of the total members of the fora 62.5 per cent reported that they were not satisfied with the present staffing pattern followed by the CDRAs.
- Out of the total members selected for the study, 62.5 per cent felt that a separate department is necessary to increase the efficiency of the CDRAs.
- The majority (75 per cent) of the members opined that more powers are to be extended to the members of the CDRAs for the easy execution of orders.
- The majority (66.7 per cent) of the members were highly dissatisfied with the remuneration they received.
- The majority (52.4 per cent) of the members were agreed that the absence of job security affects the performance of CDRAs.
The majority of the Presidents and members of the fora opined that Lack of staff, and short period of sitting are the main causes for the slow disposal of cases.

The majority of the members of the judiciary felt that it is desirable to engage advocates keeping the matters relating to the fora in view.

The majority of the members of the judiciary felt that advocates represent the cases more effectively.

The majority of the members of the judiciary felt that facilities available are inadequate for the efficient working of the fora.

The majority of the members of the fora opined that the proposal of establishing additional fora at sub-divisional level is good and it will expand the scope of justice.

The majority of the members of the fora were of the opinion that consumer awareness, enforcement of law, social responsibility and active role of consumer organizations are the main factors in consumer protection.

The majority of the members expressed similar opinions regarding certain issues:

1. They agreed that the cases relating to goods as well as services could be brought to the fora.
2. Their view was that there was no problem in filing cases with the fora.
3. They felt the involvement of lawyers is not necessary except in complicated cases.
4. The award of costs is based on no criteria but on the discretion of the members and they felt the need for some objective criteria.
5. They insisted on the need for better infrastructure facilities.
6. They see no bribery in the Fora.
7. There is no bias even when the government is the respondent but they may be more flexible in case of adjournments.

8. They felt the environment of the Fora is helpful to the consumer.

9. There are no problems in the implementation of the orders.

At the same time they differ on some issues:

1. The members of the State Commission felt that it is required only one time but the members of district fora felt that it is required at least five times to as many times as needed based on the admitted facts.

2. The members of state commission had different views on this issue. The reasons for the delay are due to delay in serving notice, postal delay, too many adjournments, absence of any one of the party and delay in the appointment of the members. They also felt that the time given for arguments is completely at the discretion of the president. Some of the members felt that it would be better to reduce the judiciary involvement so that the cases may be decided based on common sense.

3. The members of both the State Commission and the District Fora agreed that there should not be any permanent appointment except for the lady member of the state commission. In the case of legal knowledge of the members, both the members of the State Commission and the District Fora opined that there was no need for legal knowledge but it is an advantage. In the case of the required number of members in the fora in order to continue its day-to-day functions, many presidents and other members preferred only two members, but some of them did prefer three members.

4. The majority of the members of both the State Commission and the District Fora suggested that consumer education should be introduced in the educational institutions. They also favoured the suggestion of the Fora at local levels besides the District Fora and at the same time they expressed their doubts regarding the establishment of these fora, due to lack of funds. The members at both levels of the fora also opined that the government should create awareness among the consumers and strengthen the consumer disputes redressal agencies through the establishment of permanent courts. In the case of NGOs a majority of the members of the fora opined that the NGOs should work without misutilisation of the provisions.

7.3 SUGGESTIONS
7.3.1 Suggestions towards appointments of President and Members of Fora

It was observed that the Government of Tamil Nadu and Tamil Nadu State Commission had not shown enough interest in the filling of the vacant posts of the presidents and members of the fora, which remain unfilled for periods of more than a year. It showed the apathetical attitude of the Government. Due to such non-appointments nine District Consumer Fora in the state remained non-functioning for a long period. This is the social essential redressal machinery, which should be continuously functioning. Hence the State Commission should be very prompt in the appointments to the vacated posts in the District Fora. The following suggestions are made:

1. The list of retiring persons (Presidents and Members) working in the Fora should be prepared quarterly and retirement dates of the persons be watched carefully.
2. The process of appointment should be started six months prior to the retirement date of any person.
3. If the post of the president of any consumer forum is vacant for any reason for more than three months, such forum must be made functional with the help of a sitting judge of that district till the new appointment is made. In this regard the government is requested to make necessary arrangements by amending the rules for such standing notification.

