

# Advantage Consumer

Monthly News Letter of Consumer Protection Council, Rourkela

*"An aware consumer is an asset to the nation"*

Website : [www.advantageconsumer.com](http://www.advantageconsumer.com)

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## Queries & Answers through the Web

([www.advantageconsumer.com](http://www.advantageconsumer.com)) is the website of Consumer Protection Council, Rourkela. One of the major attractions of the website is that a visitor can ask queries on issues relating to consumer protection. Answers to these queries are made free of cost, by the Chief Mentor of the Council, Sri B. Vaidyanathan.)

## Adopting Right Priorities can Empower Consumers for “Viksit Bharat @ 2047”

- B. Vaidyanathan

We are proudly the most populous country in the world (over 146 crores in the last count), and enviably with the largest section of consumers. This huge consumer population, contributing to an estimated internal demand of 65% of the GDP, is in contrast to China's 39.6%, gives us the economic muscle to stand up even during crisis times such as the “Covid”, without excessively being dictated by exports, imports and international barriers. As a country, if we are serious about empowering the consumers, the backbone of the country's GDP and economic growth, for achieving “Viksit Bharat @ 2047”, we need to fix the priorities in right earnest and work upon those.

### PRIORITY –I : STRENGTHENING THE CONSULTATIVE MECHANISM

Towards safeguarding the interests of the consumers, several laws have been enacted in our country. These include the Standards of Weights and Measures Act, Prevention of Food Adulteration Act, Drugs and Magic Remedies (Objectionable Advertisements) Act (Unfair Trade Practices Act), The Monopolies and Restrictive Trade Practices (MRTP) Act, etc. Though many Acts remained on paper, the beneficiaries i.e., the people of this country, the consumers could never feel the impact of these laws, till the end of 80s or so, as the procedure of seeking a legal remedy for compensation, was beyond the reach of the common man, as the thrust of those Acts was in penalizing the culprits, rather than compensating the affected consumer for the loss suffered. In addition, the efficiency of the implementation of such crucial Acts depended on the Government Agencies of the States, which were manned by individuals who were less professional and were also corrupt. The key handicap was the dependence on the complicated procedures and ineffective judicial administration, at the lowest levels of the Civil Courts, through which such complaints were handled.

It is in this context the initiatives of the United Nations in issuing the guidelines to all the Member Nations for taking steps for better consumer protection, in 1985, came as a boon to the vast population of this country. Consumers got the rightful place after the enactment of the path breaking Consumer Protection Act, in 1986.

Relief under this versatile Act can be sought for almost all goods and services for which a consumer is paying for, through the 3-tier quasi-judicial machinery, in the District, State and the National level. These adjudicating bodies, which are supposed to provide relief to the affected consumers with summary trials, in a time bound and cost-effective manner, by providing with due compensation along with cost. Since, the frills of the civil courts, right from restrictions in costumes of the litigants, court fees, colonial era “Affidavits”, etc., are not supposed to be adopted by these consumer disputes redressal machinery, even a common man can approach these Courts without any inhibition and get relief. It is because of this litigant/common man friendly nature of these bodies, many individuals, including this author, who are not qualified in law, have been able to approach them and get relief. All these positive aspects led to phenomenal hope among the common man, but the euphoria did not last long.

Several shortcomings were experienced by the people and the Voluntary Consumer Organisations, which had sprung up with all the enthusiasm, because of several shortcomings in achieving their goals. These include widely experienced manpower and funding shortage issues relating to the 3-tier quasi-judicial machinery, which were suffering

for want of state support and lack of proper mechanism for execution of the Orders of the Consumer Courts at the ground level. To continuously monitor and effectively address the problems encountered in the effective implementation of the Consumer Protection Act and to know and support the voluntary groups which are engaged in the field to do their bit for the betterment of the consumers, the Central Consumer Protection Council (CCPC), as stipulated under Chapter II, Section 4. of the Consumer Protection Act, came up in a big way in the 1990s. The meetings of the CCPC, which got wide coverage through the media, especially the monopolistic Doordarshan (the Private news channels started picking up only in the later part of the 1990s – 1995-2000). Thus, with wide media attention and Government patronage, CCPC was indeed instrumental in publicizing the Consumer Protection Act and its utility in solving day-to-day consumer problems faced in the marketplace. Voluntary Organisations like ours at that time were working in tandem with the government at the State and Central level, giving hope to the aware consumers that steps were indeed being taken to address the multifarious issues in the field. Publicizing monetary relief obtained by the complainant individuals also gave the fillip to the consumer protection issues across the country.

