National Conference on Product Liability and Consumer Protection

The Centre for Consumer Studies, Indian Institute of Public Administration, New Delhi in collaboration with the Department of Consumer Affairs, Government of India organized a National Conference on “Product Liability and Consumer Protection” on April 2, 2019. The aim of the Conference was to understand the law on product liability and its application in resolution of consumer grievances. More than 120 participants attended the Conference who included Officers from DoCA, Gol; Representatives from Regulatory Bodies (TRAI, IRDA, RBI, FSSAI, BIS, ASCI); Members and Officials from Consumer Fora; Representatives from manufacturers/ Sellers/ Retailers Representatives from FICCI/ ASSOCHAM & other industry bodies; Members of NGOs/ VCOs working in consumer protection; and Academicians and Research Scholars working in consumer protection.

Inaugurating the Conference, Shri Avinash Kr. Srivastava, Secretary (CA), Department of Consumer Affairs, Govt of India said that the present Conference is part of the series of activities on C.P. Act planned by Department of Consumer Affairs in collaboration with Centre for Consumer Studies. Consumerism is on a rise. Product Liability raises fundamental issues in our time due to increase in international trade and many products are now available for consumers from across the world. This has raised the risk of harm, and personal injury to consumers. The jurisprudence relating to product liability in India has been constantly evolving and in the recent times the Indian courts have also adopted a pro-consumer approach while deciding product liability claims. Product Liability is for the first time being inserted in the Consumer Protection Bill. The provisions are very similar to German law.

Ms. Gowree Gokhale, Solicitor & Patent & TM Attorney, Nishith Desai Associates in her Keynote Address said that anything we touch today has flavour of Consumer Protection. We have to look at the trends emerging internationally as well; as we cannot restrict our self to India. The companies are also required to meet international standards.

Shri Surendra Nath Tripathi (IAS: 1985) has joined as Director of Indian Institute of Public Administration, New Delhi on April 8, 2019. Before joining IIPA, Shri Tripathi was Secretary, Ministry of Parliamentary Affairs, Government of India. CCS extends a warm welcome to Shri Tripathi.

Centre for Consumer Studies Welcomes Shri S. N. Tripathi
105th OTP for the Presidents and Members of District Consumer Forums

The 105th Orientation Training Programme for the Presidents and Members of the District Consumer Forums was organized by the Centre for Consumer Studies, Indian Institute of Public Administration, New Delhi from April 8-12, 2019. The programme was sponsored by the Department of Consumer Affairs, GoI. 29 Presidents and Members of the District Forums from Karnataka and Kerala attended the programme. The objective of the programme was to build the capacity of the Presidents and Members of the District Forums to enable the redressal mechanism to function effectively.

The Programme was inaugurated by Hon’ble Mr. Justice V. B. Gupta, Former Member, NCDRC. He said that as Presidents and Members of the Consumer Forums, all of you have been entrusted with the responsibility of protecting the consumers against the traders. Nowadays traders are adopting innovative ways of selling goods and services and in process cheating the consumers. New Consumer Protection Bill has been introduced to provide protection against new emerging challenges. The Consumer Protection Act, 1986 provides relief to consumers who buy products as well services. Now Consumer knows how to seek justice in case he faces some problems. It is duty of the traders to ensure consumer safety. He advised the participants to follow Principles of Natural Justice and summary procedure to give speedy justice to consumers. He appealed to the participants to be more consumer friendly in their approach. The programme was divided into a number of thematic sessions wherein inputs on a number of subjects having bearing on the working of the District Forums were discussed. During the Programme, the participants visited the National Commission and interacted with Hon’ble Justice R. K. Agrawal, President, NCDRC.

Two Day Seminar on Consumer Protection and Awareness

The Centre for Consumer Studies, IIPA New Delhi in collaboration with IIPA Tamil Nadu Regional Branch (TNRB), Chennai organized a National Seminar on “Consumer Protection and Welfare” during April 22-23, 2019 at Anna Nagar, Chennai. The Seminar was sponsored by Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, Government of India.