7.3.2 Suggestions towards change in the Appointment of the President

It was observed that there is a variation in the appointment of president in the district fora. Retired District Judges are appointed as president at many of the district fora functioning in the state, whereas in some district fora novice candidates (qualifying for district sessions judge, i.e. advocates with a minimum of seven years pleading experience) are appointed. The retired district judges have got experience
and are well acquainted with the court proceeding, arriving at quick decision, writing short judgements etc., but novices are new for all these activities. Hence they require experience and training. Considering these difficulties the following suggestions are made.

1. As far as possible retired district judges must be preferred for such appointments. If such persons are not available then novices may be appointed after providing them the necessary training.

2. The novices should be on probation period of six months before the commencement of work as president. During the probation period a novice should be posted in any functioning fora under training.

3. After completion of the probation period and training the trained candidate may be posted independently as a president of a district forum.

7.3.3 Suggestions towards change in Appointment of Nominated Members

The presence of nominated members is essential in the working of district fora. If any post or posts remain vacant it may lead to disturb the working of the forum. Hence due care must be taken to fill the vacant posts of nominated members. In this regard the following suggestions are made.

1. The State Commission should maintain the list of retiring nominated members working in the District Fora in the state. The retirement dates of the members must be watched carefully every month.

2. The process of the appointment of nominated members for the posts to be vacated should be started six months before the retirement date of any member.

3. Due care should be taken that the newly appointed member will take charge in the forum office immediately after the retirement of any member.

4. There is a variation in the qualification of the nominated members. Some are graduates and some are not. They are social workers. The post of a member of the fora is very important. Such a member should be an at least graduate with legal knowledge, so that he may be capable of hearing the case independently
(when the president goes on long leave). Such member should not be voting member only.

7.3.4 Suggestions for Uniformity in Infrastructure Facilities

Variations were observed in the availability of infrastructure facilities in the District Fora offices such as space, manpower, furniture, equipment, library, telephone, fax, xerox, computer, separate cabins etc., It was found that some offices were well furnished and equipped with all essential machinery, while some faced difficulties in getting these facilities. District Fora without adequate infrastructure facilities are put to inconvenience. In this regard the following suggestions are made.

1. All District Fora should be provided with all essential infrastructure facilities immediately.
2. In the District Fora office sufficient arrangements should be made for consumers to sit during court proceedings.
3. A separate office cabin should be made available to all members of the Fora.
4. A separate discussion room should be made available in the District Fora.
5. There should be provision for a library-cum-reading room in the District Fora. In the reading room newspapers, consumer magazines, articles, pamphlets, information kits should be made available for advocates and consumers for reading.

7.3.5 Suggestions towards Uniformity in Location of District Fora

It was observed that the State Commission and the District Fora are functioning in the different places. In some districts it is in the government building, whereas in some districts it is in the court building, or collector’s office building, in some other districts it is in rented building. Hence it is suggested that uniformity in the location of the District Fora office building should be maintained. It will make it convenient to any layman to locate it easily.

7.3.6 Suggestions towards Uniformity in Working Days and Working Hours
Variations were observed in different District Fora offices in regard to working days for case hearing and pleading. Similarly variation in case hearing timings was observed. The observed variations were as follows:

1. Some District Forum offices function regularly.
2. Some worked on particular days in a week for Fora working.
3. Some Fora start office work (i.e. of case hearing) from 11 a.m., whereas some other starts at 2 p.m.

Such variations make for inconvenience to the concerned parties. Hence it is suggested that all the District Fora working in Tamil Nadu should be functioning for all the days in a week and should have uniform office working timings, hearing timings at all the Fora offices throughout the state like other government offices. (i.e.10 a.m. to 5 p.m).

7.3.7 Suggestions towards Uniformity in Medium of Language for Working

Variations were observed in the use of language as a medium of working (i.e. English / Tamil) in the Tamil Nadu District Fora. It was observed that Tamil is generally used in the District Fora while pleading the case and in the State Commission both the languages are used while hearing / pleading the cases. The use of the English language becomes a great obstacle for the layman (consumer) to plead his case. Hence it is suggested that the regional language (Tamil) has been accepted as a medium for office working in the government offices, the State Commission should insist on the use of Tamil for their office working. It will be helpful to the consumer to express his views and plead the case. Otherwise he may be forced to hire advocates for pleading the case, which would hamper the objective of the Consumer Protection Act.

