

Consumer Dialogue

Volume 1, Issue 5, September-October 2010

Bi-monthly GRANIRCA E-newsletter

Opinion of Treating Doctor more Reliable

The National Consumer Disputes Redressal Commission (NCDRC) has held that in cases where there is conflict of opinion between two medical experts over a point, credence should be given to the doctor who had actually treated the patient. The Commission passed an order on a petition filed by Durga Devi challenging the decision of Madhya Pradesh State Consumer Disputes Redressal Commission, which had rejected her insurance claim of ₹5,00,000 on the basis of conflicting medical opinion.



“It is a fact that there is varying medical opinion of two specialists on file. In such a situation, we are of the view that more credence should be given to the opinion and the conclusion of the medical expert, who had actually treated the patient and therefore has first-hand knowledge about the case”, the Commission bench comprising Justice Ashok Bhan and Member Vineeta Rai said.

Durga Devi had obtained a personal policy from the National Insurance Company, which promised to indemnify her to a tune of ₹5,00,000 in case of any injury or death resulting from an accident. She claimed the insurance amount after accidentally falling in the bathroom and the resulting paralysis that led to 100 percent disability in the right side of her body.

The insurance company opposed the petition on the ground that Durga Devi’s accidental fall was due to a pre-existing disease and was therefore, not covered under the insurance policy. Rejecting the plea of the insurance company, the apex consumer body restored the order of the District fora, which allowed her claim.

“We conclude that the insurance claim was wrongly repudiated by the respondent. Revision petition is therefore, allowed. We set aside the impugned order of the State Commission and restore the order of the District Forum in toto”, the bench said.

(Press Trust of India, 31.10.10)

Government Takes on Menace of Food Adulteration

While you savour those mouth-watering Diwali Sweets, here’s the bitter truth: what you are consuming is most likely substandard, adulterated and poisonous. Raids across the country have unearthed hundreds of kilos of adulterated sweets or their ingredients, but that’s just the proverbial tip of the iceberg.

Adulterated milk cake and poisoned *petha* were seized in many parts of the country including Rajasthan. In few places, *Pethas*, another big hit during Diwali, was found stored at a place like tank full of lime solution used for whitewashing. This was being done to hasten the softening of the sweets. At one point, the sweets were also found being prepared besides a toilet strewn with excreta.

In few places, sweet such as milk cake factory was found with dead flies floating in the milk used for preparing the delicacy. A worker was found dipping his dirty hands in the milk to take the flies out. And worse still is the way, the sweets are processed and preserved. The sweets’ factories use formalin, a chemical used to preserve corpses. Consuming formalin-mixed products can damage the kidneys and liver, cause asthma attacks and even cancer. Pregnant women are most vulnerable to chemicals and can end up giving birth to physically challenged babies.

(www.indiatoday.intoday.in, 01.11.10)



25 years
1983 2008
CUTS
International

Ministry of
Consumer Affairs,
Food & Public
Distribution
Government of India
सत्यमेव जयते



CUTS CART



District Level Training Workshops

Six workshops under the first round of District Level Training Workshops (DLTWs) were organised in Jalore on September 03-04; in Sikar and Dausa on September 06-07; in Chittorgarh, Bundi and Banswara on September 09-10, 2010 respectively.

These DLTWs were targeted to empower consumers at the grassroots and ensure effective strong consumer movement at the grassroots in 12 project districts, which would later influence whole Rajasthan as a state.

In DLTWs, networkers from each block of a district, identified by local partnering organisations along with other consumer activists of a district, were trained and equipped with necessary skills through intensive training, capacity building and orientation on relevant consumer protection issues in order to create a network of zealous grassroots activists.

DLTWs were intended to fill the need of a strong consumer movement at the grassroots by furnishing proper information, methodology, procedures and an approachable redressal mechanism to the people. It will help the consumer activists to get acquainted with grievance redressal mechanism for speedy, inexpensive and effective justice in project districts, which will further support underprivileged classes in their respective blocks. In all 12 DLTWs, there were simulation exercises conducted among the participants divided in groups and later in turn, each group was supposed to identify some frequently occurring problems. http://www.cuts-international.org/CART/GRANIRCA/Event-District_Level_Training_Workshop.htm



Sensitising Media on Consumer Issues

The Centre organised a State-level Media Consultation in Jaipur on October 25, 2010. The main objective of the consultation was to sensitise the state and district level media representatives, both from print and electronic, on consumer protection issues and discuss the possible interventions to strengthen and take the consumer movement forward to common masses.

