
DRAFTING, FILING, AND PROCEDURE OF CONSUMER CASES IN INDIA

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INTRODUCTION

In India, consumer rights are protected under the Consumer Protection Act, 2019, which provides a simple and accessible redressal mechanism for consumer grievances for any consumer who suffers from defective goods, deficiency in service, unfair trade practices, or overcharging. In such situations, the consumers can approach the appropriate Consumer Dispute Redressal Commission (CDRC).

A consumer case, filed under section 35² of the Consumer Protection Act, 2019, typically arises when there is a deficiency in service, or when the service provider indulges in unfair trade practices, fails to deliver goods on warranty terms, or refuses to resolve the grievances of the consumers.

DRAFTING OF A CONSUMER CASE

Drafting of the consumer case is the most critical step in initiating a consumer case which involves the following³:

1. **Details of the Complainant and the Opposite Party:** This includes their full name, full address, mobile number, and email address. If there are more than one complainant and opponent, then information is provided for all of them according to the serial number.
2. **Facts of the case:** These include the details of the complaint. A chronological account of the incident, nature of deficiency, communication, and attempts for redressal made and the statement mentioning the power of the District/State Commission to file the complaint.
3. **Supporting Documents (Annexures):** Which includes the copies of the bills, warranty cards, receipts, prior communications, expert report, etc.

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² Consumer Protection Act, 2019, Section 35

³ <https://cdrc.gujarat.gov.in/images/pdf/1-CC-Eng.pdf>

4. **Prayer:** Clearly states the compensation or remedy being claimed, which includes the refunds, litigation costs, compensation for mental agony, damages, etc.
5. **Jurisdiction and Limitation:** This states the jurisdiction of the commission and ensures that the complaint is filed within the Limitation Period.
6. **Affidavit and Verification:** This ensures the genuineness of the complaint.

FILING OF THE CONSUMER COMPLAINT

Filing of the consumer complaint requires drafting the complaint, attaching annexures, paying the prescribed court fees, which depend upon the claim value, and finally filing the complaint online or offline.

Under the Consumer Protection Act, the offline redressal mechanism is three-tiered⁴⁵:

1. District Consumer Disputes Redressal Commission (DCDRC) for claims up to Rs. 50 lakhs
2. State Consumer Disputes Redressal Commission (SCDRC) for claims above Rs. 50 lakhs but up to Rs. 2 crores or appeals from District Commissions.
3. National Consumer Disputes Redressal Commission (NCDRC) for claims above Rs. 2 crores or appeals from State Commissions.

The consumer complaint can also be filed online via the e-Daakhil Portal.

PROCESS OF A CONSUMER CASE

1. Initial Complaint: This includes:

- Drafting of complaint: Which clearly states the facts of the case, cause of action and the relief sought.
- Gathering evidence: Attaching evidence and annexures to the complaint,
- Determining and filing the complaint in the appropriate consumer court based on the value of the claim and the location of the opposite party, and
- Paying the filing costs, which depend upon the claim amount and the court in wherein the case is being filed.
- Court Proceedings: Which includes the following steps:
- Notice to the other party: The consumer court serves notice to the opposite party about

⁴ <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1786342>

the filed complaint.

- **Response from the Opposite Party:** The opposite party is given a chance to respond to the complaint and provide supporting evidence.
- **Hearings and Evidence:** The court conducts hearings where both parties can present their case, including witnesses and evidence.
- **Judgment and Order:** After considering the evidence and arguments from both sides, the court issues an order, which can be tracked through the E-jagruti website.
- **Appeals:** The orders can be appealed from the District Commission to the State Commission within 45 days, and 30 days in case of appeals from the State Commission to the National Commission and the Supreme Court.
- **Post-Judgement Compliance:** The opposite party must comply with the commissioner's order within the specified time (usually 30 days), and in cases of non-compliance, the consumer can initiate execution proceedings under section 71⁶ of the Act, which may lead to attachment of property, arrest or penalties.

CONCLUSION

The consumer redressal mechanism in India is designed to be cost-effective, consumer-friendly, and relatively swifter. With the introduction of online filing and e-hearings, access to justice for consumers has improved immensely. A successful outcome depends upon a proper drafting of the complaint and presenting a clear, well-documented case in the Hon'ble Commission.

⁶ Consumer Protection Act, 2019, Section 71