Prof Suresh Misra, Chair Professor and Coordinator, Centre for Consumer Studies, Indian Institute of Public Administration, New Delhi, in his felicitation address expressed happiness over the inauguration of the Seminar by Hon’ble Governor and explained the sustainable role played by Centre for Consumer Studies IIPA, New Delhi in giving an outreach to the consumer movement through such programmes.

The National Seminar was inaugurated by Hon’ble Governor of Tamil Nadu, Thiru. Banwarilal Purohit. Hon’ble Governor in his Inaugural Address appreciated IIPA for the sustained efforts since 1950s in developing the skills and knowledge of civil servants and promoting a progressive work culture to transform the Administration and Governance.
The Seminar was divided into various sessions covering Consumer Protection & Empowerment - An Overview, Consumer Protection: Education and Awareness, Consumer Protection and Working of Redressal Agencies in Tamil Nadu-Panel Discussion, Food Safety and the Consumers, Gandhian Thoughts on Consumers, Media and Consumers, Consumer Redressal : An Overview, Petroleum Products and Consumers and Bureau of Indian Standards and Consumers.

Hon'ble Justice, Thiru. S. Rajeswaran, former Judge of Madras High Court presided over the Valedictory Function. He said that consumer law is totally different from civil litigations and that is why summary trials have been prescribed. The presiding officers of Consumer Grievances Redressal Forums should be suitably trained for quick and just disposal, bringing meaning to the intentions of the law. He congratulated the IIPA apex body and TNRB for organising this Seminar. The seminar was extensively covered by the print and electronic media.

**Union Minister Shri Ram Vilas Paswan reviews functioning of NCH**

The Union Minister for Consumer Affairs, Food and Public Distribution, Shri Ram Vilas Paswan reviewed the functioning of National Consumer Helpline (NCH), a flagship project of the Department of Consumer Affairs on June 12, 2019. Shri Paswan reviewed the working of the National and Zonal Consumer Helplines along with the Secretary, Consumer Affairs; Director IIPA and other senior officials. Shri Paswan also spoke to a consumer from Uttar Pradesh via the helpline and helped redress his complaint.

Hon’ble Minister expressed satisfaction with functioning of NCH. The helpline workforce has been expanded from 16 to 120 and training has been provided to them. He stated that NCH is providing an important service to consumers and it should be publicized and popularized to ensure that the common man knows of his rights and how to get them enforced. Shri Paswan suggested that Department should give adequate publicity to NCH through electronic, print and social media and success stories should be highlighted.

He stated that there should be convergence with various government departments & private sector for timely redressal of consumer complaints.

He also suggested streamlining the feedback mechanism to assess the consumer satisfaction level after redressal of complaints which will also help in performance appraisal of the workforce. The Union Minister further suggested that Zonal Helplines should function from consumer friendly locations so as to make it more visible to consumers.

Hon'ble Minister Shri Ram Vilas Paswan speaking with a consumer from U. P. via the helpline

It was also mentioned that the huge data that NCH has should be analysed and utilised advantageously for propagating social messages. Extensive use of social media to popularize government initiatives was also stressed upon by the Minister. A dedicated Twitter handle was also asked to be created where consumers could directly connect with NCH via social media.

**106th OTP for the Presidents and Members of District Consumer Forums**

The 106th Orientation Training Programme for the Presidents and Members of the District Consumer Forums was organized by the Centre for Consumer Studies, Indian Institute of Public Administration, New Delhi from June 17-21, 2019. The programme was sponsored by the Department of Consumer Affairs, GoI. Twenty-Four Presidents and Members of the District Forums from Assam, Manipur, Odisha, Sikkim and West Bengal attended the programme. The objective of the programme was to build the capacity of the Presidents and Members of the District Forums to enable the redressal mechanism function effectively.

The Programme was inaugurated by Mr. G.N. Sreekumaran, Former Joint Secretary (CA) and Consultant, Department of Consumer Affairs, GoI. He said that District Forums are the first level of interaction with the complainant, they have huge
With globalization and development of ICT, variety of goods and services are available to consumers from across the world. The new thing now is e-commerce. More and more people are buying online and 20 percent of complaints relate to online purchases. The Department is coming out with guidelines to regulate the e-commerce and direct selling.