To the credit of the Central Consumer Protection Council, it must be stated, as a participant of its proceedings as a member of the apex consultative body of the consumers, government, government agencies, quasi-judicial machinery, etc., there was total seriousness to address issues of relevance to the common man. Consumer representatives from Kashmir to Kanyakumari and Andaman to Lakshadweep participated in the proceedings of those meetings. Since the meetings were chaired by the Union Minister for Food, Civil Supplies and Consumer Protection, it enjoyed an important status. CCPC discussed varied subjects affecting the consumers in day-to-day life; from the functioning of the quasi-judicial machinery, ration shops, cooking gas supply and so on. Thus, the highlighted issues of a particular area were not only getting noted for further action in the “Minutes”, but the other members were also able to get a feel of such issues in other areas compared to theirs. Initially, in those days, the meetings were indeed held in the Parliament House Annex, giving it all the more visibility and importance. As a matter of fact, (Late) Sri P.V. Narsimha Rao, the then Prime Minister of the country, participated and led the discussions for a full half-a-day in one of the morning sessions.

The Central Consumer Protection Council was indeed quite productive in those days. As a member of the CCPC, the author of this Paper, was witness to several important steps that were taken to strengthen the consumer movement and to better protect the consumers.

A major initiative which benefited the consumers across the country in 1990, through the CCPC was the amendment to the Standards of Weights and Measures (Packaged Commodities Rules), which mandated printing of Maximum Retail Price (MRP) inclusive of taxes. Many, including this author had advocated for the MRP inclusive of taxes, as in the absence of a single price, the consumer was literally at the mercy of the shopkeeper, since the tax rates varied across the packaged items, from 3% to 12%, depending on whether the item was categorised as essential, non-essential or luxury. It was indeed a phenomenal achievement at that point in time.

Similarly, in 1991, since the consumer protection activities were suffering for want of financial resources, a major initiative was taken by the consumer groups, pursuing the Government for the establishment of the Consumer Welfare Fund by amending the Central Excise and Salt Act, 1944, by utilising the non-refundable money lying with the government for consumer welfare. Thus, the Consumer Welfare Fund came into existence and the Rules framed under that came into being in 1992.

Though Rourkela is an important city and a commercial hub in Odisha, it does not enjoy the status of district headquarters. Sundargarh is the district headquarters and is situated 100 km away from Rourkela. Being the district headquarters the District Forum was located there. Since more than 90% of the cases filed in the then Sundargarh District Forum originated from Rourkela, the people were put to enormous inconvenience physically and financially. For attending each hearing, an individual seeking a nominal relief of even Rs. 500/- had to spend almost a day for going to Sundargarh by road, attending the hearing and return. That was indeed a colossal waste of human and financial resources.

As a member of the CCPC, the author of this paper highlighted the difficulties faced by the people in approaching the District Forum at Sundargarh. Since the State Ministers in-charge of Food & Civil Supplies were members of the said Consultative Body, (Late) Sri Bhagabat Behera, the then Minister for Food and Civil Supplies, Government of Orissa, who was present in the meeting, was kind enough to respond immediately that the Government of Orissa would set up a separate District Forum for Rourkela and its surroundings. Thus, Rourkela started enjoying the services of an independent District Forum, in 1993. Ironically, when several District Forums were not even functioning properly, Sundargarh district had two Forums to cater to its residents. That achievement came about because of the existence and proper utilisation of the CCPC. It is no mean achievement to reach justice to the doorsteps of the people who need it.

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Such a consultative body envisaged in the original Consumer Protection Act, 1986, with huge potential to benefit the people across the country, was systematically weakened and literally disbanded with the amendments to the Consumer Protection Rules in 2006. It is to be noted that when an Act needs to be introduced or amended it has to be approved by the Members of the Parliament, which is a transparent and lengthy exercise, whereas the amendment to the Rules (which actually translates the Act into action) does not require such an elaborate procedure and even the stakeholders are not consulted. The Union Minister as per his sweet will can make changes through the Ministry.

Though it is mandated that such revisions in Rules, after they are made and coming into force, need to be placed before both houses of Parliament, it is anybody's guess as to how seriously those are deliberated upon, before they are adopted. Thus, serious injustice was done to the limping consumer movement, through such hushed amendments to the Consumer Protection Rules, 1987.

It is pertinent to note that as per a report circulated in 2017, Government of India is incurring an expenditure of Rs. 2.5 lakhs for each minute of sitting of the Parliament. We do witness the Lok Sabha and the Rajya Sabha getting adjourned, without transacting any business, quite often than not for some reason or the other. Even when Members are not discharging their duty in a manner expected of them, can anyone contemplate that there is no need for the Parliament to have so many members, and it is enough to have only 50 Members of parliamentary strength, of people of knowledge and wisdom to manage? The amendments implemented in the Rules brought down the Consumer Representatives' strength from 35 to 5, and the total strength of the Central Consumer Protection Council, from 150 to 35. It will be in fitness of things that the consumers for whom this Consultative Mechanism is devised in the Act ought to have sufficient representation, from across the country reaching grassroots instead of only the elite who have membership in International Consumer Groups, so that they are able to transact business expected of them. Hence, restoring the constitution of this important consultative body needs to be done, as was envisaged in the Rules, 1987, to have meaningful dialogue and action, in the larger interests of the consumers across the country. This vital change needs to be done on top priority and its functioning should be restored as it was originally envisaged and practiced in the 90s.