Similarly variations were observed in the use of medium for writing decision or judgment orders. It was found that in some district fora the judgments were written in English and in some fora in Tamil. Hence it is suggested that all the district fora should
be properly instructed to use Tamil in all the working of the fora and also to write judgment orders in Tamil. It will help the layman (consumer) to understand it.

7.3.8 Suggestions towards uniformity in Staffing Pattern

It was observed that the required staff for the working of the District Fora office was made available by the state government by deputing staff from other departments. At the initial period when the District Fora were established in the state the total required staff were made available by deputing them from the revenue department and then from the Weights and Measures department. The staffs deputed from the revenue department were recalled to their parent departments and the staff from the Weights and Measures department is transferred to the District Fora office. The process of such withdrawal of deputed staff will affect the efficiency of the District Fora. However, the newly transferred staffs require time to familiarize themselves with the work, understand its nature of work and to be acquainted with the working of the fora. Now it is found that the major working staffs belong to the Weights and Measures department except the steno who is from the collector’s office.

In this staff pattern following shortcomings were observed
1. The administrative staff working in the district fora is controlled and governed by the weights and measures department.
2. The staff working in the fora may again be transferred to their parent departments, which may disturb the nature of their work and affect their efficiency.
3. It was found difficult for the president to control such deputed staffs because they are ultimately governed and controlled by their parent departments.
4. It was also found that the deputed staffs are apathetic to work in the fora and does not have loyalty. The staffs are unenthusiastic to create efficiency in work.

Therefore the following suggestions are made:

1. A totally independent staff should be appointed in the District Fora or existing staff working in the fora should be treated as permanent staff for this machinery hereafter.
2. The staff transferring authority or power should be delegated to the Registrar of the State Commission.

7.3.9 Suggestions for checking Dismissal of Cases on Technical Ground

It was observed that in Tamil Nadu upto 31\textsuperscript{st} Dec. 2004, 23.57 per cent of cases were dismissed on technical grounds and non-appearance of complainants. Such dismissal occurs due to illiteracy, lack of knowledge regarding complaint filing and loss of the interest of complainant in the case after its institution. The fact remains that a majority of Indian consumers belonging to rural areas are illiterates and don’t have legal knowledge. Hence it is suggested that the consumers should be properly guided in filing the complaints by the voluntary consumer organizations. Similarly they should get proper guidance in this respect from the registrar at the District Fora so as to avoid the dismissal of the case on technical grounds.

7.3.10 Suggestions towards Recovery of Compensation in cases of Public Utility Services

It was observed that many decisions in consumer dispute redressal agencies went against public service utilities like Railways, State Transport, Telephone, Post and Telegraphs etc., for providing deficient services to the consumers and compensation and loss is recovered. In such a recovery it is found that the amount of compensation is borne by the department. If it is borne by the department it will be an unnecessary burden to the department and the employees will not be careful. Compensation or loss should be recovered from the salary of the concerned responsible employee so that he would be cautious and take due care while performing his duty in future. The District Forum should be careful to direct the department in the judgment order to recover such compensation and loss from the salary of the concerned employee. However, the problem is a matter of organization structuring and running of the concerned government department.

7.3.11 Suggestions towards Getting the Judgment Order Implemented
It was observed that after deciding the case and issuing an order of the judgment, in many cases the opposite party does not immediately enforce it. The forum must be able to enforce an order under the provisions mentioned in Sec.25 in similar manner as a civil court or send it to the civil court for getting it enforced within the local limits of whose jurisdiction opposite party is situated or resides or carries on business. When the opposite party does not enforce orders the District Fora are not strict in getting the orders enforced.

Hence it is suggested that the District Fora should be strict in getting its orders enforced by the opposite party. If the opposite party fails to enforce an order of the District Forum it should apply the provisions of Sec.27. At present there is no clear expression under it that the order / fine or arrest warrant issued by a forum/ commission be deemed to be an order/ warrant issued by a criminal court and be executed and enforced with the help of police authorities. Until and unless the District Forum applies its powers and is strict in getting orders enforced by the opposite parties, they will not consider the gravity of an order issued by District Forum.

