SOME CASES DEALT UNDER CONSUMER PROTECTION ACT, 1986

1. **Delhi Jal Board Vs Uma Rani (19 May, 2014)**

In this case the facts are that the complainant is a registered consumer of the appellant having water connection No.2058 installed at her house bearing No.157, village post office Dhansa, New Delhi. The complainant is alleged in her complain filed before the district court that the lineman of the appellant remove the cap and joined the two lines from the borewell located near her house which is situated at a greater height than the road passing near her house. It has been further stated by the complainant that the supplied water was blocked by putting the cap from flowing downward with the help of the said cap and when the lineman started removing that cap she objected for the same because that will stop the supply of water to her premises but it was agreed that a NRV (Non – Return Valve) shall be installed to serve the purpose but it was Installed after one month, and during this period she could not get the water. The complainant further stated that there were many unauthorised water connections before her house which were a hindrance for the free flow of supply upto her house but no action was taken by the appellant on her complaint to disconnect the unauthorised connections and her son Mr.Keshav approached the appellant many a times in person as well as letters and sent E-mails to the appellant to solve her problem.

The main issue in this case was of water pipeline connection which was cut by the appellant in order to stop the supply of water of the complainant party. As due to the cut major problem was faced by them. There was another main issue of having the unauthorised connections in their locality instead of cutting their connections appellant party is cutting their connection which was not a tolerable thing. Basically in this case the main issue is that the complainant party is not getting the regular water supply due to their cut in water pipeline by the Delhi Jal Board.

Judgement keeping in view the submissions made by both the parties the district forum decided that the

(1) to reconnect the water connection of the complainant which they found to be disconnected within 7 days after completion of the formalities by the complainant as well as after depositing the requisite reconnection charges.

(2) it is further ordered that the appellant shall ensure that after reconnection the complainant get supply of the water during the specified time and shall also install the requisite equipments so that supply is not disturbed due to any reason.

2. **Arvind Shah vs Kamlaben Kushwaha**

In this case, the plaintiff complained that he lost his son due to the administration of a wrong treatment by the doctor. The State Commission upholding negligence handed a compensation of five lakh rupees. In appeal, the National Commission observed that the two prescriptions that were available on record neither contained any description of the symptoms that the patient was suffering from nor did it have any primary vital information that doctor is requires to check, as per the guidelines and regulation of the Medical Council of India or the concerned State Medical Council, like body temperature, blood pressure, palpitation rate, previous medical history. However, similar kind of test was also commanded to be mentioned, If further tests were needed.

The commission, following the case of Samira Kohli v Dr Prabha Manchanda (I(2008) CPJ 56(SC)), held that failure to put similar rudiments in the practice amounted to medical negligence. The Commission also noted that vacuity of similar rudiments, clinical compliances, and concurrence of the case, point towards the carelessness and negligence of the doctor and act as substantiation against frivolous cases of medical negligence.

3. **Poonam Verma vs Ashwin Paten & Ors**

In this case, a homoeopathic doctor recommended an allopathic drug for the treatment of a patient. The medicine did not respond and subsequently the patient died. The Supreme Court held that the right to exercise the allopathic system of drug was confined by the Central and State Acts which enjoin similar practice unless the person possesses needful qualification and is registered according to the Acts. Grounded on the fact that the doctor was registered and qualified to exercise Homeopathy only, he was set up to be in violation of the statutory duty not to exercise Allopathy given under the section 15(3) of the Indian Medical Council Act, 1956. The Doctor's act was held to be practicable negligence and he was ordered to pay a compensation of three lakhs.

4. **Sehgal School of Competition vs Dalbir Singh**

To seek admission in a medical coaching center, the petitioner, in this case, was asked to deposit a lump sum figure for two times within the first six months. When the petitioner left the course before completion on account of poor-quality services, the coaching center refused to reimburse the remaining money. The State Tribunal, following the view of the apex court and the National Commission, held that no educational institution shall collect lump sum figure for the duration of the entire course and if one does, similar redundant figure should be returned in case the pupil drops out due to insufficiency. It noted that any clause in a contract negative to this is invalid due to lack of equal logrolling power and violation of the principles of natural justice. The court was also of the opinion that fresh compensation should be granted for the mental agony caused due to approaching the legal forum.

5. **Dinesh Prasad Raturi**

In 2019, Chandigarh's Dinesh filed a complaint against Bata India for charging Rs 3 extra for the paper bag after he purchased a pair of shoes for Rs 399. Dinesh complained that the bag that bore the store's name was forced upon him though he had not opted for it.

The Consumer forum slammed Bata for the extra charges and stated that it's the store's duty to give environment-friendly free bags to the customers.

The company was directed to not just refund Rs 3 for the bag but also pay litigation charges of Rs 1,000, compensation of Rs 3,000 for causing mental agony by deficiency in services, and deposit Rs 5,000 in the legal aid account of the State Consumer Disputes Redressal Commission, UT, Chandigarh.

6. **Mriganka Majumder**

In 2017, Guwahati's Mriganka refused to drink Dabur's Real Juice as its carton mentioned the juice is for 'him' not 'her'. It mentioned: "Something that's good for your child should make him smile."

The nine-year-old and her father reached out to the Government of India to ensure that companies market their products to be gender-neutral and sought a public apology from the company.

