

## CHAPTER 8

### Consumer Disputes Redressal – Some Interesting Case Studies

#### 8.1: Introduction

NCDRC (National Consumer Disputes Redressal Commission) has been established with a view to provide inexpensive, speedy and summary redressal of consumer disputes. Consumers/users get information about the cause lists, judgements, case status, daily orders, consumer advocates and procedure to lodge a complaint. Also the details of members of the commission, state commissions, district forums and consumer protection acts/amendments etc are available. It is to note that the CONFONET project has been implemented in order to protect consumers from all forms of exploitation. Under the provision of 1986 Act, consumer forums at the district level and consumer dispute redressal commissions at the state and the national levels have been set up. The CONFONET caters to the needs of consumers, consumer activists and NGOs, members of consumer courts, bar councils, and advocates. It specifically provides information on consumer rights and protection. Users can access consumer rights and protection related information through the Confonet Website. In the following section we will try to describe, in brief, some interesting cases filed/disposed relating to consumer rights and their protection.

#### 8.2: Some Interesting Cases

##### Case-1:

Some cases disposed of by DCDRF, Kolkata Unit – II are discussed to ventilate different types of negligence which caused the consumers to face the Forum for redressal. Fact remains that for many medical negligence cases are being filed out of which a few medical negligence cases are succeeded. A particular case being C.C. No. 98/2011 in which one lady Smt. Sharmistha Mukherjee was admitted to Apollo Gleneagles Hospital on 21.03.2010 and under treatment of one Dr. Purnendu Roy, the best surgeon of Bengal took

decision for operation of Laparoscopy Colectomy and after operation on 23.03.2010 the patient was discharged on 25.03.2010 and in the discharge certificate it was mentioned that the patient was stable. But actually at the relevant time, she was suffering from some fever. In fact, operation was done by the doctor and in the discharge certificate it was advised that the patient must come after ten days for check up. But after release that lady suffered from different types of problems and was again hospitalized and in fact after admission it was detected that she was suffering from acute Jaundice.

Anyhow, ERCP had not been done prior to such operation. But as per different doctors, few tests of ERCP are must for operation suspected with jaundice or diabetes etc. But Dr. Roy did not apply this procedure but operated adopting leprosy and ultimately that lady died on 07.05.2010 and in the death report it was noted that multi-organ failure as a consequence of acute pancreatitis etc. – but the Forum after considering all materials, documents regarding her treatment and further considering the authoritative medical books came to a conclusion that the said doctor overlooked the note of one Dr. Sarkar, who prior to admission in the Apollo Gleneagles Hospital of the said lady came to a finding that she was suffering from jaundice and moreover the medical expert opinion was also considered wherefrom it is found that medical board came to a conclusion that the Dr. Roy ought to have taken some positive steps before operation. They also came to a conclusion that Dr. Roy overlooked the note of Dr. Sarkar who refused to operate the lady for presence of jaundice and in the present case the jaundice was not the effect of operation but she was suffering from jaundice prior to such operation but that was overlooked for which operation was made ultimately the lady died – thereafter on her death her husband Suvra Mukherjee filed a complaint and after contesting hearing, the judgment was passed by allowing this complaint directing the doctor to pay Rs. 10,00,000/- and the hospital shall have to pay Rs. 6,00,000/- including litigation cost etc. which was passed on 20.08.2014.

## **Case-2:**

Pre-concept action in the mind of the consumer particularly the ladies are there after observing different types of advertisements regarding the particular establishment's efficiency to beautify the ladies and being allured many ladies go to such centre for getting

some misleading implant relief and to make them beautify or to remove their stretch mark etc. But ultimately they are being deceived.

In this regard in a case No. 347 of 2013 the present Forum, Kolkata Unit-II passed a judgment on 18.09.2014. Fact remains that one Isha Singhi filed the said complaint against M/s Vibres Ltd. for not getting such result from the said establishment even after dermatological treatment.

The said lady being allured by the hoarding and advertisement for redressal of such problems of slack of lower and middle abdomen she went to that establishment for getting relief and as per the demand of the op, complainant paid a total sum of Rs. 70,000/- and for such treatment she went to the said establishment on different three days to remove her stretch mark and also for removing her slack abdomen. Treatment was done but no result was received and that was reported to the opposition party by the complainant but opposition party (OP) did not take any further step or did not give her any relief. But after thorough study of the treatment sheet produced by the op and the complainant and further considering the fact of appearance of the lady for removal of slack of abdomen, stretch mark of middle and lower abdomen and further consulting different books of different countries written by world famous authors in respect of dermatology and after considering the research work of different doctors in this subject it was found that the said doctors came to a conclusion that after delivery stretch mark cannot be removed by applying any cream or lotion or any other process and slack abdomen cannot be tainted and in this regard the professor of Dermatology Dr. Mary Lupo M.D. Professor of Dermatology at Tulane University School of Medicine, Dr. HELD Wald of Mount Siuai School of Medicine had confirmed that if any mother had stretch mark, even her daughter may likely face it since genetic plays a vital role and as per their opinion including the Dr. Hansa D. Bhargarva MD. Confirmed that there is no way to prevent stretch mark, there is no cream or lotion or malum that can do that. But those doctors have confirmed that it is always a good idea to keep skin hydrated with a rich lotion or cream, especially makes it full better looks like smooth tan and help in itchiness just with growing belly. But that must be started from the date due to pregnancy and same can be used but lotion etc. can be used only to prevent prior to delivery but not after delivery. But they have confirmed that delivery tan is impossible by adopting any method and there is no way to prevent stretch mark or slack abdomen.