7.3.12 Suggestions on the Engagement of the Services of Advocates

It is a general experience that advocates try to create complications in the case, take unnecessary adjournments and delay the decision of the case. An advocate’s services also increases the cost of the case. The sample survey shows that in a majority of the cases advocates were engaged. The engagement of an advocate is one of the major reasons for prolonging the decision on the case. Hence, it is suggested that when a consumer pleads his case himself, the opposite party should not be allowed to engage an advocate for pleading the case.

7.3.13 Suggestions for checking the tendency of opposite party to go on appeal

Generally a person is anxious for getting solution to end benefits from the complaint lodged by him. The Consumer Protection Act provides the redressal agency to satisfy the expectations. It was observed that the District Fora give judgment on the
consumer complaint and issue an order. The quick implementation of an order is anticipated. But the opposite party is free to go on appeal to the State Commission against the order given by the District Forum. It was observed that in many cases the opposite party goes on appeal against District Forum’s order. The intention of the opposite party may be to delay the implementation of the District Forum’s order or to keep away the consumer from getting the compensation or benefits. This obstructs the intention of the Consumer Protection Act. The fact remains that an appeal against the District Forum order and its implementation are different things. Hence it should be implemented as per instructions given in an order.

In this regard the following suggestions are made

1. It is essential on the part of the consumer organization to make the consumers aware that
   (i) An appeal against the forum order and its implementation are different things.
   (ii) They are entitled to get the order implemented and get the benefits immediately.
   (iii) Whenever the opposite party does not implement the order or consumes time to implement it. It is essential for the consumer to write to the president of the District Forum for getting the order implemented under Sec.27 of Consumer Protection Act 1986.

2. It is essential to amend the Consumer Protection Act and institute some mandatory provisions in the rules. In this regard following suggestions are made:

   i) Whenever the opposite party goes on appeal against the forum’s order, it doesn’t mean that he has been permitted not to implement the forum order. Hence there should be mandatory provisions under the act that “whenever any aggrieved party other than consumer wants to go on appeal to the State Commission, he should deposit the amount of cost and compensation to be received by the consumer as per the order issued by the District Forum in the government treasury within the jurisdiction. This will increase the gravity of the District Forum’s order and check the tendency of the opposite party to go on appeal with
the intention of delaying the implementation of the District Forum’s order or to harass the consumer deliberately or

ii) To make the payment to the consumer as per directions given in the order

7.3.14 Suggestions towards Quantitative Performance of CDRAs

1. The Position of District Forum

The performance analysis showed that the overall performance of District Forums was good as during the period of the study. The Madurai District Forum achieves the National average in filing and disposing the number of cases. The analysis showed that the 9 District Fora in Tamil Nadu have the maximum efficiency by achieving and crossing the State Average number of cases filed and disposed. Hence it is suggested that all District Fora should try to achieve at least the State Average complaint disposal rate. If any forum fails to achieve such disposal rate, should try to find out the causes, and take the necessary remedial measures to increase their working efficiency. In this regard the State Commission should be alert to assess the quarterly, half-yearly, yearly working efficiency at regular intervals.

The comparative analysis of District Fora performance showed that the working efficiency of District Fora got set-back during the last two years, and leads to increase the number of pending cases. It was pampered by various reasons like, non-appointment of president and nominated members, inadequate staff and infrastructure facilities, inadequate funds, frequent changes in the government policy towards staffing pattern, political interference, frequent adjournments etc. Therefore it is suggested that the government should take necessary steps to create a separate department to deal with consumer affairs.

2. The Position of the State Commission

The performance analysis of the State Commission showed that it had been above to achieve 62.52 per cent of original complaints and 51.09 per cent of the appeal petitions are disposed during the period of the study. If the performance of the State
Commission is compared with the average complaint disposed in our country, it is lagged behind. Hence the performance of the State Commission was not upto the level of expectation.

