

Product Liability- a Protective Mechanism for Consumers in India

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Abstract— Laws in any country promote justice and ensure fairness, equality, and accountability for individuals. It also regulates society by addressing social, economic and environmental issues. When it comes to buying and selling goods and services, it is the marketers' responsibility to ensure that products and services are safe for the intended use. These responsibilities build trust and promote long-term relationships between manufacturers and customers. If marketers do not adhere to their responsibilities, they face consequences such as legal action, reputation damage, financial losses, product liability, regulatory action, customer harm, loss of business, and criminal liability in extreme cases.. The Consumer Protection Act, 2019, safeguards consumer rights and holds manufacturers and sellers accountable for defective products. It includes product liability, quality standards, and redressal mechanisms. This study attempts to examine the protective mechanism for customers and the role of regulatory bodies in enforcing product liability on manufacturers based on secondary data.

Keywords — Product, Product liability, consumer Protection.

I. RESEARCH METHODOLOGY

This study is based on secondary data, and the researcher referred to websites and journals to collect the necessary information needed for the research paper.

II. OBJECTIVES

- An attempt to understand the concept of Product Liability.
- To analyze the Protective Mechanism for consumers.
- The role of regulatory bodies in enforcing product liability laws and protecting consumer interests was examined.

III. INTRODUCTION

Laws are formed to maintain Order, Protect Rights, Safeguard the rights, freedoms, and interests of individuals. It promotes justice and ensures fairness, equality, and accountability. It regulates society by addressing social, economic and environmental issues. Laws safeguard the rights of businesses, consumers, and stakeholders by promoting fair practices.

A product is anything offered for sale or consumption according to customer specifications. The products offered by the manufacturers should meet the standards and specifications and be safe for the intended use. Customers expect products to meet their expectations and offer good value for money.

Manufacturers must prioritize product safety and quality to minimize risks and maintain consumer trust. If customers do not receive products as per their requirements, they may return the product and get a refund. If the products are not safe and are not intended for use, customers will file complaints with regulatory agencies. Customers have the right to file lawsuits for damaged and harmful products they receive. Customers can also seek help from the Consumer Protection Act, 2019, Bureau of Indian Standards (BIS), and National Consumer Helpline (NCH), among others, for compensation for their loss.

In other words, if marketers are not in a position to satisfy their customers, they have to face consequences such as legal action, reputation damage, financial losses, product liability, regulatory action, customer harm, loss of business, and criminal liability in extreme cases.. Product and consumer protection are crucial in India to ensure that safe and quality products reach consumers. The Consumer Protection Act, 2019, safeguards consumer rights, holding manufacturers and sellers accountable for defective products. It includes product liability, quality standards and redressal mechanisms.

IV. *PRODUCT LIABILITY*

Liability is the legal responsibility for one's actions or omissions, which can result in consequences such as paying for damages or facing penalties. Product liability under the Consumer Protection Act, 2019, refers to the responsibility of manufacturers, sellers, or service providers to compensate consumers for harm caused by defective products or deficient services. This concept, introduced for the first time in India, aims to enhance consumer protection and shift the burden of product safety from buyers to sellers. The Act covers a wide range of harms, including injury, death, property damage, and mental or emotional distress. Consumers can seek various remedies, such as repair, replacement, refund, or compensation for damages incurred.

V. *PRODUCT LIABILITY IN INDIA*

Prior to the enactment of the Consumer Protection Act 2019 (CPA 2019), there was no specific law regarding product liability. In the absence of statutory law, the courts were guided by the constitutional and common law principles of justice, equity, and good conscience. Earlier, to ensure greater protection of consumers, tort law was scattered apart from different legislations like the Consumer Protection Act, 1986; the Sale of Goods Act, 1930; the Indian Contract Act, 1872, etc. In India, the concept and legal framework regarding product liability have been established through the enactment of the Consumer Protection Act, 2019. The Consumer Protection Act, 2019 (India), Sale of Goods Act, 1930, Indian Contract Act, 1872, and other laws, such as the Food Safety and Standards Act, 2006, and the Drugs and Cosmetics Act, 1940, also govern product liability.

The introduction of Product Liability aimed to enhance Consumer Protection and hold manufacturers, service providers, and sellers accountable for defective products and services. Align with Global Standards to harmonize Indian laws with international best practices, such as those in the US and EU, and to tackle product liability concerns in e-commerce, digital products, and complex supply chains.

The key objectives of the Consumer Protection Act, 2019, were to impose liability on manufacturers, service providers, and sellers for harm caused by defective products or services, to provide redress and offer consumers compensation, replacement or refund for defective products or services and Promote Accountability by encouraging businesses to prioritize product safety, quality, and transparency.

