



Product Liability Statutes in India

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Abstract: The proposed Consumer Protection Act 2019 also appears to be directed at changing the law in favour of consumers by increasing the list of causes-of-action set out under what constitutes a complaint. It has introduced 'a claim for product liability action against the product manufacturers, product seller or product service provider' and also widens the concept of purchase to include online transactions. Consumer rights have been defined for the first time and these now include the right to be protected against 'marketing of goods, products or services which are hazardous to life and property' as also 'the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices'

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Introduction

Unlike the EU's Product Liability Directive 85/374/EEC, India does not have a general product liability statute, but there are several general laws that protect consumers from defective products. The CPA has provisions for a complaint to be filed in relation to goods that are hazardous to life and safety (in contravention of any standards imposed by law) or otherwise defective. The Act also defines 'defect' to mean 'any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard that is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or as is claimed by the trader in any manner whatsoever in relation to any goods'. There are other specific statutes that contain provisions relating to product safety, standards and regulations such as:

- the Food Safety and Standards Act 2006
- the Drugs and Cosmetics Act 1940

- the Drugs and Magic Remedies (Objectionable Advertisements) Act 1954 and the Drugs and Magic Remedies (Objectionable Advertisements) Rules 1955
- the Legal Metrology Act 2009 and the Legal Metrology (Packaged Commodities) Rules 2011
- the Indian Contract Act 1872
- the Essential Commodities Act 1955
- the Agricultural Produce (Grading and Marketing) Act 1937
- the Bureau of Indian Standards Act 1986
- the Insecticides Act 1968
- the Standards of Weights and Measures Act, 1976
- the Energy Conservation Act 2001
- the Insurance Regulatory and Development Authority of India Act 1999
- the Railway Claims Tribunal Act 1987 and
- the Electricity Act 2003



A general duty is also imposed under the Sale of Goods Act whereby the sale is subject to implied conditions as to quality or fitness, merchantable quality and conformity with the sellers' description. In some cases of goods being sold without warranty or other standard conditions in favour of the purchaser, the courts may occasionally resort to custom or trade practice to determine the normal antecedents of a sale in the relevant product. The Competition Act 2002 came into force after some amendments in May 2009. The Act amended the CPA to insert references to the unfair trade practices deriving from the thereby repealed Monopolies & Restrictive Trade Practices Act 1969, which are defined in section 2(r) of the CPA, covering any form of false or misleading representation, statement or advertisement, these are actionable through the usual consumer complaint process. The Consumer Protection Act 2019 contains Chapter VI creating a new statutory product liability that derives from:

1. personal injury, death, or property damage caused to the consumer resulting from defects in the manufacture, construction, design, formula, preparation, assembly, testing, service, warning, instruction, marketing, packaging, or labelling of any product, making the manufacturer or producer liable and

2. manufacturing defects, deviations from manufacturing norms, lack of proper instructions and warnings and failure to conform to an express warranty.

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by increasing the list of causes-of-action set out under what constitutes a complaint. It has introduced 'a claim for product liability action against the product manufacturers, product seller or product service provider' and also widens the concept of purchase to include online transactions. Consumer rights have been defined for the first time and these now include the right to be protected against 'marketing of goods, products or services which are hazardous to life and property' as also 'the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices'.

Interestingly, the new Bill also imposes liability upon individuals who endorse an advertisement 'which makes the consumer to believe that it reflects the opinion, finding or experience of the person making such endorsement' thus widening the scope for action against not only the manufacturer, seller, trader and service-provider but also against the person endorsing the relevant goods (such as an actor or well-known personality known as the 'endorser').

The Act also adds a new definition of 'harm' in relation to product liability, covering damage to any property other than the product itself. Harm thus is defined to include personal injury, illness or death, mental agony or emotional distress or any loss of consortium or services or other loss resulting from the foregoing. Injury (unlike the provisions of the Warsaw, Hague or Montreal Conventions in civil aviation) has been specifically defined to include 'any harm



whatever illegally caused to any person, in body, mind or property'.

Product liability is also defined widely in the Consumer Protection Act 2019 to include the responsibility of a product manufacturer or product seller to compensate for any harm caused to a consumer by any defective product manufactured or sold by that person, or any service rendered in relation thereto. All three expressions (ie, product manufacturer, product seller and product service provider) are widely defined so as to include parties connected with the sale process. A CCPA will also be set up and empowered not only to regulate but also to promote, protect and enforce the rights of consumers as a class.