The performance of the Tamil Nadu State Commission for disposing the cases within the stipulated time limit had been very poor. During the period of the study the State Commission was able to dispose only 5.39 per cent of original complaints and 3.76 per cent of appeal cases within the period of stipulated time limit. (90 days)

However in the consumer sample survey it was observed that in 45.89 per cent of cases more than six adjournments were sanctioned. Sanctioning frequent adjournments keeps away consumers from quick redressal and leads to lose the confidence of consumers in this machinery. It is also observed that 38.8 per cent of cases took more than nine months to decide the cases. Sanctioning of more adjournments and consuming maximum time hampers the objectives of consumer protection act to decide the cases within the stipulated time limit. Hence it is suggested that the due case must be taken by the state commission and district fora so as to dispose the new cases within the stipulated time limit covering the pending cases simultaneously. In this regard the plan to dispose the pending cases as well as new cases is given below.

a) Ask to prepare the list of cases filed as per serial order as on any convenient date and consider the list as a pending list for the complaint cases in the District forum and state commissions each.

b) Ask to prepare the complaint-filing list for every current year hereafter.

c) While preparing the daily hearing list select 60 per cent of the cases as per serial order from the pendency list and 40 per cent of cases from the current year list.
7.3.15 Miscellaneous

1. One basic lacuna that emerges from the analysis of the working of the district fora is the lack of criteria for awarding the costs, rate of interest etc., which often results in unintended discrimination of the parties. Since the members of fora are non-experts, it would be useful to provide some criteria for commonly recurring components of consumer complaints.

2. The calculation and award of compensation by the fora must be in such a way that it should not only have some deterrent effect on the tortfeasor but also provide some incentives to him in order to take precautionary measures to reduce the risk of harm. Such compensation should not only reduce the negligence of tortfeasor but also protect the consumers who do not approach the fora because of rational apathy, or threat of opposite parties.

3. Whenever delays become unavoidable, the CDRAs should have power to grant ‘interim order’ in order to prevent the respondents to take action against the consumers during the trial. Further, the imposition of time limit on the disposal of the cases, instead of ensuring speedy justice is leading sometimes to adverse effects on the consumers. Though the CDRAs are not strictly following the timely disposal / dismissal in majority of the cases, sometimes they simply dismiss the cases because of its complexity, as it needs more time and it is not possible to solve the problem within the prescribed time. It is necessary to review the existing time bound redressal in order to eliminate its adverse effects. Thus, it is advisable to adopt a workable time bound programme.

4. Imposing costs on the consumers for wrong filing may do much of harm to the consumers. As a matter of fact it is premature. It also has a kind of deterrent affect on the consumer so that they do not approach the CDRAs for their grievances. It may be better to establish a scrutinizing department in CDRAs in order to reduce the consequences of wrong filing rather than imposing costs on consumers.
consumers need not pay for the costs for wrong filing and there may be a chance of reduction of law’s delay. Similarly, the consumers should be well informed about the consequences of the applicability of derogatory principle and also they should be advised to withdraw the case from civil court and then seek the redressal from the CDRAs rather than simply dismiss the cases wherever the derogatory principle is applicable.

5. The government should take steps to reduce the law’s delay by continuity in the functioning of CDRAs, if necessary by increasing the number of the members of District Fora and State Commission, provide adequate resources and establishing a separate independent body in order to monitor the functioning of the CDRAs all over the country.

6. It is better to minimize the appearance of consumers before Fora as much as possible in order to reduce the adverse effects like rational apathy. i.e. not only because of small individual claims but also because of unnecessary presence before the Fora. It also increases the cost of the trial, which is against the objectives of providing inexpensive redressal to the consumer disputes through CDRAs.

7. It may be true that the involvement of lawyers in CDRAs is perhaps advantageous to the consumers, however they create some problems like unnecessarily dragging the case, asking for frequent adjournments, making the trial more technical legal language, which makes the trial more complicated. Hence lawyer’s involvement is against the objectives of the act, which provides for simple redressal to the consumer disputes.

8. Since the harm is often from the negligent tortfeasor the administrative costs of the CDRAs may be covered under the court fee from the tortfeasor. However, the
court fee should be based on the award of the compensation. Such measures may provide incentives to the tortfeasor to take precautions to reduce the risk of harm.

9. It should be said that in general, the environment of the CDRAs is far better than the civil court. However, the purpose of appointment of the non-legal members is to make the environment of the CDRAs informal. It is not achieved fully, because during the trial their role often is no more than spectators. There is a need for reform by assigning some concrete responsibilities to the non-legal members, in order to improve the working atmosphere of the CDRAs.

