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Hithaishree D N

*Law Student, BA.LLB (Hons.)*

*Amity Law School, Amity University, Bengaluru*

Jyotirmoy Banerjee

*Assistant Professor,*

*Amity Law School, Amity University, Bengaluru*

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# Critical study on Product Liability and the Manufacturer's Duty of Care

**Hithaishree D N**

*Law Student, BA.LLB (Hons.)  
Amity Law School, Amity University, Bengaluru*

**Jyotirmoy Banerjee**

*Assistant Professor,  
Amity Law School, Amity University, Bengaluru*

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## ABSTRACT

*The Consumer Protection Act, 2019, marks a transformative shift in the Indian legal landscape regarding consumer rights. For the first time, Indian law has codified the concept of product liability, imposing strict liability on manufacturers, sellers, and service providers for harm caused by defective products or deficient services. This paper explores the legislative background, statutory framework, grounds for liability, defenses, and practical implications of product liability under the Act. Through doctrinal analysis and case law, the paper demonstrates how the Act aligns Indian law with global standards and enhances consumer protection. The research also discusses challenges in enforcement and provides comparative insights from other jurisdictions, ultimately highlighting the significance of the 2019 Act in empowering Indian consumers.*

## KEYWORDS

*Warranties, deficiency, punitive damages, inadequate, contaminated, beverage*

## INTRODUCTION

The Indian market has witnessed exponential growth in the variety and complexity of goods and services over the past few decades. With globalization, digitalization, and the proliferation of e-commerce, consumers are exposed to a vast array of products, often manufactured and distributed through complex supply chains. This evolution has brought forth new challenges, particularly concerning consumer safety and redressal for harm caused by defective products.

Historically, Indian consumers had limited avenues for seeking redress for injuries caused by defective goods. The remedies available under the Indian Contract Act, 1872, and the Sale of Goods Act, 1930, were primarily contractual and did not adequately address the realities of modern commerce, where the end consumer may have no direct contractual relationship with the manufacturer. The Consumer Protection Act, 1986, was a significant step forward, but it lacked explicit provisions on product liability, often requiring consumers to prove negligence or breach of contract.

The Consumer Protection Act, 2019 (CPA 2019), which came into force on July 20, 2020, represents a paradigm shift. For the first time, it introduces a dedicated chapter on product liability, adopting a strict liability regime and providing clear grounds for action against manufacturers, sellers, and service providers. This paper critically examines the scope, legal framework, and practical impact of product liability under the CPA 2019, supported by case law and comparative analysis.

## **EVOLUTION OF PRODUCT LIABILITY IN INDIA**

### ***Pre-2019 Legal Framework***

Before the enactment of the CPA 2019, Indian law did not recognize product liability as a distinct legal concept. Consumers had to rely on:

- The Sale of Goods Act, 1930: Provided remedies for breach of implied conditions and warranties, such as fitness for purpose and merchantable quality. However, these remedies were contractual and often unavailable to end consumers who purchased goods through intermediaries.
- The Indian Contract Act, 1872: Allowed claims for damages arising from breach of contract, but again, only parties to the contract could sue.
- Law of Torts (Negligence): Consumers could file civil suits for negligence, but proving negligence was often difficult, expensive, and time-consuming.

### ***Landmark Judicial Developments***

The Indian judiciary has played a crucial role in expanding consumer rights. In *Donoghue v. Stevenson* (1932, UK), the House of Lords established the principle that manufacturers owe a duty of care to end consumers, even in the absence of a direct contract. Indian courts have frequently cited this case.

In *Indian Medical Association v. V.P. Shantha* (1995), the

Supreme Court expanded the definition of “service” under the Consumer Protection Act, 1986, to include medical services, setting a precedent for holding service providers liable for deficiency.

Despite these advances, the absence of a statutory product liability regime resulted in inconsistent remedies and left many consumers without effective redress.

### ***The Need for Reform***

The increasing complexity of products, the rise of multinational corporations, and the growth of e-commerce highlighted the inadequacy of existing laws. There was a clear need for a comprehensive legal framework that would:

- Recognize product liability as a distinct cause of action
- Impose strict liability on manufacturers and sellers
- Provide clear remedies for consumers

The CPA 2019 addresses these needs by introducing a dedicated chapter on product liability.

## **CONCEPT AND SCOPE OF PRODUCT LIABILITY UNDER CPA 2019**

### ***Statutory Definition***

Section 2(34) of the CPA 2019 defines product liability as “the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto.

### ***Scope of Application***

**Products and Services:** The Act covers both goods and services, including those sold online and through e-commerce platforms.

- **Stakeholders:** Liability extends to manufacturers, sellers (including retailers and distributors), and service providers. It also includes advertisers and endorsers in certain circumstances.
- **Types of Harm:** “Harm” is defined broadly to include physical injury, death, mental agony, emotional distress, and damage to property (other than the product itself).