Finally, it may be pertinent to mention that the new Bill contains the first statutory provision for enforced recall of goods or withdrawal of services that are dangerous, hazardous or unsafe as also reimbursement of the price of such goods. The CCPA being set-up under the new Bill is also empowered to order discontinuation of practices that are unfair and prejudicial to consumer interests.

Traditional Theories of Liability:

Tort law is the foundation for non-contractual claims, but the law of tort in India has been overlaid with a rich variety of case law arising from consumer complaints, appellate decisions in the field of consumer law and recently some involvement of the Competition Commission of India in relation to conditions affecting the sale of certain products. Courts are generally guided by the principles of justice, equity and good conscience as also precedent. Product liability claimants thus have recourse to

their contractual rights where there is a written contract or a printed warranty supplied with the product, in addition to consumer and tort remedies. It is also possible in some instances for an affected party to file criminal complaints against the supplier of a defective product if it has caused death or serious bodily harm; such complaints also serve to accelerate settlements since the criminal proceedings in most cases are 'compoundable'. The Drugs and Cosmetic Act 1940 also provides for criminal liability for manufacturers and producers of medicinal products or cosmetics, among others, which do not adhere to the prescribed standards. Provisions of the Indian Penal Code (the IPC) are also attracted to provide punishment to offenders for false weights and measures, adulteration of goods (food, drugs, etc - six months' imprisonment, fine of 1000 rupees or both) and false property marks (one year imprisonment, fine or both).

Consumer Protection Act and Product Liability: The CPA and the Consumer Protection Act are relevant here. The CPA does not contain provisions that impose new statutory duties but is formulated to allow for complaints against defective goods or goods that will be hazardous to life and safety when used or offered for sale to the public. The general provisions of this law, as explained above, cover faults, imperfections, shortcomings in the quality, quantity, potency, purity or standards that ought to be maintained under any law for the time being in force or under any contract, express or implied. Depending on the claimed amount, the district forums, state commissions and the NCDRC are adequately empowered under the CPA to provide any of the following reliefs in the case of defective goods or products:



1. to remove the defect
 2. to replace the goods with new goods of a similar description, which shall be free from any defect
 3. to return the price or consideration to the complainant
 4. to pay such amount as may be awarded as compensation to the consumer for the loss or injury suffered by the consumer due to the negligence of the other party and in a fit case to award punitive damages
 5. to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them
 6. to cease and desist manufacture of hazardous goods
 7. not to offer hazardous goods for sale and
 8. to withdraw hazardous goods from being offered for sale.
3. the Food Adulteration Act 1954
 4. the Drug and Cosmetics Act 1940 and
 5. the Standards of Weights and Measures Act 1956.

In most cases, it is the state or central government that initiates prosecution for breach of statutory provisions. The Bureau of Indian Standards Act 1986 imposes monetary penalties without necessarily treating the relevant violation as an offence, but the same Act also imposes criminal sanctions (imprisonment for a term that may extend to one year or fine up to 50,000 rupees or both) for improper use of the Indian Standards Institute standard mark or any colourable imitation thereof without a valid licence (granted by the bureau).

As per the CPA, where a trader or a person fails to comply with the orders of the district forum, state commission or the NCDRC, he or she shall be punishable with imprisonment for a term between one month three years, with or without a fine.

There have been instances of the ordinary criminal law being applied for product safety cases; if a product was made negligently in such a manner as to cause death or endanger the personal safety of others, or if a product caused death because of a negligent act of another (operator, manufacturer or repair person), criminal proceedings could be commenced by the state. In some instances, provisions relating to cheating have been used with regard to the sale of spurious or defective products.

The IPC contains provisions for fraudulent use of weights and measures and also in relation to adulteration of food and drink, drugs, etc, so that

Criminal Sanctions- Sale or Distribution of Defective Products:

Some of the relevant laws impose criminal sanctions in the form of punishments for a violation of standards, adulteration or for the sale of unsafe or hazardous or spurious products. Criminal product liability may arise for non-compliance with statutory requirements; some examples of regulatory laws affecting product sales, manufacturing or distribution are:

1. the Agriculture Produce (Grading and Marking) Act 1937
2. the Indian Standards Institutions (Certification Marks) Act 1952



punishment (imprisonment or a fine, or both) can be imposed in such cases. The Food Safety and Standards Act 2006 provides for imprisonment for life and a heavy fine to discourage manufacture, storage, sale, distribution or import of any article of food for human consumption that is unsafe and for similar wrongful conduct. Some other interesting statutes can occasionally cause unexpected consequences, such as the Drugs and Magic Remedies (Objectionable Advertisements) Act 1954, which provides for imprisonment consequent to an advertisement for a product claiming to cure any of the ailments specified in the Act (such as appendicitis, arteriosclerosis, cancer, blindness, etc).