The CP Bill, which was introduced in last Parliament, lapsed due to dissolution of Lok Sabha. It is likely to be taken up by the Parliament soon. It will make the procedure simpler and more consumer-friendly. Mediation as ADR is being introduced to facilitate out of court settlement. Another Chapter being introduced is on product liability. It will introduce strict liability provision in law itself which was earlier part of Law of Torts.

The programme was divided into a number of thematic sessions wherein inputs on a number of subjects having bearing on the working of the District Forums were discussed. During the Programme, the participants visited the National Commission and interacted with Hon’ble Shri Prem Narain, Hon’ble Shri C. Viswanath and Hon’ble Dr. S.M. Kantikar, Members, NCDRC.

The Valedictory Address in the programme was delivered by Prof S. S. Singh, Former Director, NLIU, Bhopal. He said that the idea of the forums is to give remedy to the consumers as early as possible. The District Forums are the basic units and first level of interaction with the consumers. The consumer will have faith in the system only if the orders are given on time.

The Centre for Consumer Studies, IIPA, New Delhi organized 24th Training of Trainers Programme for the Faculty Members of Training Institutions on Consumer Protection and Consumer Welfare from June 24-28, 2019 at IIPA, New Delhi. The Department of Consumer Affairs, GoI, sponsored the programme. 24 participants from different educational and training Institutes from various states attended the programme.

The objectives of the Training Programme were to: enhance their knowledge and skill in the area of Consumer Protection and Consumer Welfare; understand the need and importance of Consumer Protection and Welfare; acquaint with the national and international dimensions of Consumer Protection and the role of various stakeholders; explain the various provisions of the Consumer Protection Act and other legislations having a bearing on Consumer Protection; discuss the legal dimensions of Consumer Protection in different service sectors such as medical, banking etc. and develop training skills.
are being faced by the consumers in various service sectors and the mechanism of redressal of their grievance by the consumer foras. To make the programme more participatory, the participants were divided into groups and each group was given a topic which was discussed and report prepared and presented by the participants.

The Valedictory Address was delivered by Shri S. N. Tripathi, Director, IIPA, New Delhi. While addressing the participants he said that wrong and misleading claims are hampering the economy. For delivery of quality services, a society of quality conscious people is required. He stressed that the consumer movement is a long journey but it is the first step that matters. “Change begins with you and not why you”, he highlighted that once we accept these changes miracles do happen. It is the willingness, attitude and skills to deliver that makes this happen. Knowledge and skills can shake the world in a gentle way.

Bata Fined Rs 9,000 for Forcing Customer to Pay Rs 3 for Paper Bag

Bata India has rebutted the allegations of deficiency in its services but the Chandigarh Consumer Forum refused to give it any breather and said that forcing a consumer to pay for a paper bag was undoubtedly a glitch in Bata's services.

A Chandigarh Consumer Forum has slapped a penalty of Rs 9,000 on retail brand Bata India Ltd for asking a consumer to pay Rs 3 for a paper bag. The regulator also censured the company over the harassment of customers and deficiency in its services.

Chandigarh resident, Shri Dinesh Prasad Raturi, in his complaint to the consumer forum, said that he had bought a pair of shoes from a Bata store in Sector 22D on February 5. The store charged him Rs 402 inclusive of the paper bag charges but he sought a refund of Rs 3 (paper bag charge) refusing to pay it and also demanded a compensation for deficiency in services.

Raturi also told the forum that by levying the paper bag charge on him, Bata was also endorsing its brand on the bag which was not justified. However, the company has rebutted the allegations of deficiency in its services but the forum refused to give it any breather and said that forcing a consumer to pay for a paper bag was undoubtedly a glitch in Bata's services.

The regulator also said that it was the store's duty to provide a free paper bag to the customer who had bought their product, according to the report. The forum ordered Bata India to refund the cost of the bag (Rs 3) and pay for the litigation charges of Rs 1,000.

The regulator further directed Bata to pay compensation of Rs 3,000 to the customer for the mental agony caused by the deficiency in services and ordered the company to pay Rs 5,000 in the legal aid account of the State Consumer Disputes Redressal Commission. The forum further ordered Bata India to provide free paper bags to its customers and also distinguished that if the companies were that worried about the environment, they must provide free environment-friendly bags to their customers.