### ***Key Features***

- *Strict Liability*: The Act introduces strict liability, meaning that a manufacturer or seller can be held liable even without proof of negligence.
- *Multiple Grounds for Action*: Consumers can sue for manufacturing defects, design defects, deviation from specifications, breach of express warranty, and inadequate instructions or warnings.
- *Comprehensive Remedies*: The Act provides for compensation, replacement, refund, corrective advertising, and punitive damages.

## **THE GROUNDS FOR PRODUCT LIABILITY ACTION**

Section 83 of the CPA 2019 provides that a product liability action may be brought on the following grounds:

### **1. Manufacturing Defect**

A manufacturing defect is a flaw that occurs during the production process, making the product unsafe for use.

*Case Example:*

In *Hindustan Coca Cola Beverages Pvt. Ltd. v. Ashok Kumar*<sup>1</sup>, the NCDRC held the manufacturer strictly liable for a contaminated beverage, emphasizing that manufacturers are responsible for ensuring product safety at all stages of production.

### **2. Design Defect**

A design defect is an inherent flaw in the product's blueprint, making it unsafe even if manufactured correctly.

*Case Example:*

The Johnson & Johnson Hip Implant Case involved hip implants that failed due to a design defect, causing severe health issues. The Central Drugs Standard Control Organisation (CDSCO) ordered compensation for affected patients, illustrating the application of product liability for design defects.

### **3. Deviation from Manufacturing Specifications**

If a product does not conform to the required standards or specifications, it may be deemed defective.

*Case Example:*

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<sup>1</sup> AIR 2009 SC 237.

In *Neo Build Infrastructure v. Sushil Ranjan Roy & Ors.*, the NCDRC held the seller liable for supplying construction materials that did not meet contractual specifications, leading to structural damage.

#### **4. Breach of Express Warranty**

Manufacturers and sellers are liable if the product fails to meet the promises or representations made, regardless of negligence.

*Case Example:*

In *Mercedes Benz India Pvt. Ltd. V. Revathi Giri*<sup>2</sup>, the NCDRC stressed the importance of expert evaluation in cases where the product is alleged to have failed to meet express warranties.

#### **5. Inadequate Instructions or Warnings**

Failure to provide sufficient instructions or warnings regarding the correct usage of the product can result in liability if harm occurs.

*Case Example*

In a 2022 NCDRC clarification, the Commission held that seatbelts are primary safety devices, and airbags are designed to deploy only when seatbelts are worn. This ruling impacts product liability claims involving automotive safety features, emphasizing the importance of clear user instructions and warnings.

### **PARTIES LIABLE UNDER THE ACT**

#### **A. Product Manufacturer**

Section 84 of the CPA 2019 holds manufacturers liable for harm caused by manufacturing defects, design defects, deviation from specifications, breach of express warranty, or inadequate warnings.

*Case Example:*

In the Volkswagen Emission Scandal, the National Green Tribunal imposed significant fines on Volkswagen for using defeat devices to cheat emission tests, holding the manufacturer accountable for environmental harm.

#### **B. Product Seller**

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<sup>2</sup> First Appeal No. 766 of 2021.

A seller is liable if they:

- Alter or modify the product
- Fail to exercise reasonable care in assembling, inspecting, or maintaining the product
- Exercise substantial control over the product
- Make express warranties independent of the manufacturer
- Sell a product where the manufacturer cannot be identified

Case Example:

In *Reliance Fresh Ltd. v. State of Assam*<sup>3</sup>, the seller was held liable for selling expired food products, demonstrating that sellers are responsible for ensuring product safety.

#### *C. Product Service Provider*

A service provider is liable if harm is caused due to deficiency in service, negligence, or failure to provide adequate instructions.

Case Example: In *Spring Meadows Hospital v. Harjol Ahluwalia*<sup>4</sup>, the Supreme Court held a hospital liable for deficiency in service, establishing that service providers are accountable for harm caused by their negligence.

#### *D. Advertisers and Endorsers*

The Act also extends liability to advertisers and celebrity endorsers for misleading advertisements.

Case Example:

In *Horlicks Ltd. V. Zydus Wellness Products Ltd.*<sup>5</sup>, the Delhi High Court dealt with misleading advertisements, illustrating the liability of advertisers and endorsers under the Act.

#### *Nature of Liability: Strict Liability*

The CPA 2019 introduces strict liability, meaning that manufacturers and sellers can be held liable for harm caused by a defective product even without proof of negligence or intent.

#### *Strict vs. Absolute Liability*

- Liability is imposed without proof of negligence, but certain defenses are available.

<sup>3</sup> (1963) ILLJ 10 GAU.

<sup>4</sup> 1998 (4) SCC 39.