Chapter VII of the proposed Consumer Protection Bill 2018 prescribes for punishment and penalties for misleading advertisements and sale and distribution of products containing adulterant or spurious goods. As per the provisions of the Bill, any offender in respect of the aforementioned offences can be imprisoned for a period of six months, which can extend to life imprisonment depending upon the gravity of injury caused to the consumers by such a product.

Novel Theories- Product Liability Claimants:

In the absence of a special product liability statute or other law imposing liability for defective products, it is difficult to find any novel approaches employed by product liability claimants. Indian law is, however, dynamic and often driven by equitable considerations with all the civil courts having an equitable jurisdiction recognised by the Supreme Court.

Where there is a lack of special statutory provision, the lacuna may be filled by a common-sense judicial approach as was necessary in an old case involving (unregulated) fireworks. The Union Carbide cases involving the Bhopal gas leak disaster, arising out of a product that was not on the market and was in fact part of a manufacturing process, also gave rise to significant pronouncements (and some novel theories) in the field of tort and general dangerous products liability. Detailed reference to this case has been avoided on account of the uncommon circumstances. However, this case eventually prompted Parliament to enact the Civil Liability for Nuclear Damage Act 2010. The Regulations on Food Recall Procedures enforced from 2013 require 'reasonable efforts' to be made by the FSSAI to communicate with the end user or customer with specific reference to electronic media (emails, telephone calls and press announcements) and it is yet to be seen how these affect the relevant product sales.

Where a regulator fails to impose fines or effect its statutory mandate, Indian constitutional law furnishes a commonly used writ remedy that can involve private parties as respondents with the possibility of courts ordering payment of compensation. This was done in a motor accident case and a case involving 54 deaths arising from a fire in a cinema caused by an electrical transformer.

The law relating to product recall in India is evolving and recent provisions require recall for perilous or defective products. Industries have been slowly following or enforcing global standards ever since the advent of the internet, which allows activist litigants to obtain



information about standards imposed and complied with by global manufacturers outside India and then flouted in India. The courts have also become quick to appreciate international norms and apply these to test defective products. Examples of such innovative judicial pronouncements can be found in relation to consumer products such as mobile phones and cars, but India still does not have a mandatory recall procedure for defective cars. The system of mandatory recall may be introduced by the Consumer Protection Bill 2018 (see question 7) once the new Act becomes applicable law. Any instances of defective vehicles being recalled have happened voluntarily and are aimed at preserving the reputation and market share of the vehicle manufactures. However, the law may change with the enactment of Road Transport and Safety Bill 2015, which contains a provision for mandatory recall of defective vehicles.

Breaches of Duties or other Theories – Establishment of Product Defect:

The existing CPA defines 'defect' in a manner that is sufficiently broad (see above references) to cover fitness for purpose and express or implied standards, but there is no express reference to 'design' so it would have to be treated as incorporated by reference in the expression 'fitness for purpose'. The usual civil law remedies, such as a suit in a court of original jurisdiction seeking damages on account of a defective product, damages for breach of warranty (within the warranty period) and even prayers for mandatory injunctions to compel the defendant to repair, replace, recall or otherwise mitigate the damage caused by a defective product, have been effectively pursued in Indian courts,

though sometimes the remedy can take far longer than a normal commercial process could easily tolerate.

Certain products carry warnings about the type of use they are intended for so as to bypass the implied fitness for purpose provisions of the Sale of Goods Act, and most warranties contain similar language so as to limit the manufacturer's liability for damages, etc, replacement or even simply repair.

Interestingly, consumer courts in India, being generally inclined to favour the evidence of a consumer, treat technical defences adopted by manufacturers with some disdain and rarely allow reliance upon long-winded warranty clauses especially if they are incorporated by reference into a manufacturer's standard warranty¹ The NCDRC has also laid down, in this regard, that section 2(1)(e)(v) of the CPA clearly implies that if standard prescribed under some law are not maintained, the product shall be construed to be hazardous (see *Asia Tea Company and Ors v On behalf of Commissioner, Civil Supplies and Consumer Protection Department, Consumer Association of India*²

Occasionally the consumer courts treat a complainant's case with suspicion when it is apparent that the product has already been well used and without complaint³

1 *General Motors v Major Gen B S Suhag* 2008 decision of the NCDRC
2 I 2017 CPJ 461NC.