Alcoholic Beverage Makers to Seek Approvals for New Labeling Norms: FSSAI

The Food Safety and Standards Authority of India (FSSAI) had issued a regulation on alcoholic beverages and the same became effective from April 1, 2019. Alcoholic beverage makers will seek approval from excise commissioners to adopt new labelling norms, including statutory warnings on liquor bottles. The new set of labelling norms would be fully in place in six months.

As per this regulation, all liquor bottles need to carry a statutory warning that consumption of alcohol is injurious to health. Be safe-don’t drink and drive. The FSSAI has given six months to the manufacturers for
use of unused labels and printed cans. Moreover, alcoholics beverages manufactured prior to April 1, 2019, can be sold in the market up to March 31, 2020.

For alcoholic beverages sector, the implementation of these standards is a significant way forward in order to improve the quality and standards of alcoholic beverages available in the country.

So far, it was primarily regulated by excise commissioners and they were only looking at alcoholic content and the toxic substances in alcohol. Now, there are far more elaborate standards that are benchmarked with the global standards and in certain cases, they have taken the Indian context also in consideration.

In addition to excise commissioners, the food safety commissioners would also look into the enforcement of these standards. On the labelling norms, the new labels including statutory warning would be fully effective from October 1.

### GST on Real Estate: GST Council Allows Builders to choose between 2 Tax Rates

Builders can opt for existing 12 percent tax rate for under-construction homes as on 31 March or choose new GST rate of 5 percent, effective 1 April, 2019. In case of under-construction affordable homes, builders can choose between the existing 8% tax rate or GST rate of 1 percent.

The GST Council sought to address builders’ concerns related to their inventory of under-construction housing units by allowing them to choose between the existing higher tax rate with input credit and the new flat rate that will be effective from April.

Builders can opt for the existing 12 percent tax rate for homes that are under construction as on 31 March, but will have to pass on the benefits of input tax credit to customers, or choose the new GST rate of 5 percent effective 1 April, 2019.

Similarly, in case of under-construction affordable homes, they can choose between the existing rate of 8% and the new rate of 1 percent, the Federal Indirect Tax Body said.

Builders may now, on a case-to-case basis, decide what is the best option for them to exhaust the tax credits on their books, and keep the final tax liability low.

The GST Council, however, made it clear that for new projects starting 1 April, the 5 percent and 1 percent GST rates would apply.

The move could boost sentiment in the residential real estate sector, which has been grappling with high unsold inventory. The window for choosing between the existing and the new GST rates for under-construction flats would be notified soon.

The move offers relief to builders, who were facing the prospect of losing tax credits. Builders get the best of both worlds said an industry expert, requesting anonymity. The option, however, comes with an anti-tax evasion rider: to take advantage of the tax rebates under the 12 percent and 8 percent rates, builders will have to procure 80 percent of all raw material and services only from registered suppliers.

**NCDRC asks IOCL, dealer to pay Rs 12 lakh to kin of woman killed in cylinder explosion**

The Commission said the onus was on Indian Oil Corporation Ltd (IOCL) to conduct inquiry into the defect as there was no evidence of negligence by the consumer.

Apex Consumer Commission NCDRC has directed IOCL and its dealer to pay over Rs 12 lakh compensation to the next of kin of a woman who...
died in a cylinder explosion, saying the accident occurred due to manufacturing defect. The National Consumer Disputes Redressal Commission (NCDRC) held IOCL and Alok Gas Agency liable for the gas cylinder explosion which claimed the life of Neena Jhamb, a housewife, and seriously injured her mother-in-law.

The Commission said the onus was on Indian Oil Corporation Ltd (IOCL) to conduct inquiry into the defect as there was no evidence of negligence by the consumer.

For all the afore-noted reasons we hold both the IOCL and the dealer liable. We hold that as the material on record and evidences, that the blast was caused by a manufacturing defect in the cylinder, IOCL is principally liable, NCDRC President, R K Agrawal and member, M. Shreesha said.

The order came on an appeal filed by IOCL, the gas agency and an insurance company against the Delhi State Consumer Forum's order directing them to pay the victim's kin Rs 12,21,734 along with interest. The commission, while dismissing the appeal, also imposed a cost of Rs 25,000 on IOCL.