<sup>5</sup> AIRONLINE 2020 DEL 701.

- No defenses are available; liability is imposed regardless of circumstances (rare in product liability cases).

#### *Case Example:*

The Johnson & Johnson Hip Implant Case is a prime example of strict liability, where the government ordered compensation for affected patients without requiring proof of negligence.

### **PROCEDURE FOR FILING PRODUCT LIABILITY CLAIMS**

#### *Jurisdiction*

- District Commission: Claims up to ₹50 lakh
- State Commission: ₹50 lakh to ₹2 crore
- National Commission: Above ₹2 crore

#### *Filing Process*

- Complaints can be filed in person or online via the E-Daakhil portal.
- The process is designed to be consumer-friendly, with simplified procedures and reduced legal formalities.
- The Central Consumer Protection Authority (CCPA) has powers to investigate, order recalls, impose penalties, and take suo motu action against violators.

#### *Powers of the CCPA*

- Investigate complaints of unfair trade practices and product defects
- Order recall of unsafe goods and services
- Impose penalties on manufacturers, sellers, and advertisers
- Direct discontinuation of unfair or misleading advertisements

### **REMEDIES AND PENALTIES**

#### *Remedies Available to Consumers*

- Removal of defects or deficiencies
- Replacement of the product
- Refund of the price paid with interest
- Compensation for harm, including punitive damages in cases of gross negligence
- Discontinuation of unfair trade practices
- Withdrawal of hazardous goods and corrective advertising

#### *Penalties for Offenses*



- False/misleading advertisements: Up to 2 years imprisonment and ₹10 lakh fine (Section 89)
- Adulterated products: Up to life imprisonment and ₹10 lakh fine, depending on the severity (Section 90)
- Spurious products: Severe penalties under Section 91

#### *Case Example:*

In *Cadbury India Ltd. v. Chairman, Consumer Protection Council*<sup>6</sup>, after worms were found in chocolates, the company was directed to pay compensation and issue corrective advertisements, demonstrating the Act's approach to both compensation and corrective action.

#### *Defenses and Exceptions*

Section 87 provides certain defenses to manufacturers, sellers, and service providers, including:

- The product was misused, altered, or used contrary to instructions after sale
- The defect did not exist at the time of supply
- The product was purchased for commercial purposes by an employer and not for resale
- Compliance with mandatory government standards

#### *Case Example:*

In *Maruti Udyog Ltd. v. Susheel Kumar Gabgotra*<sup>7</sup>, the manufacturer was not held liable where improper maintenance by the consumer caused the defect, illustrating the application of statutory defenses.

## **COMPARATIVE AND INTERNATIONAL PERSPECTIVE**

### *United States*

The US has a well-established product liability regime based on strict liability, negligence, and breach of warranty. The landmark case *Greenman v. Yuba Power Products, Inc.* (1963) established strict liability for defective products.

### *European Union*

The EU Product Liability Directive (85/374/EEC) imposes strict liability on producers for damage caused by defective products,

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<sup>6</sup> 142 (2007) DLT 724.

<sup>7</sup> (2006) 4 SCC 644.

with certain defenses available.

### *United Kingdom*

The Consumer Protection Act 1987 implements the EU Directive, imposing strict liability on producers, importers, and suppliers.

### *Comparison with India*

The CPA 2019 aligns Indian law with these international standards but goes further by explicitly including service providers, advertisers, and endorsers within its ambit. This reflects the complexities of modern commerce and the need for comprehensive consumer protection.

## **IMPACT AND SIGNIFICANCE**

### *For Consumers*

- Enhanced protection and easier access to remedies
- Shift from “buyer beware” to “seller beware”
- Greater confidence in the marketplace

### *For Businesses*

- Increased accountability and need for robust quality control
- Potential rise in product liability insurance and compliance costs
- Need for clear and accurate product information, warnings, and instructions

### *For the Legal System*

- Clear statutory framework for product liability
- Reduced reliance on contract and tort law
- Strengthened regulatory oversight through the CCPA

### *Challenges and Criticisms*

- Increased Litigation: The strict liability regime may lead to a rise in litigation and higher compliance costs for businesses.
- Consumer Awareness: Many consumers remain unaware of their rights under the new Act, limiting its effectiveness.
- Enforcement: Effective enforcement, especially in rural and remote areas, remains a challenge.
- Balance: The law must balance consumer interests with the need to foster innovation and entrepreneurship.

## CONCLUSION

The Consumer Protection Act, 2019, marks a significant advancement in Indian consumer law by introducing a comprehensive product liability regime. By imposing strict liability on all stakeholders in the supply chain, the Act ensures enhanced consumer protection, market accountability, and alignment with global standards. While challenges remain in implementation and enforcement, the Act lays a strong foundation for a safer, fairer, and more transparent marketplace.

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