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## **PRIORITY – II : LEVERAGING OF PACKAGED COMMODITIES RULES**

There are many Laws, Acts and Rules which affect the consumers, the common man. But the one which affects them the most in day-to-day life is the Standards of Weights and Measures (Packaged Commodities Rules). There is literally no one in this country, who is not utilising a packaged commodity in their everyday life. It may be a Rs. 5 biscuits packet or Rs. 10 toothpaste or Rs. 300 per kilogram cooking oil. Such important and relevant Rules are being violated and quite often than not, even educated population is being taken, a ride.

Recently, this author experienced such illegal charging by the very well-known e-commerce portal, *amazon.in*. It is a matter of serious concern that when such an event occurs, though digitization is the order of the day, and the official government machinery are supposed to be working overtime to safeguard the people, the response and action are conspicuous by their absence. There are two things which are primarily absent even in a so-called developed state like Tamil Nadu. Though a consumer-friendly portal had indeed been created to address complaints regarding issues pertaining to the Legal Metrology, it is no longer functioning. It is a challenge to obtain the email address to which one must lodge the complaint. In a way, it makes one wonder whether in their eagerness to maintain a clean slate of receiving a very less number of complaints, in their records, the government department is discouraging those who are willing to complain(?) Further, after experiencing all these handicaps, even if one succeeds in lodging a complaint, it is not responded to. In such an eventuality, one cannot expect the silently suffering consumers to be too happy to be a part of insensitive and ineffective administration.

With ever increasing urbanization, e-commerce and consumer preferences, more than 80%-90% of the daily requirements, except utility services like Electricity and Water, in an urban household (constituting about 40% of country's population) are being met through packaged products. The irony is, most of the key aspects of the Packaged Commodities Rules are very easy to understand. But several important health related information like calorific value of one unit of the product / per suggested serving quantity of the product are often found missing. In a country with such a huge population, living across varied geographical locations, the objective of the government to better protect the consumers, the people will have to be taken as partners. But such a thing cannot be achieved through jargons and glossy advertisements alone. The goal is to create confidence that the Acts in the books are made not for theoretical discussion in the conference halls, but to implement them to safeguard the common citizen.

To achieve this goal, the citizens / consumers should be given easy access to lodge their complaints with the least difficulty and such complaints should be acted upon and results conveyed to the individual. This is such a simple truth that these are required to be reflected upon even after 75 years of independence. It may not be a bad idea to hand over such Complaint Handling to non-governmental organisations so that there is more transparency in the generation of complaints and the action taken thereupon. So, one wing to collect complaints and the government wing to act upon it and report back the action taken, to the Complaint Handling Entity so that it is informed to the consumer who had registered their complaint. In a way, the lack of monitoring of the complaints would be taken care of without any bias.

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## **OTHER PRIORITIES : CONSUMER COURTS, VCOs, PUBLICITY, ETC.**

- 1) (a) Consumer Disputes Redressal Machinery: Shortage of proper manning and resources haunt these bodies. It is the intent of the government which is under scrutiny, when these quasi-judicial bodies fail to deliver the goods. For example, both the North and the South, District Consumer Dispute Redressal Commissions are functioning from the same building in Park Town, North Chennai. The entire purpose of locating these bodies in every district, closer to the residents of the particular locality are thus defeated.
- (b) The Supreme Court is continuously evolving and interpretations on even its own judgements are being reevaluated, indicating a need for reorienting the judicial officers of these quasi-judicial bodies.
- 2) Strengthening of Voluntary Consumer Organisations: The government, in a big way, started supporting the voluntary consumer organisations to set up the Consumer Information Centres. Our Organisation, Consumer Protection Council, Rourkela, was one of the beneficiaries of that grant from Consumer Welfare Fund. We set

up the CIC, with Library, etc., in a big way in 2000. But no further fund allocation was done and we are struggling to keep it alive. It is time the government made periodic assessments of the beneficiaries and gave a helping hand, so that these organisations can survive.