The complaint against the PSU and its dealer was filed by the deceased's husband and children who had said that Neena was cooking in the kitchen along with her mother-in-law, Kanta when the cylinder exploded.

The apex Consumer Commission rejected the contentions of IOCL and its dealer while dismissing their appeal.

The food industry has expressed its concerns over the draft of the proposed changes in labeling rules drawn up by the Food Safety and Standards Authority of India (FSSAI).

These regulations are neither scientific enough nor practical to be implemented, said the All India Food Processors’ Association (AIFPA). The salt, sugar and fat content of packaged food depends on the taste requirement of the consumer and is not manufacturers’ choice, they said. AIFPA counts Bikanerwala, Tops and Haldiram among its members. Industry insiders claimed that even common food items like milk and fruit juices will fall in the “red category” as the level of fat in milk and sugar in fruit juice is higher than the levels being proposed.

The idea behind the new labeling regulations is to enable citizens to know more about the composition of food products, so that they can make informed choices, said FSSAI’s official.

### NCDRC Directs Supertech to Refund the amount with 10% Interest

The National Consumer Disputes Redressal Commission (NCDRC) had held that a consumer cannot be made to suffer for any delay in the issuance of Occupancy Certificate to the builder due to some deviations in the project. Justice VK Jain also reiterated that in case there was an order restraining the builder from extracting groundwater for construction purposes, it was for the builder to arrange water for construction purposes from alternative sources and the flat buyers cannot be made to suffer on account of such an order.

While saying so, the Commission directed real
estate developer Supertech Limited to refund the entire amount of over Rs 1 crore along with 10 percent interest to a couple who had booked a villa in one of its projects in Yamuna Expressway Industrial Development Area (YEIDA) in the year 2015.

The complainants, both residents of Noida in Uttar Pradesh, had booked a residential flat with Supertech in its project named "Up Country" to be developed in a plot in YEIDA. The possession was to be delivered by March 2015. When the couple sought refund and moved the forum, through their advocate Aditya Parolia, the developer blamed the delay on landowners challenging the acquisition of the plot on which the project was to be developed.

To this, the NCDRC relied on its own decision dated April 16, 2019 in STUC Awasiya Grahak Kalyaan Association Vs. Supertech Ltd., which was related to the allotments made in the same project. The Commission had in that case considered and rejected all these grounds pleaded by Supertech.

**Medical Negligence - A Doctor is Vicariously Liable for Acts of Team Members: NCDRC**

A doctor is vicariously liable for the negligence committed by members of his team which was assisting in the treatment, held the National Consumer Disputes Redressal Commission while dismissing an appeal.

The case was regarding the death of a three year old child named Arshiyai in 2004, while she was undergoing treatment for cancer at Mohan Dai Owal Cancer Treatment and Research Foundation Hospital, Ludhiana, under the supervision of one Dr. Raman Arora. A medicine used for treatment called 'Vincristine' had to be administered intravenously. However, this medicine was given intrathecally (through back bone injection) by Doctor Harjith Singh Kohli, with assistance of Doctor Vandana Bhambri, who were assisting Dr. Arora. After the injection, the situation of the patient worsened. Within two weeks, Arshiyai breathed her last.

Her parents filed complaint before the Chandigarh State Consumer Commission in 2005, claiming compensations for medical negligence. The Commission found that the death of Arshiyai was due to the wrong method of administering the drug, and awarded a compensation of Rs. 16, 80,749 to her parents. The point for consideration is not whether the Patient would die anyway. Such a stand, we hold is not only callous, but also irrelevant to the issue in hand. The issue to be considered herein is as to whether there is any negligence by the Hospital and Doctors in administering the Vincristine, which hastened the death of the Patient, said the NCDRC bench of Justice R. K Agarwal and M Shreesha.

It further said: "Having regard to what the Hon'ble Supreme Court has laid down about 'Duty of Care' to be followed by medical professional, viewed from any angle it cannot be construed that 'Duty of Care' of the treating Doctor/ head of the department, who is in this case has written the 'Protocol', 'Ends' with giving the Prescription. At the cost of repetition, we are of the considered view that the Doctor is vicariously liable for the acts of his team which assists him in every sphere in rendering treatment to the Patient", the Commission added.