3 *Royal Enfield case* cited in question 11 and *General Motors India Pvt Ltd v GS Fertilizers* (2013 decision of the NCDRC



Expiry of the warranty period may not prevent a court from awarding damages when the cause of action is stated to have occurred during the warranty⁴ and, in some cases, the consumer forum may even extend the warranty for the period of distress⁵ the complainant filed a complaint alleging that the new car he bought from the respondent was faulty and therefore the respondent was liable to replace it. The state commission and a division bench of the Jammu & Kashmir High Court directed the respondent to replace the car with a new one. In the appeal before the Supreme Court, the appellant contended that both the Commission and the High Court erred in holding that there was an admission to replace the car or admission of any manufacturing defect. The warranty condition clearly refers to the replacement of the defective part and not of the car. The Supreme Court, while reversing the decision of the High Court, held that the warranty conditions are expressly stated, it was not a case of silence of a contract of sale as to warranty and therefore the High Court was not justified in directing replacement of the vehicle.

Standard of Proof:

There is no clear objective standard for a product to be deemed defective except where specific rules have been set out by a statutory authority such as the Bureau of Indian Standards, Food

Safety and Standards Authority, Bureau of Energy Efficiency, Export Inspection Council, among others. A court may grant damages to the affected party if it considers a product as defective on account of proven facts. Ordinarily, the burden of proof lies on the claimant (subject to evidentiary rules derived from English law that sometimes cast the burden upon the other side) and the standard of proof is the normal civil standard, namely, preponderance of evidence or balance of probabilities to be decided by the adjudicating officer or court, but in certain cases, it can be shifted on the manufacturer as well.

In *Tata Motors vs Rajesh Tyagi and HIM Motors Show Room-II*⁶ the NCDRC held that:

We have also taken a view that onus shifts to the manufacturer to show that the vehicle does not suffer from manufacturing defect once the complainant has proved and discharged the initial onus that the vehicle was defective on the basis of large number of job cards showing that vehicle was taken on many occasion for removing one defect or the other. Complainant has already suffered immensely and is a wronged person by having been sold defective goods and to expect him to again incur expenses by obtaining expert opinion to show the vehicle suffers from manufacturing defect will be too much. Large number of visits to the workshop from the day of purchase of vehicle for removing some or other defects is sufficient to draw the inference that the vehicle is a defective vehicle. The circumstance of the vehicle having been taken for removal of defects within or

4 *Ashok Leyland Ltd v Gopal Sharma & Ors* (II (2014) CPJ 394 (NC))

5 *Balaji Motors v Devendra and Another* II (2013) CPJ 534 (NC). In *Maruti Udyog Ltd v Susheel Kumar Gabgotra and Ors* (AIR 2006 SC 1586

6 2014(1) CPC267



after the period of warranty leaves no manner of doubt that the goods sold to the consumer is not only defective but also suffers from manufacturing defect.

Similarly in the matter of *Airports Authority of India v Orbit Peripheral Private Limited IV*⁷ the complainant's goods were stolen from the warehouse run by the respondent (AAI), the state commission allowed the complaint, subsequently the respondent preferred an appeal against the order of the state commission. The NCDRC held that the appellant was unable to explain how goods came to be stolen from its warehouse despite of the precautions and measures, it claims to have taken. The NCDRC further held that the burden of proof lies on the bailee to show that the diligence and care was duly exercised by it. The NCDRC held that although the strict rules of evidence do not apply for consumer cases, 'the dispute is to be decided on the yardstick of reasonable probability on the basis of the facts brought on record'.