Pragya Paliwal, Director News, *Doordarshan Kendra*, Jaipur stated that media should give more space to concerns of common consumers. P N Pandey, Joint Director, Weights & Measures Department, Government of Rajasthan endorsed the need for a separate legal metrology department in Rajasthan.

Vimal Jain, *Rajasthan Patrika* said that despite all constraints media would continue to highlight the issues of common men backed by proper evidences. Sunny Sebastian, Special Correspondent, *The Hindu* opined that media should concentrate on and highlight consumer issues.

J S Kothari, Chief Executive, *Nafa Nuksaan* urged media to join hands to raise awareness on these issues and build pressure on the government to adopt preventing policies. George Cherian, Director CUTS International flagged off major issues pertaining to consumer protection.



Two important documents under the project were released on the occasion. A research survey was conducted and its findings were collated in the form of a research document entitled, 'Status of Consumer Protection in Rajasthan' which analyses the status of consumer protection/welfare regime in Rajasthan. A 'Training Manual on Consumer Protection' which focuses on all aspects of consumer protection, Act, its provisions, information about other link departments and the redressal mechanism available at different levels.

More than 51 representatives of print and electronic media attended the workshop from Jaipur as well as 12 project districts. http://www.cuts-international.org/CART/GRANIRCA/pdf/Report-State_Level_Media_Consultation.pdf

Pubic Interface Meetings

The second phase of Public Interface Meetings (PIMs) in collaboration with district partners was held in Kota on October 07; Banswara and Churu on October 06; in Bundi, Tonk and Dausa on October 05; in Jodhpur, Dholpur and Alwar on September 30; in Sikar on September 28; in Chittorgarh on September 27; and in Ahore on September 26, 2010 respectively.

The main objective of PIMs was to share key consumer issues, problems faced by consumers and apprise them about their rights. These PIMs served as a platform for fruitful interaction between the common mass and government representatives from the districts and blocks. Representatives from civil society, media, educational institutions, legal system etc. participated.

Financial Consumer wins Battle in Consumer Forum

(Appeal no.52 of 2009 Punjab State Commission)

Kuldip Singh and Harjinder Singh purchased American Express Travellers Cheques of US\$8000 each from Centrum Direct Limited, Foreign Exchange Division, Chandigarh, for which entry was made in their passports. Both of them visited Malaysia to attend marriage ceremony. They boarded a transnational bus from Singapore to Kuantan, Malaysia regarding which the bus ticket was issued. After reaching Kuantan, they found that they had lost the traveller cheques. They reached bus company's workshop and met its supervisor who telephonically contacted the driver and told the complainants that the bag containing their belongings was with the driver and would be returned to them.

When the said bag was returned, the travellers cheques and cash were missing. The complainants contacted American Express office at Malaysia which rejected their claim. The complainants, therefore, filed two separate complaints before the District Forum in Chandigarh against their India office. The District Forum held that the complainant failed to provide information and documents asked for and therefore, violated the terms and conditions of the purchase agreement. The defendants then challenged the same through the appeal in the State Commission.

The Commission, however, find the complainant is entitled to pay interest on the said amount as ordered by the learned District Forum. So far as compensation for harassment is concerned, it was ordered in view of the harassment caused to the complainant when he reported the loss to the appellants, no prompt action was taken. Therefore, the amount of ₹25,000 awarded to him for harassment is fully justified.