10. The District Forums and the State Commissions should not be bogged down in hyper legal technicalities and procedural complexities that characterize civil courts. Simple Law, Simple Procedure and Simple Execution should be the guiding principles of the working of Redressal Agencies. The Consumer Forums should function in a most informal manner as “Popular Forums”

11. The Redressal Agencies should ensure that where a counsel does not represent the complainant or the opposite party, no disadvantage occurs to a party by reason of the appearance of the counsel on the other side.

12. The District Forums and State Commissions should bring about drastic and speedy reduction in the number of cases pending for more than six months, which have to be regarded as “Old” cases in the consumer jurisdiction, since efforts have to be made to dispose of every case as far as possible within ninety days from the date of service of notice on the opposite party.

13. All the District Forums should strictly adhere to the instructions given by the President, National Commission from time to time that every Forum should mandatory hold sittings on at least five days of every week. Strict punctuality should be observed by commencing the
sittings exactly at the scheduled announced time and except for rising for a short interval for the lunch recess, the sitting should continue until 5.00 p.m.

14. The District Forums and the State Commissions, should not grant more than two adjournments in a case and dispel the much-levelled criticism that they are being fast deteriorating into “Adjournment Courts”. The adjournment should be granted only in exceptional circumstances or on humanitarian grounds. The procrastination of cases at the instance of the counsel or the client should be avoided. The practice of civil courts of posting a large number of cases for each day should not be adopted by the Redressal Agencies. Only that number of cases should be posted that can be heard and disposed of on each particular day so that the parties to a case would be spared from coming to the forums again and again wasting their precious time and money

15. Any vacancy in the incumbencies of the members of the Redressal Agencies should be filled immediately.

16. Efforts should be made to appoint District Judges on the verge of retirement as the Presidents of the District Forums and to offer them the salary or honorarium and other allowances, which they have drawn last.

17. The terms and conditions of service of the Presidents and the Members of the District Forums and State Commissions should be reasonable and respectable. The incumbents should be paid decent salary or honorarium and other allowances. The States where the emoluments of the Presidents and Members of the Forum and the Commission are paltry in comparison to their counterparts in other States should immediately amend the rules to offer a better package.
18. The District Forums and the State Commissions should be provided with necessary infrastructure facilities including desirably required office building, space at a central location. The District Forums and State Commissions should be equipped with the Forum/ the Commission appointed and controlled need based full time regular secretarial staff (rather than the State Government / the District Administration appointed and controlled ad hoc or temporary or disputative or consolidated salaried employees) with the power of the transfer vested with the President of the State Commission, and also provided with adequate office equipments and accessories.

19. The budget for the District Forums or the State Commissions should be reasonably adequate and should be maintained in a separate account. The power to utilize the funds should be delegated to the Presiding Officer of the District Forum or the State Commissions as the case may be.

20. Elaborate rules for adoption of uniform procedure for working of the District Forums should be prescribed.

21. The State Commissions should hold circuit courts-camp meetings of the Commissions with regular intervals in different parts of the State for speedy and inexpensive redressal to the complainants.

22. The members of the District Forum, especially the non-judicial members, should be adequately and properly trained to acquire necessary expertise and exposure to handle the consumer cases effectively.
23. The Central and State Government, the Central and State Consumer Protection Councils and the Redressal Agencies at its / their own levels and in co-ordination with each other, should take immediate steps to carry out the aforementioned measures to bring about a marked improvement in the functioning of the Redressal Agencies.

7.4 Scope for Further Research

While conducting the present study, certain aspects could not be dealt in detail in view of study objectives and constraints of time and cost, Besides findings also provide certain clues on the basis of which the following priority areas can be selected for further research.

1. Historical developments of Consumer Protection Laws in India
2. Functioning of Consumer Protection Agencies in India
3. Case Study of Consumer Disputes Redressal Commission.
4. Case Study of Consumer Disputes Redressal Forum
5. Role of Voluntary Consumer Organizations in Consumer Protection
6. Case Study of Voluntary Consumer Organization
7. Comparative study of rural and urban Consumer Organizations
9. Role of Business Organization in Consumer Protection

7.5 Conclusion

The efficient and effective programme of Consumer Protection is of special significance to all of us because we all are consumers. Even a manufacturer or provider of a service is a consumer of some other goods or services. If both the producers /