As discussed in question 11, reliable and un rebutted evidence may be accepted depending on the facts and circumstances, especially if the court considers the witnesses to be unbiased. Witness evidence can equally be rejected if the witnesses seem inclined to be biased or in the event of contrary testimonies or affidavits. The controversy is usually decided simply on the basis that the evidence of a particular witness seems more credible or reliable. Product liability of the manufacturer or seller can sometimes avoided by labels that the product carries 'no guarantee', 'no exchange', 'no return' or that the

company shall not be responsible after the product is installed. The seller (Sandeep Marbles) was held liable for deficiencies in the product in the case of *Sandeep Marbles v Jagdev Singh*⁸ but, in a recent case, the NCDRC took the view that use of the product during the dispute and an exemption clause on the box (stating 'the company shall bear no liability after the tiles are fixed') were sufficient to fully displace the manufacturer's liability (see *H&R Johnson (India) Ltd & Ors v Lourdes Society Snehanjali Girls Hostel & Ors*⁹ As mentioned above, the proposed Consumer Protection Bill 2018 contains a separate chapter on product liability, whereby a manufacturer shall be liable in any product liability action, to a claimant if the claimant establishes any one of the following by a preponderance of the evidence:

1. the product contains a manufacturing defect;
2. the product is defective in design;
3. there is a deviation from manufacturing specifications;
4. the product did not conform to an express warranty with respect to the product made by the manufacturer or product seller; or
5. the product fails to contain adequate instructions of correct usage to prevent any harm or any warning regarding improper or incorrect usage.

Section 84 of the Bill now requires satisfaction of any of the above

7 2015 CPJ 9 NC

8 I (2014) CPJ 116 (Punj)
9 IV (2013) CPJ 475 (NC)).



conditions - much depends on how the courts will interpret this section.

Liability for injuries and damages caused by defective products:

The law provides that any person who trades in goods or provides services in any manner, such as the manufacturer, seller, importer, distributor, wholesaler, packer, retailer, among others, may be held liable for injuries or damages, or both, caused by defective or spurious products. However, the courts tend to fix liability for defective products predominantly on the manufacturer.

In *Ram Shankar Yadav v JP Associate Ltd*¹⁰, the NCDRC observed: 'In any case, it is settled law that for any manufacturing defect in a product, it is the manufacturer and not the dealer who could be held liable.' In reviewing the definitions of 'complaint', 'defect', 'deficiency' and 'trader' (read with 'manufacturer' since 'trader' includes a manufacturer) contained in the CPA, one may find the foregoing statement of law to be contradicted by the statute. Nevertheless, in our view, this should be read in the context of a normal dispute where both the manufacturer and the seller or dealer are made parties and, where the manufacturer is unavailable or out of India, the complaint would lie only against the seller and the action would not fail against a seller who has imported defective products.

Similarly, if fault cannot be pinned on the manufacturer on account of bad presale storage conditions (in, for example, the sale of cement or chocolates), then the manufacturer, dealer and even the retailer may be

jointly liable¹¹. Thus, more than one party may be held liable in respect of the same damage, but again the apportionment of liability will depend on a finding of fault¹². The Consumer Protection Act 2019 provides for liability of the manufacturer or producer resulting from defects in the manufacture, construction, design, formula, preparation, assembly, testing, service, warnings, instructions, marketing, packaging or labelling of a product.

The law of contract admits claims depending on privity and generally allows for damages based on the 'loss or damage caused which naturally arose in the usual course of things from such breach'. Although tort law is intended to be more restrictive (damages based primarily on reasonable foresight), it allows for more potential defendants.

Establishment of Causation between Defect and Injury or Damages:

Causation requires a direct link between the product defect and the injury caused. A possible *novus actus interveniens* (outside act or intervention of a third party) can be asserted as a defence to demonstrate that the causal link between the loss caused and the defendant's area of responsibility is broken.

In *K Madhusudan Rao v Air France*,¹³ a case was successfully defended relying on this principle since a

10 I (2012) CPJ 110 NCDRC paragraph 5

11 *Bhopal Steels v Govind Lal Sahu & Others III* (2008) CPJ 89 NC

12 *Mrs Rashmi Handa, & Ors v OTIS Elevator Company (India) Ltd & Ors I* (2014) CPJ 344 (NC)

13 Revision Petition No. 3792 of 2008 decided by the NCDRC on 1 April 2010



theft of a passenger's valuables in a hotel lobby could not be pinned upon the airline that had arranged for the hotel on account of a cancelled flight). Similarly, a product defect must be treated as a *sine qua non* or *causa causans* for the injury and not a contributing factor.

The law in this regard evolves from a few unfortunate cases such as one involving a defective unserviced escalator, which caused the death of a minor¹⁴. In *re Karuna Ketan Biswas v Airports Authority of India and Ors*¹⁵ the Airports Authority of India was held not liable for deficiency in their services but was directed to compensate the complainant by way of an *ex gratia* payment of 50,000 rupees. Although the manufacturer (Otis) was made a party to the litigation, it was not held liable, owing to the lapsed warranty and maintenance contract, so that the owner-operator of the escalator was held to be negligent.

