

Claim for compensation in case of impurity found in food items | रसरंग में आपके अधिकार: खाने-पीने की चीजों में अशुद्धि मिलने पर हर्जाने का दावा

 [bhaskar.com/magazine/news/claim-for-compensation-in-case-of-impurity-found-in-food-items-135916874.html](https://www.bhaskar.com/magazine/news/claim-for-compensation-in-case-of-impurity-found-in-food-items-135916874.html)

दैनिक भास्कर

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Your rights in Rasrang: Claim compensation for food and drinks that are found to be defective

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Food and beverages are the most basic consumer goods. When we eat at a restaurant or buy a packaged beverage at a store, we naturally assume it will be safe. However, consumer commissions have come across numerous cases of foreign impurities or contaminants found in food and beverages. These cases highlight the responsibilities of manufacturers and service providers, as well as the remedies consumers can seek under consumer law.

What is the legal framework?

Section 2(11) of the Consumer Protection Act, 2019 defines "deficiency in service," and under Section 2(10), consumer courts and commissions have the power to award compensation in cases of "defective goods." Additionally, the Food Safety and Standards Act, 2006, prohibits the sale of unsafe or adulterated food items. Section 26(5) of this Act clarifies that if even one item in a batch is

found unsafe, the entire batch will be deemed unsafe for consumption. Together, these two laws place an obligation on restaurants, bottling companies, and manufacturers to ensure that food items are safe, hygienic, and free from foreign impurities.

When impurities were found in restaurant food:

A recent case came before the Mumbai District Consumer Commission in which a customer found a stone-like particle in his food, which broke the crown (dental cap) of his tooth. The Commission held the restaurant guilty of deficiency in service and ordered compensation. The Commission stated that food providers have an obligation to ensure that food is free from harmful substances. In a similar case, *K. Damodaran vs. Hotel Saraswati* (2007), the Karnataka Commission awarded compensation to a consumer for tooth injury caused by a stone-like particle in food.

Impurities in packaged beverages:

Packaged beverages have frequently been the subject of lawsuits. In *PepsiCo India v. Shyam Gumte* (2019), mold was found in a sealed bottle of Pepsi. The company argued that the seal had been tampered with, but the Maharashtra State Commission, based on a public analyst's report, deemed the beverage unfit for consumption and ordered compensation. Similarly, in *Prem Kumar v. Hindustan Coca-Cola* (2024), the Tamil Nadu State Commission was presented with a bottle with a dead scorpion floating inside. The Commission dismissed the possibility of tampering based on the intact seal and ordered compensation, holding the manufacturer and bottler responsible.

principles derived from precedents

- Sellers of food and beverages have a strict responsibility to ensure that they are safe. Any foreign/unwanted substance found in food or beverages will constitute a "deficiency in service," whether or not the consumer has consumed it.

The courts rejected the argument that a sealed bottle cannot contain external impurities. If lab reports or photographs prove adulteration or impurities, the sealing argument is invalid.

The court places great importance on reports from public analysts or food safety laboratories. If the bottle seal is intact, the fault is presumed to be the manufacturer's.

Usually, the manufacturer and bottler are blamed. The shopkeeper is exempt unless negligence is proven. However, exceptionally, the retailer may also be held liable if the authenticity of the product is in doubt.

- The lesson for consumers is to keep such goods safe, preserve the bills and immediately file a complaint with the Consumer Commission along with evidence.

(The author is also Secretary, CASC.)