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# Concept of Product Liability under Consumer Protection Act 2019

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# Concept of Product Liability under Consumer Protection Act 2019

## ABSTRACT

*The Consumer protection act of 2019 played one of the most important roles; it introduced some of the important concepts like product liability. Due to the rapid expansion of technology and, along with globalization, the role of markets and e-commerce has increased rapidly. As we all know, consumers have various needs and demands before buying a particular product from the market, and when they buy a product from the market without any proper information about that product, then it can create problems for consumers. And there is another concept like Caveat Emptor, which means "let the buyer beware," which keeps more burden on the consumers before buying a product from the market. So, in order to reduce all these kinds of issues, the Consumer Protection Act 2019 has been introduced, and this particular act introduced the concept of Product liability and its essentials and legal provisions related to liability arising from defective products, defects in any kind of design, etc. In these types of cases, the Consumer Protection Act 2019 states that manufacturers are also held liable if they sell any kind of harmful products and defective products to the consumers; then the manufacturers and other service providers also can be held liable under product liability, and this act 2019 also introduced the concept of E-commerce facilities. This paper concludes by telling us about the effectiveness of this existing framework in the Consumer Protection Act 2019 and to ensure the product liability provisions and measures in India.*

## KEYWORDS

*Product liability, Consumer Protection Act 2019, Manufacturers liability, E commerce*

## INTRODUCTION

Due to the rapid expansion of modern technology along with globalization and E commerce facility, the relationship between both of the consumers and sellers. How ever as we all know that consumers have various needs and demand before buying a particular product from market when these consumers are buying these goods from the market without having any proper knowledge about that product then it can create problems and risks to the consumers mostly when they buy defective products and harmful goods due to the lack of information about that particular product and lack of the bargaining power with the

sellers then consumers are facing huge amount of risks in their life. And traditionally there was a concept of Caveat Emptor which means the buyer need to beware which will impose huge amount of the burden on the consumers that consumers need to be cautious before buying a product in the market. And after Consumer Protection act 2019 was introduced by replacing consumer protection act 1986 and consumer protection act 2019 has been introduced the concept of product liability which impose liability on the manufacturers and sellers if they sells any harmful products and defective products to the consumers.

### **HISTORICAL EVIDENCE**

This concept has been evolved since from the historical times and in the earlier there was an existence of one concept called as Caveat Emptor which means that the buyer beware it states that buyer need to be cautious before they are buying a product from the market and after purchasing a product by consumer then sellers are not held as liable and this consumers due to the lack of proper knowledge about the goods then it create huge risk on consumers. After some years Consumer protection act 1986 was introduced but it was lacked in this product liability measures and again a new act called as Consumer protection act 2019 was replaced this Consumer protection act 1986 and it strengthened the concept of product liability and along with the E commerce facility. The manufactures, sellers and other service providers can be held as liable if they sell any kind of defective goods, and harmful goods to the consumers.

### **OBJECTIVES OF THE PAPER**

This paper tries to explain that the concept of the product liability which was introduced by the Consumer protection act 2019 by stating that manufactures, sellers, and other service providers can be held as liable if they see any harmful and defective goods to the consumers. And this paper also tries to explain to us about the different and various kinds of product defects and failures to provide any kind of warning signs on the products. And also this paper tries to explain us the concept of product liability and its effective measures in this contemporary markets which were highly shaped by the digital world and E commerce. And the main objective of this paper is in order to suggest some of the effective measures to strengthen consumer protection and to improve the product liability laws in India.

### **REVIEW OF THE LITERATURE**

- In the Consumer protection law and practice by V.K. Agarwal it stated about the sellers liability in detail which was introduced and strengthened by the Consumer protection act 2019.

- Consumer protection in India; issues and challenges by S.P. Singh this book tries to explain to us about the contemporary issues which were arisen due to the contemporary things like about the digital markets and along with the Ecommerce issues.
- Law of consumer protection by the Avtar Singh this book tries to explain us about the limitations of the traditional principles like the Caveat Emptor by suggesting that strong principles need to be introduced in order to address the modern day to day issues.
- Introduction to the law of torts by William I. Prosser this book tries to explain us by helping us to understand about the basic concept of product liability . and even this book tries and helps us to understand about the responsibility of the manufactures, sellers, and other service providers that these are held as liable when they sell any defective product or any harmful product to the consumers then these were held as liable. And it is the duty of the manufacturers, sellers, and other service providers in order to ensure the product safety before they are selling or providing a product to the consumers.

The data has been collected from books and along with some legal resources where these sources has been provided a strong foundation for the analysis of the concept and essentials of the product liability under the Consumer protection act 2019.

### RELEVANT CASES

#### 1. *Donoghue v Stevenson (1932) AC 562*

- **Facts** – in this a woman has been found a snail in a ginger beer bottle
- **Issues**- can the manufacturer can be held as liable without any existence of direct contract between the women and the manufacturer.
- **Judgement**- the court stated that manufacturer can also be held as liable to the woman where even both were not entered into the direct contract.
- And this *Donoghue v Stevenson* is the basic and foundational case for the establishment of the product liability.

#### 2. *Grant v Australian Knitting Mills (1935) 54 CLR 49*

- **Facts-** a seller has been sold defective woolen underwear to a consumer where that defective woolen underwear has been caused a skin allergy to the consumer.
- **Issues-** whether the seller or the manufacturer can be held as liable for selling of the defective products which caused harm to the consumer.
- **Judgement-** court stated that manufacturer can be held as liable if they will sell any defective products and when that defective products will cause harm to the consumers then the manufactures or sellers can be held as liable.

### CONCLUSION

Consumer protection act 2019 has been played one of the most important role which has been introduced the concept of product liability in india.it has been shifted from the traditional principle that is Caveat Emptor to the manufacture's sellers and other service providers liability. And also consumers have a right to get compensation from manufactures sellers and other service providers when they sell any harmful and defective products to the consumers, and it also tries to strengthen the legal framework and consumer confidence in the marketplace. Along with the product liability it also tells us addresses about the issues that arising from inadequate warning signs on the products or on the goods.

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