The doctrine of *res ipsa loquitur* may be invoked to transfer the burden of proof onto the manufacturer¹⁶. In such cases, it could be argued that maintenance should only be required to ensure that the machinery functions at its optimum capacity, but the manufacturing process should be such that there are built-in safety mechanisms (such as an auto-cut mechanism in case of an escalator or emergency brakes in a lift) to prevent the machine from becoming hazardous, and in the absence

of such safety mechanisms, there could be an automatic presumption of defect in the manufacturing process following an accident that caused death or injury¹⁷.

Once it is assumed that the product is defective, then the manufacturer must establish that the defect (or other failure owing to bad maintenance) could not have arisen from the manufacturing process. In a manufacturing defect case, the plaintiff still bears the burden of proving that the product in question was faulty or defective. Often the manufacturer's design or marketing standards can be used to show that the product was defective, but proving how or why the flaw or defect occurred can be difficult for the complainant. Ordinarily, the burden of proof to demonstrate that a product caused a specific injury would be on the claimant, but there have been several instances of defects leading to an unreasonable number of visits to the workshop (see *TELCO* in question 11) or where engine replacement was necessary during the warranty period (see *Honda Siel Cars* in question 12). The burden of proof to show any defect in goods is on always on the person who alleges the deficiency, and the cost of getting the product tested must ordinarily be borne by the party alleging the defect (see *Jai Prakash Verma v JK Lakshmi Cement Ltd II* (2013) CPJ 54 (NC)).

Post-Sale duties and Potentially Responsible Parties:

Post-sale duties are ordinarily imposed by contract in the form of a warranty, and manufacturers generally limit the terms of the warranty so as to avoid consequential loss or damages on account of a defective product, leaving

14 *Geeta Jethani and Others v Airports Authority of India* [III, 2004 CPJ 106 NC]).

15 II (2013)CPJ37(WB) (decided on 30 May 2013 by the SCDRC West Bengal),

16 *Ashok Leyland Ltd v Gopal Sharma & Ors* [II (2014) CPJ 394 (NC)

17 see *Geeta Jethani v AAI*



themselves liable only to repair a product that has a 'manufacturing defect'. Provisions of the Sale of Goods Act and the CPA (see questions 18 and 19) impose an automatic 'fitness for purpose' warranty, and although this can be limited by contract, consumer courts are not always open to technical limitations imposed by small-print warranties.

There is now a new set of recall procedures emerging from the Food Safety and Standards Act, which require any food business operator to notify the FSSAI or initiate recall procedures if he or she discovers that the food processed, manufactured or distributed is not in compliance with the provisions of the legislation or is unsafe for consumption. Medical practitioners are now obliged to report all occurrences of food poisoning brought to their attention to a 'food safety officer', so designated under the Act. These and certain other statutory provisions, such as in the Drugs and Cosmetics Act, require reporting, product recall, steps to contain distribution of a defective product and impose other positive post-sale duties. In *National Seed Corporation Ltd v M Madhusudhan Reddy and Another*¹⁸ the Supreme Court rendered its judgment for the complainant (seed purchaser) partially on the ground that the company had not responded to complaints and its representatives had not even visited the field where the crop was said to be inadequate owing to the defective seeds. In cases where an express warranty is provided by the manufacturer as a part of its post-sales service commitment, the consumer forums are not inclined to extend this period of warranty or hold the manufacturer responsible for repairs

beyond the contractual period of warranty¹⁹ however, expiry of the warranty period may not prevent a court from awarding damages when the cause of action is stated to have occurred during the warranty²⁰

In cases of breach of post-sale duties, the fora, subject to the terms of the contract between the parties, can direct the manufacturer or service provider to repair or replace the goods in question or improve the service quality. The orders of the NCDRC and state commissions are strictly enforced and in the event the manufacturer or service provider fails or omits to comply with any order of the district forum, the state commissions or the NCDRC, such a person can be punished with imprisonment for a term of between one month and three years or with a fine ranging from 2,000 rupees and 10,000 rupees, or both.

18 AIR 2012 SC 1160

19 see *Godrej GE Appliance Ltd v Satinder Singh Sobti* (2000 (1) CPC 602 NC));

20 see *Ashok Leyland Ltd v Gopal Sharma & Ors* II (2014) CPJ 394 (NC).