The company denied the allegations of gender discrimination but later agreed to change the packaging to avoid "any such misunderstanding in the future."

7. **Paras Jain vs Amazon Seller Service:**

On 23.02.2016, the Complainant purchased a Mobile Phone bearing Model No. Coolpad Note 3 (White 16 GB) from Amazon at the selling price of ₹9,119/- including shipping charges of ₹120/-. The Complainant contends that after using the Mobile Phone for a couple of days, the Phone started heating up which compelled him to return the same as per Easy Return Policy of the Opposite Party advertised on T.V. Serial, Media and Print Media. Since, the Complainant was not able to click the option of Return/Exchange on their website, he called at the Customer Support of the Opposite Party and was informed that they had changed its Return Policy on the items purchased on or after 07.02.2016.

On 27.02.2016, he sent an email to the Opposite Party stating that they had always advertised about Easy Returns and that at the time of purchase, it had not been mentioned that the Refund/Return Policy of the Opposite Party has been changed and it has amounted to Unfair Trade Practice on their part.

The Complainant, in order to justify the Pecuniary Jurisdiction of this Commission, has sought punitive damages to the tune of ₹743.9 Crores without any cogent material on record. In terms of Section 14(1)(d) of the Act, this Commission is empowered to grant punitive damages in appropriate circumstances after considering case on merits and that such exercise is discretionary in nature. Relying on plethora of decisions of the Apex Court, it is submitted that remedy for inflated claims, such as the present case, must be before a Civil Court On merits, it is pleaded that there exists no prima facie grievance or cause of action, since change in its Return Policy was published in the newspapers in English as well as in Vernacular Language and to buttress his submission he has sought to rely upon Newspaper Articles dated 08.02.2016 and 10.02.2016 published in NDTV Gadget360 and Indian Express which specifically highlighted that the Opposite Party no longer has a return or refund policy for mobile phones. It is further contended that the change in the Return Policy was necessitated in view of blatant misuse of the policy by the Consumers.

In case the Complainant has received the defective mobile phone, the remedy was still available with him to get replaced the phone despite the change in Return/Refund Policy". This Apart, the Opposite Party has also published in the newspaper, namely the Indian Express dated 10.02.16 about the change in its Return Policy with the Heading "Amazon no longer has a return and get refund policy for mobiles". The said information was also published in NDTV Gadget360 on 08.02.2016 with the heading that "Mobile Purchased from Amazon India No Longer Eligible for Refund". In so far as the option appearing in the Invoice Bill of the Mobile Phone regarding the refund, is concerned, we are of the considered view that since there was a gap of only 16 days from the date of change of policy, i.e. 07.02.2017 and purchasing of mobile phone, i.e. 23.02.2017, it was not possible to rectify the said mistake or reprint the Invoice Bill.

8. **Dabur vs Colgate**

Over the years, there have been numerous cases that have dealt with misleading advertisements. In 2004, Dabur India Ltd. filed a suit against Colgate Palmolive India Ltd for their advertisement that showed a celebrity tell the ill-effects of tooth powder. The toothpowder shown in the advertisement was in a red container which resembled Dabur Lai Dant Manjan Powder. The appellant argued that the said advertisement represented Dabur Lai Dant Manjan Powder to damage the tooth enamel, making it pernicious to the dental health of its consumers. The Delhi High Court ultimately granted an interim injunction on the grounds that the television commercial was disparaging.[7]

9. **Colgate vs HUL**

Another such example is the case of ***Colgate Palmolive India Ltd. v. Hindustan Lever Ltd***.[8], where the respondent in it's television commercial for New Pepsodent showed samples of saliva being taken from two children, one who brushed his teeth with New Pepsodent and the other with a 'leading brand of toothpaste'. Later while collecting the samples, the children were asked to name the toothpaste they had brushed their teeth with. While one replied Pepsodent, the response of the other was muffled. However, the lip movement of the child indicated that he said 'Colgate'. Furthermore, the sound of the jingle used in Colgate's commercial was played when the boy spoke. The commercial went on to show that the sample of the 'leading brand of toothpaste' contained more germs than that of the New Pepsodent sample. The court held that the advertisement of the respondent was disparaging.

10. **Pepsi Co. Inc vs Hindustan Coca Cola ltd.**

Similarly, in ***Pepsi Co. Inc. and Ors. v. Hindustan Coca Cola Ltd. And Anr***. [9] it was argued that the advertisement in question was disparaging for calling the cola drink of

the appellants, “Wrong Choice Baby”. The commercial also indicated that their drink is sweet in taste and is for kids which further disparaged the appellant’s product. It was held that the seller can say that his goods are best or better, but cannot slander or say that the competitor’s product is bad or inferior.[10]

The court also differentiated between ‘comparative advertisement’ and ‘disparaging or misleading advertisement’ in the case of ***Havells India Ltd. and Ors. v. Amritanshu Khaitan and Ors***.,[11] Even in the recent case of ***Dabur India Ltd vs Colortek Meghalaya Ltd***[12], the appellant filed for an injunction in respect of the television commercial of Good Knight, alleging that it disparages the advertisement of Odomos cream. It was the first case in which the Delhi High court held that, “advertisements falling under the ambit of Article 19(2) [13] are void ab initio.”