Apex Consumer Forum Harsh on Builders and Developers

(Kamlesh Kumar Mishra vs Prakash Builders and Developers, NCDRC, October 27, 2010)

The petitioner Kamlesh Kumar filed a complaint submitting that he had applied for allotment of a flat in a scheme advertised by the respondent Prakash Builders and paid ₹25,000 as the booking amount. Subsequently, dispute arose related to the total price of the impugned flat, which was ₹7,11,000 according to the respondent and ₹5,86,000 according to the petitioner. Kumar further submitted that despite making first installment respondent cancelled the allotment of the impugned flat. The District Forum held that the cancellation of the allotment by the respondent on the purported ground of non-payment of the first installment was wrong and amounted to deficiency in service as well as unfair trade practice. Therefore, it ordered refund of the booking amount along with compensation and costs. The State Commission dismissed appeal against the said order.

The NCDRC held that in the absence of a written agreement between the parties and mutually contradictory oral contentions of the two parties, it was not even possible for the Commission to determine the agreed price of the flats. Hence, there were no grounds to interfere with the findings of the State Commission and its direction to the respondent to refund the booking amount.

Maruti Dealer Pays ₹1,00,000 for Delivering Defective Car

Delivery of a defective car as a brand new vehicle proved costly for a Maruti dealer as the NCDRC has directed it to pay a compensation of ₹1,00,000 for unfair trade practice. The Commission headed by Justice R C Jain also imposed a cost of ₹10,000 on the dealer, Sah and Sanghi Auto Agencies Private Limited for deficiency in service.

The Commission rejected the dealer's contention that vehicle was purchased by the partnership firm for commercial purposes. Complainant D K Raman purchased a Maruti Suzuki Esteem LX in 1996. He approached the Maharashtra State Commission after he learnt that he was supplied the defective car, which suffered damage in the accident. The State Commission dismissed his plea following which he approached the NCDRC for relief.

(Press Trust of India, 22.07.10)



CI-CUTS Campaign on Better Financial Consumer Services

The consumer-banking sector is complex, rapidly changing and carries significant risks for individual consumers and the wider economy. The financial crisis has already demonstrated how ineffective regulation of financial consumer lending practices contributed to creation and worsening of a crisis that rapidly spread from country to country, threatening livelihoods, savings and social stability.

In a world where banks are highly interdependent, a banking crisis anywhere in the world will further undermine consumer confidence and could have unpredictable international consequences.

The global dimension of financial services and the increasing interdependence of financial markets, as well as the common challenge of effectively regulating complex and fast-moving markets in financial consumer services, adds to the urgency for better regulation of such practices. International cooperation on financial consumer protection has the potential to deliver substantial savings for national agencies through the co-ordination of research, development of standards and guidelines, sharing of best practice and the avoidance of costly crises.

With reference to above, CUTS along with CI and other consumer organisations across the world called G-20 countries to take concrete action to protect the interests of financial services consumers, who have been badly hit by the recent downturn in the industry.

Through a letter, Pradeep Mehta Secretary General, CUTS has urged Prime Minister Manmohan Singh and Finance Minister Pranab Mukherjee to raise the issue at the G20 Summit at Seoul on November 11-12, 2010. Mehta pointed out that the global economy creates an estimated 150 million new consumers of financial services every year, mostly in developing countries, where consumer protection and financial literacy are still in their infancy.

In a meeting of consumer organisations held in New Delhi on October 21, 2010, the representatives of leading consumer organisations urged Government of India to support the establishment of an expert group on financial consumers' protection at the Summit. A unanimous resolution to call the Prime Minister to take up the issue was passed in the meeting facilitated by CUTS. The main purpose of the meeting was to discuss and identify some of the burning consumer issues affecting common man, the possible joint strategies of the consumer organisations to deal with it and plan future course for coordinated action.

Earlier, Consumers International urged consumer associations to lobby their respective country to establish an Expert Group on Consumer Financial Protection, which should report to the G20 summit in 2011 with recommendations supporting effective financial consumer protection around the world. In particular, the Group should create and recommend adoption by national governments of minimum standards relating to:

- fair contract terms and charges for financial products and services.
- information design and disclosure on financial products.
- governance and functions of national financial consumer protection bodies.

The Group should also make recommendations for the:

- promotion of effective competition in markets for financial consumer services.
- development of a permanent organisation for international standard-setting and coordination with regard to financial consumer protection.