- 3) Consumer Education and Publicity: These are to be done on a continuous basis. The Department of Consumer Affairs, under the Ministry of Consumer Affairs, Food and Public Distribution, made a welcome effort to produce some videos and circulated them a couple of years ago, for educating the consumers. Those were abruptly discontinued for reasons which are not clear. Any effort made yields results only when they are done in a consistent manner. Even ordinary things when done in a consistent manner yield extraordinary results. Obviously, results of Publicity exercises do not yield results overnight, but when they educate the public, results will be felt for everyone to see. ■

*Above is the Paper presented by Sri B.Vaidyanathan, the Chief Mentor, CPC, Rourkela, in the National Seminar on 'Empowering Consumers for Viksit Bharat@2047', organised by the Indian Institute of Public Administration, New Delhi, on the 24<sup>th</sup> & 25<sup>th</sup> April 2025.*

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Continued from April 2025 issue.....

### **Delay in intimating the Insurance Company about the accident, for valid reasons can be condoned.**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NOS.14615-14616/2024  
SPECIAL LEAVE PETITION (CIVIL) NOS.2219-2220 OF 2020**

RAJESHKUMAR...APPELLANT(S) VERSUS  
NATIONAL INSURANCE CO.LTD. .... RESPONDENT(S)

#### **JUDGEMENT**

**PAMIDIGHANTAM SRI NARASIMHA, J.**

16. In the present case, no miscarriage of justice is made out by the respondent. The State Commission has addressed all the issues raised before it and found the delay in intimation to be reasonable and that the insurance claim is payable on the damage due to the accident as well as the short-circuiting. The State Commission also examined the genuineness of the accident's claim by considering the police report and discarded the surveyor's report for lack of evidence. It then directed the respondent to pay the entire insured sum giving its reasons for the same. Hence, the appellant is correct in stating that the National Commission has transgressed its jurisdiction by interfering with the State Commission's order.
17. The approach of the State Commission is also correct in interpreting and disapplying Condition no. 4 of the insurance policy. Condition No.4 is reproduced herein below for ready reference:

"[...]"

*4.The insured shall take all reasonable steps to safeguard the vehicle from loss or damage and to maintain it in efficient condition and the company shall have at all times free and full access to examine the vehicle or any part thereof or any driver or employee of the insured. In the event of any accident or breakdown, the vehicle shall not be left unattended without proper precautions being taken to prevent further damage or loss and if the vehicle be driven before the necessary repairs are effected any extension of the damage or any further damage to the vehicle shall be entirely at the insured's own risk.*

"[...]"

18. In *TEXCO Marketing Put. Ltd. v. TATA AIG General Insurance co. Ltd.*, this Court explained the principles of interpreting and applying exclusionary clauses in insurance policy. Condition No.4 merely prescribed that in the event of any accident, the vehicle shall not be left unattended without proper precaution being taken. While interpreting such a clause the Court/Commission or Tribunal will see whether the said obligation has been complied with reasonably or not. The context in which accident occurs and the circumstances that prevailed at the time of accident are extremely import a not conclude whether the insured has taken reasonable care or not. The facts of the present case are amply clear that the appellant was acting under compelling circumstances when he had to take his co-passenger to a hospital immediately as his condition was precarious. It is not disputed that the co-passenger had also succumbed to the injury. It is also difficult to imagine that how he could have prevented short-circuiting of the vehicle which had fallen into a ditch. We are of the opinion that the State Commission has come to a correct conclusion that Condition No.4 would not apply in the facts and circumstances of the case. In any event, the respondent has not explained as to how the unavailability of the appellant during the said period has led to further damage of the vehicle and that burden heavily lies on the respondent and the same was not discharged.
19. As regards the delay in intimation is concerned, we may refer to the decision of this Court in *Om Prakash v. Reliance General Insurance & Anr.*, where it was held that the delay may be condoned if it is properly explained.
20. **Conclusion:** For the reasons stated above, we allow the present appeals and set aside the impugned order dated 16.07.2019 passed by the National Commission in Revision Petition Nos. 878-879/2019 and restore the judgment and order of the State Commission directing the insurer to release the entire insured declared value of Rs. 5,02,285/- to the appellant with 9% interest from the date of the consumer complaint till the date of realization.
21. There shall be no order as to costs.

[PAMIDIGHANTAMSRINARASIMHA]  
[SANDEEP MEHTA]

NEW DELHI; DECEMBER 17, 2024 ■

### Support Your Cause

Consumer Protection Council, Rourkela is a registered voluntary organization, espousing the cause of the consumer. To a great extent, for its sustenance it depends on the good will of its donors like you. We solicit your support for sustaining the multifarious activities of the council. Donation to the council is eligible for tax exemption under Section : 80-G(5) (iv) of the IT Act. Donation may please be contributed through cash or crossed cheque / DD, drawn in favour of " **Consumer Protection Council, Rourkela**".

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