

Dear Students and Members,

Please find below some latest case laws of 2009 compiled specially for CS Executive Students. This article covers 2009 series decided cases on Consumer Protection Act, 1986 along with MRTP Act, 1969. For ready reference you may bookmark this page. Hope this compilation would be off some help in your Exam preparation:

CONSUMER CASES 2009

1. Madan Kr Vs. Disstt Magistrate 2009 CTJ 1109 SC.

If an individual purchased a truck in auction by the local administration and the possession of which was handed over after six months and the ownership papers were handed over six years from the date of auction, the local administration is liable to pay compensation for such deficiency. Further, **it is for the local administration to prove that the truck was purchased for "commercial purposes" and not for "self employment"**.

2. Union of India Vs. Achintam Kilikdar (2009)

In case of postal delay in delivering the postal articles sent through speed post, under Section 6 of the Indian Post Office Act, the immunity **cannot be claimed if** there are allegations that the loss has caused due to fraud, due to willful act or default and then loss to the maximum extent of Rs.1,000/- could be claimed and nothing more.

3. Jagdamba Foods Ltd Vs. New India Assurance Co Ltd (2009) National Commission.

The claimant company claimed a loss of Rs. 4,58,52,391 at the port due to cyclone but the surveyor sanctioned only a sum of Rs. 3,19,54,770/- which amount has been received by the company without any protest or demur and **later on, the company cannot**, after the expiry of six month, turn and contend that under duress and coercion, they accepted lesser amounts.

4. Bihar School Examination Board Vs. SP Sinha (2009)

The Central Board or State Board conducts examination, it is performing statutory duty and functions and if there is deficiency in performing such service, no petition before consumer courts would be maintainable for claiming compensation against such deficiency.

5. Delhi Gymkhana Club Ltd Vs. Union of India (2009) Delhi High Court.

The Club, while serving packed food materials or beverages purchased from outside, cannot be called to charge only the MRP listed on such packages, as the members or consumer pays for ambience and other facilities provided by the club or restaurants while extra amount is charged in addition to the MRP so written on such packages.

6. Haryana Urban Development Authority Vs. Satish Hans (2009)

In case the party has availed departmental remedy by way of appeal for his grievance, he is not entitled to file consumer complaint under Consumer Protection Act after having failed to get the desired result.

7. Sunil Poddar Vs. DB Corpn Ltd (2009)

The important limb of Unfair Trade Practice is injury to the consumer. If by a action and conduct of a party, no such injury or loss has been caused to the consumer, the neither the consumer nor DG(IR) is entitled to file a petition before the MRTP Commission.

8. Bihar School Examination Vs. Suresh Pd Sinha (2009)

The statutory body performing sovereign function or public functions as prescribed under the Act such as holding examination, cannot subjected to jurisdiction of the Consumer Protection Act, 1986.

9. P Mohan Bhat Vs. Brigade Developers (P) Ltd (2009) National Commission.

Even if the consumer has given a Declaration, at the time of taking over the possession of the flat that the flat is in habitable condition, that will not preclude him from raising a consumer dispute if it is otherwise found that the that there are number of defects and deficiencies in the flat and the Builder is liable to be saddled with the costs of such deficiencies.

10. MTNL Vs. Unibros (2009) National Commission.

If the monthly telephone bill of a consumer is ranging from Rs. 1500 to Rs. 2500 per month for the last many years and suddenly the bill came to Rs.1,41,000 and like amount for the three months consecutively, then the MTNL is bound to carry out the investigation for such abnormal bills and produce such investigation report and in the absence of such investigation, the Bills are liable to be quashed.

11. National Seeds Corporation Ltd Vs. P V Krishna Reddy 2009 CTJ 522 National Commission.

If the seeds have been purchased for the purpose of earning livelihood and it cannot be said that there is a commercial purpose and the consumer dispute would be maintainable. The arbitration clause in the agreement would not prevent the consumer from approaching the “consumer courts”.

12. Purbachal Cables & Conductors (P) Ltd Vs. Assam State Electricity Board. (2009)

The National Commission has awarded a compensation of Rs.10,00,000/- due to delay on the part of Electricity Board in installation transformer of 250 KVA and also granted compensation of Rs.1,00,000 towards mental agony.

13. State Bank of India Vs. B S Agriculture Industries (2009)

If the consumer complaint is barred by time, then no court can take cognizance of the said petition unless it is accompanied by the application for condonation of delay. The consumer courts cannot ignore the limitation provided under the Consumer Act, for filing the complaint.

14. Ludhiana Improvement Trust Vs. Shakti Group House Building Society Ltd (2009) Supreme Court.

The averment in the complaint should not be taken as gospel truth and the complaint must bring on record adequate evidence, documents and papers to establish their case.

MARTP CASE LAWS 2009

1. Atul Kapoor Vs. Apollo Land & Housing Co Ltd (2009) MRTP Commission.

If the Builder/Developer makes a representation that “green area” and “open area” would be left and later on the property in disregard of these representations, it shall amount to “unfair trade practice” within the meaning of Section 36A of the MRTP Act, 1969 and the allottee is liable to be compensated by the Developer.

2. ABNA Vs. UPSIDC (2009) MRTP Commission.

MRTP Commission has power to award compensation in the event Unfair Trade Practice has been established but has no power to grant specific performance of contract and thereby ordering the builder/developer to hand over the possession of the plot/flat.

3. N K Jain Vs. DDA 2009 CTJ 94 MRTP Commission.

If the builder/developers causes delay in handing over the possession despite receiving the entire payments, it shall amount to "Unfair Trade Practice" and the aggrieved party is entitled to receive the compensation from the builder/developers.

4. DG (IR) Vs. Western India Plywood Ltd (2009) MRTPC.

The manufacturer is free to appoint anyone as its dealer for the sale of its products on the mutually agreed terms and conditions and his refusal to appoint someone as its dealer cannot be questioned unless there is a manipulation of the supply of goods or market conditions of those goods, there would be distortion of competition of goods.

INDUSTRIAL & LABOUR CASE LAWS 2009

1. Rajesh Wire Industries Vs. Umesh (2009) Delhi High Court.

Once the termination of service of a workman is held to be illegal and unjustified, reinstatement of workmen with back wages is not automatic. Where the issue of reinstatement is decided after 12 years from the date of termination, instead of reinstatement, a lumpsum compensation would be appropriate remedy.

2. Chander Sain Vs. J B Garments (2009)

It is always for the workman to establish relationship of employer and employee and the employer cannot be called upon to establish the same. In a writ petition, the High Court cannot be called upon to sit as a court of appeal and question the findings of the either Labour Court.

3. CHD Developers Ltd. Vs. Rajendra Prasad (2009)

The writ court will not disturb the findings of fact in a writ petition unless findings are completely perverse and irrational.

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