

Consumers can get compensation for false guarantees | रसरंग में आपके अधिकार: झूठी गारंटी पर उपभोक्ता को मिल सकता है मुआवजा

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Your rights in Rasrang: Consumer can get compensation for false guarantee

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Advertisements have become a very important medium in today's times. Advertisements let people know about good and bad product options. Along with making people aware, they are also helpful in increasing the growth of companies. The problem arises when this medium is used to mislead people. But provisions have been made to protect against this as well. A new aspect of "misleading advertisements" was added to the Consumer Protection Act implemented in the year 2019. Of the approximately ten thousand complaints investigated by the Advertising Standards Council of India (ASCI) in the year 2023-24, 81 percent of the complaints were about misleading advertisements. This shows that people in India are facing a big problem with misleading claims, which is against the

basic idea of consumer protection. Let us see today what are the rights of consumers against such misleading advertisements and how the Consumer Protection Act, 2019 deals with them.

What are misleading advertisements? Section 2(28) of the Consumer Protection Act, 2019 defines misleading advertisement. If an advertisement misdescribes a product or service, gives a false guarantee, makes a claim that amounts to an unfair trade practice or deliberately conceals material information, then it comes under the category of misleading advertisement. The government has also formulated Guidelines for Prevention of Misleading Advertisements, 2022 under the Act. These explain in detail what kind of advertisements are allowed and with what conditions. For example, advertisements involving surrogate mothers cannot be given. There are restrictions on them.

What rights do consumers have? As per Section 2(9)(ii) of the Consumer Protection Act, 2019, consumers have the right to be protected from unfair trade practices and the right to seek redressal under Section 2(9)(v). In case of individual complaints, any consumer can approach the Consumer Commission against misleading advertisements. Apart from this, the consumer can also write to the District Collector, Central Consumer Protection Agency (CCPA) against a specific misleading advertisement. Complaints can also be made to the Advertising Standards Council of India (ASCI).

What is the provision of penalty? After investigation, if the advertisement is found to be misleading, then CCPA can order the publisher/broadcaster to stop the advertisement in which it has been published or broadcast. Along with this, there is also a right to impose a fine of up to Rs 10 lakh on the concerned trader or manufacturer or advertiser. If misleading advertisements are continued even after this, then this fine can increase to Rs 50 lakh for each mistake. According to Section 89 of the Consumer Protection Act, 2019, violators can also face a jail term of up to two years in the case of the first violation, which can increase to five years in every subsequent case of violation.

What is the provision on false guarantee? In the case of Vijay Agarwal vs a company claiming to reduce weight, the customer bought a weight loss program. It also had the promise of a 'money back guarantee'. The advertisement said, "Lose 4 kg in 30 days or get your money back." The customer could not lose weight and asked for his money back. However, the company refused. The matter eventually reached the State Commission. The Commission considered it to be a misleading advertisement, because the said company was "on the one hand giving false assurances through misleading guarantees, while on the other hand it was also making the consumers sign a declaration that there would be no guarantee of results." Accordingly, the Commission ordered the concerned company to refund the program fee of Rs 75,000, pay compensation of Rs 20,000 and pay Rs 10,000 to the consumer as litigation expenses.

(The author is also the Secretary, CASC.)

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