VI. *PROTECTIVE MECHANISMS FOR CONSUMERS*

Some of the Protective mechanisms that safeguard consumers from defective or hazardous products (including services) in India include:

- **Drugs and Cosmetics Act, 1940 (India):** This act regulates the manufacture, distribution, and import of drugs and cosmetics in India. This ensures public health and safety. Product liability under this Act is based on the principle that manufacturers, distributors, and sellers are liable for selling adulterated, misbranded, substandard, or spurious products that could cause harm.
- **Indian Contract Act, 1872:** This act provides the legal foundation for contracts, which is relevant to product liability, as it establishes the terms of agreements between buyers and sellers.
- **Food Safety and Standards Act, 2006 (India):** This law governs the safety and quality of food products and includes provisions for product recalls and penalties for unsafe food products.
- **Legal Metrology Act, 2009 (India):** This Act deals with weights and measures, ensuring that products are sold in the correct quantity and have implications for product liability if incorrect quantities are sold.
- **Bureau of Indian Standards Act, 2016 (India):** This Act provides for the establishment of a national standards body and includes provisions for penalties and enforcement related to defective products.
- **Consumer Protection Act, 2019:** This Act provides a framework for consumer protection, including product liability, and establishes the Consumer Protection Authority to regulate and enforce consumer protection legislation.
- **Central Drugs Standard Control Organization (CDSCO):** The CDSCO regulates pharmaceuticals and medical devices to ensure that they meet safety and efficacy standards.
- **Consumer courts:** Consumers can approach consumer courts to seek redress for grievances related to defective products.
- **Warranty and guarantee:** Manufacturers often provide warranties and guarantees for products, ensuring that consumers receive repair or replacement services.

VII. *WHAT DO CONSUMERS EXPECT FROM MANUFACTURERS?*

- **Product Safety:** To ensure that products are safe for their intended use.
- **Quality Assurance:** To meet the promised expected standards and specifications of customers.
- **Transparency:** To provide clear information regarding product features, benefits, and risks.
- **Honest Advertising:** To provide the right and true marketing information.
- **Warranty/After-Sales Support:** Honor warranties and provide repair/replacement options.
- **Compliance:** Adherence to laws, regulations, and industry standards.

- **Customer Data Protection:** Customer data are safeguarded, and privacy is maintained.
- **Responsible Marketing:** Avoid exploiting vulnerabilities, target responsibly

VIII. CONSUMERS' RESPONSIBILITIES

Consumers also have the responsibility to ensure their protection and safety while using products. Some of these responsibilities include the following:

- Customers should be aware of product information by reading and understanding product labels, instructions, and warnings.
- The customer should use the products for their intended purpose and follow the manufacturer's guidelines.
- Customers should check the product quality and inspect the products for any defects or damage before use.
- Customers should report defects in products and inform manufacturers or authorities about any defects or issues with the products.
- Customers should maintain proof of purchase and keep receipts and documents to prove purchase and establish warranty claims.
- Customers should follow safety precautions and take necessary safety precautions while using products.
- Customers should be informed and kept updated about product recalls, safety alerts, and other relevant information.

The above responsibilities of consumers can minimize risks and ensure a safer experience with the products.

IX. LIABILITY OF PRODUCT MANUFACTURER

As discussed above, product manufacturers have many responsibilities to adhere to. If the product manufacturer does not follow the safety mechanism, they will face many difficulties. According to the Consumer Protection Act 2019, Section 2(36) lays down the definition of the product manufacturer. A product manufacturer shall be liable in a product liability action, if-

- The product contains a manufacturing defect; or
- The product is defective in design; or
- There is a deviation from manufacturing specifications; or
- The product does not conform to the express warranty; or
- The product fails to contain adequate instructions on correct usage to prevent any harm or any warnings regarding improper or incorrect use.
- Faulty or deficient services:
- Negligence or omission by the responsible party;
- According to the Consumer Protection Act, 2019, product sellers can also be held liable if they exercise substantial control over the product, alter it, or fail to pass on manufacturer warnings.

X. PARTIES RESPONSIBLE FOR PRODUCT LIABILITY

The Consumer Protection Act, 2019, specifies three main parties that can be held liable:

- **Product manufacturers:** If the product manufactured by manufacturers is defective in manufacturing, design, or failure to provide adequate warnings.
- **Product sellers:** If product sellers exercise substantial control over the product or made independent warranties and
- **Service providers:** Faulty, imperfect, or inadequate services provided by service providers.

XI. REMEDIES AVAILABLE TO AGGRIEVED CUSTOMERS

If the customers claim is found successful, then the consumer forums can award various remedies, including:

- Removal of defective products from the market.
- Replacement of defective products.
- Refund of the purchase price of the defective product.
- Compensation for damages suffered by customers.
- Discontinuation of unfair trade practices.
- Withdrawal of hazardous goods from the market.
- Advertisements should provide corrective information about products.

XII. CONCLUSION

Product liability encourages businesses to prioritize product safety, quality, and transparency, ultimately benefiting consumers and the market as a whole. Product Liability laws in India, as outlined in the Consumer Protection Act, 2019, play a vital role in safeguarding consumer interests and promoting responsible business practices. By holding manufacturers and sellers accountable for defective products, these laws ensure that consumers receive fair compensation and redress. As the market continues to evolve, Product Liability laws will remain a crucial mechanism for protecting consumers and fostering trust in the marketplace.

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