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CONSUMER

Mumbai Consumer Forum Holds Britannia and Retailer Liable for Selling Contaminated Biscuit Packet

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Introduction

In a noteworthy judgment enhancing consumer protection jurisprudence, the District Consumer Disputes Redressal Commission, South Mumbai, in Inderpreet Kaur Dhillon v. Britannia Industries Ltd. & Anr. (Consumer Complaint No. 112 of 2019), held Britannia Industries Ltd. and a Churchgate-based chemist shop jointly and severally liable for selling a contaminated packet of "Good Day" biscuits. The contaminated product, which contained a live worm, caused the complainant physical discomfort and mental agony. The Commission directed both the manufacturer and the retailer to compensate the complainant with ?1.50 lakhs for mental harassment and ?25,000 towards litigation costs, affirming that manufacturers and retailers alike bear responsibility for ensuring product safety under consumer and food safety laws.

Factual Background

The complaint was filed by Ms. Inderpreet Kaur Dhillon under Section 12 of the Consumer Protection Act, 1986, alleging a deficiency in service and unfair trade practices. Ms. Dhillon had purchased a packet of "Good Day" biscuits from M/s. Ashok M. Shah, a chemist shop located at Churchgate Station, Mumbai. Upon consumption, she discovered a live worm embedded in the biscuit, leading to nausea, vomiting, and emotional distress.

The complainant preserved the contaminated biscuit and submitted it to the Municipal Corporation of Greater Mumbai's Food Laboratory, which confirmed the presence of extraneous matter in its report dated 29 August 2019. Despite sending a legal notice to Britannia, no redress was provided, prompting her to approach the Consumer Forum.

Defence Raised by Opposite Parties

Britannia Industries Ltd. denied liability, asserting that the complainant failed to produce the biscuit wrapper or batch number to link the product to their manufacturing facility. The company contended that the sampling procedure under the Food Safety and Standards Act, 2006, was not followed and claimed adherence to ISO and HACCP-certified quality protocols.

M/s. Ashok M. Shah, the retailer, denied having sold the biscuit to the complainant and challenged the jurisdiction of the Commission. They also contested the admissibility of the Food Analyst report and argued that no bill, wrapper, or product code had been produced to substantiate the transaction.

Findings of the Commission

The Commission rejected the defenses and issued several critical findings:

- Status as Consumer: The complainant qualified as a 'consumer' under Section 2(1)(d) of the Consumer Protection Act, 1986, having purchased the product for personal use and paid consideration.
- Contamination and Defect: The biscuit was found to be defective under Section 2(1)(f), as the BMC Food Analyst's unrebutted report confirmed the presence of foreign matter. No counter-evidence was submitted by either Opposite Party to challenge the findings, strengthening the complainant's case. The Commission relied on the Supreme Court's decision in Nagar Nigam, Bareilly v. Ajay Kumar (2008), which presumes the correctness of such public analyst reports unless rebutted.
- Deficiency and Unfair Trade Practice: Both Opposite Parties were found guilty of deficiency in service under Section 2(1)(g) and unfair trade practice under Section 2(1)(r). The Commission cited the NCDRC's ruling in Hindustan Coca Cola Beverages Pvt. Ltd. v. Nitin Mittal, reiterating that manufacturers are strictly liable for selling contaminated food products.
- Strict Liability and Ex Parte Proceedings: The Commission noted that Britannia Industries failed to file a written statement despite being served notice. As a result, their pleadings were treated as non-existent vide order dated 17 September 2019, and the Commission proceeded ex parte against them, drawing adverse inferences. Referring to Spring Meadows Hospital v. Harjol Ahluwalia and Charan Singh v. Healing Touch Hospital, the forum emphasized consumer protection as a tool for social justice and deterrence.
- Joint and Several Liability: The Commission held that both the manufacturer and retailer were jointly and severally liable for the defective and unsafe product. The judgment unequivocally stated that the "sale of a contaminated biscuit is a grave breach of consumer trust and statutory duties under Food Safety laws and Consumer Protection laws."

Final Order

The Commission directed both Opposite Parties to:

- Pay ?1,50,000 for mental agony, harassment, and physical discomfort;
- Pay ?25,000 as litigation costs;
- Comply with the payment within 45 days of receipt of the order, failing which interest at 9% p.a. would accrue until realization.

Implications

This ruling reflects a growing judicial intolerance toward lapses in consumer safety, particularly in the food sector. It also reaffirms that the evidentiary value of public food analyst reports can be decisive in consumer disputes unless effectively rebutted.

From a regulatory perspective, the judgment emphasizes the expansive interpretation of liability under the Consumer Protection Act and the Food Safety and Standards Act, extending responsibility beyond the manufacturer to all players in the supply chain.

As courts continue to apply strict standards of accountability, such rulings contribute to strengthening consumer trust and pushing for higher compliance benchmarks across the FMCG sector.

Legal Takeaways for Businesses

- This case is a cautionary precedent for businesses engaged in the manufacture or sale of consumable goods.
- Even a reputed brand like Britannia Industries Ltd. faced an adverse order due to procedural non-compliance and the absence of a timely defence.
- Both manufacturers and retailers must ensure traceable product origins, proper documentation, and prompt engagement in legal proceedings.
- A single procedural lapse, such as ignoring a legal notice or failing to file pleadings, can result in an ex parte judgment and significant liability.
- The ruling illustrates how principles of liability in food safety disputes extend beyond the manufacturer and apply throughout the supply chain.

Applicability of Strict Liability under CPA and FSS Act

The judgment aligns with the principle of strict liability under consumer law, which does not require proof of negligence if a product is found to be defective or unsafe. Under Sections 26 and 27 of the Food Safety and Standards Act, 2006, food business operators are mandatorily obligated to ensure that food articles are wholesome and safe for consumption. This ruling echoes judicial precedents such as Spring Meadows Hospital and Nitin Mittal, where liability was imposed despite the absence of deliberate negligence, based on the impact on the consumer.

Practice Pointers for Consumers

The complainant in this case took all the right steps: she preserved the contaminated product, approached a public food analyst for testing, served a legal notice to the manufacturer, and filed a complaint supported by documentary evidence. This case demonstrates the importance of documentation, timely action, and persistence when seeking redress under consumer law.

Conclusion

The South Mumbai Consumer Forum's decision affirms the importance of legal accountability in the sale of consumable goods. It offers a clear judicial stance on the evidentiary weight of public analyst reports and the consequences of procedural negligence.

As consumer law continues to evolve, this order stands out as a reminder that diligence, traceability, and legal compliance are non-negotiable, for manufacturers and for all players in the distribution chain.

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