Considering all those matters, the complaint was allowed holding that the said establishment M/s. Vibres Ltd. has practically adopted unfair trade practice and deceived the complainant for which the complaint was allowed and complainant was awarded of Rs. 70,000/- what she paid to the op authority and for adopting unfair trade practice Rs. 50,000/- was imposed upon the op and further punitive damages was also imposed to the extent of Rs. 25,000/- against the opposition party no doubt it is a very exceptional case in view of the fact that for lack of knowledge, ladies are approaching before such beauticare clinical etc. But the dermatology doctors have confirmed that it can make the skin smooth, but stretch mark and slack of the belly cannot be removed. Rather they have confirmed that it may cause several other problems in the skin and the belly and particularly in this it has been confirmed with the help of the research work done by different authors that the advertisement of the op Dermatological clinic is nothing but unfair trade practice.

### **Case-3**

In many cases private limited banks or nationalized banks are not properly entertaining the consumers and not discharging their daily duties to give relief to the illiterate people or ladies or students properly to realise how the form shall be filled before the banking authority for any withdrawal or for any other purpose or for taking loan etc. and sometimes it is not possible for the customers as the consumers to realise the meaning of different items of a form or application and sometimes same are being submitted to the banking authority and officers and they are just receiving it without checking up or giving the consumers or customers a chance to rectify it if there is any error. But always it is being received and thereafter they are found silent when it is found that there are some portions of the form or applications are not properly filled up.

It is the duty of the bank employees at the time of receiving any filled up form for any purpose submitted by the customers to check up the same and if there is any sort of error for filling up such form, it is the duty of the bank employees to rectify with the help of the customers but that are not being done for which huge number of customers are being harassed by the bank employees and that is the order of the day.

In this connection one judgment in C.C. Case No. 266/2014 of D.C.D.R.F., Kolkata Unit-II was passed on 03.01.2015 and the above observation as made is found support from the judgment. In that case one lady Minoti Mukherjee, widow of Chittaranjan Mukherjee, on the death of her husband (died on 08.02.2010) prayed for handing over the amount deposited in SB A/C No. 01190006595 (old), (new) 1114064801 thinking that it was a joint account and she also prayed for close the said account and transfer that amount along with interest to her SB A/C No. 01190009868 with SBI, Jadavpur Branch. But that was refused. Complainant made several letters to the bank Manager but that was unheard.

Thereafter complainant was called by the bank authority i.e. Bank of India, Esplanade Branch, Kolkata, and they asked her to file a fresh application form which was supplied by the bank. The lady filled up it, submitted it to the bank authority, bank authority received it but did not say that there was some gap or error or form was not properly filled up. The bank even did not help the lady to fill up that form in proper manner. After that, the lady went away and subsequently it was found that money was not transferred to her account. When she demanded through her Ld. Lawyer no reply was made. Ultimately complainant filed this complaint for redressal and the Forum came to a conclusion that scope was there on the part of the bank employee to make an application form withdrawal properly field in with the help of the lady by the bank authority because that lady went to the bank so many times and forms were supplied by the op/bank and filled up by the lady, it was received by the bank, but bank did not check up the form at the receiving point. But ultimately reported that the form required to be properly filled up. It was thus turned down by the Forum on the ground that a lady appeared and she was called by the bank authority for filling up the particular form but the said form was submitted by the lady after filing up the form. Receiving the application the bank did not raise any question about the defect of the filled up form. The bank told that the form was not filled up properly and it was no doubt a deficiency of service and negligent manner of service on the part of the bank for which the complaint was allowed with a direction to the bank authority to go to the house of the lady and to make the form filled up by her properly and transfer the said total amount to her account and if for any reason the employee of the bank feel shy or are ashamed for complying that order in that case suo moto transfer the amount in the account of the lady at Jadavpur Branch. It is no doubt a case of negligence and deficient manner of service on the part of the bank employees and manner of harassment to the lady customer/consumer.

#### **Case-4**

An ordinary person at the time of taking any insurance policy neither knows the implication of several exclusion clause and other matter nor it is over read the printed form as they have their no fine print, many a time illegible so consumer suffers heavily at the hands of insurance companies and at the same time the different insurance companies in India, particularly the private insurance companies have entered into a field of investment for collecting investment from different consumers without giving them a chance to realise what would be the end of such consumer after taking such policy. Though it is a fact that private insurance companies are completely run through the agent, so-called financial consultants and financial advisors and those persons are misleading the consumers in so many manner and particularly the retired persons are very much trapped by those agents, field officers, financial advisors and financial consultants and at the same time insurance companies, particularly the private insurance companies are deceiving the customers in different manners by adopting tricky process and are deceiving the old senior citizens, retired persons and in support of such incident, DCDRF, Kolkata Unit-II passed a judgment in CC Case No. 01 of 2014 on 15.12.2014 allowing that complaint and directing the HDFC Standard Chartered Insurance Company to deposit the amount against such policy.

In the said complaint, complainant Maithili Roy, retired person of a small company after retiring got some amount and intended to invest the said amount about Rs. 5 lakhs for the purpose of getting term benefit with higher rate of interest when she was approached by the agent of the said insurance company and that agent or advisor allured to deposit the same in HDFC Standard Life CREST Policy and after hearing the agent's version, complainant intended to deposit the same amount of Rs. 5 lakh for 3- year term and that the agent assured her that she shall have to get back the entire amount including higher rate of interest which would be more beneficial to the complainant for such investment and that agent secured some signatures in blank form and ultimately she was rest assured that the agent shall act properly. But unfortunately after sometime she got six insurance policies of 10-year term and getting that six insurance policies, complainant was astonished, thereafter she went to the said agent namely Bidhayak Chakraborty who asked that there may be some wrong. So the agent took the original policies and thereafter she was asked to open four policies with a premium of Rs. 30,000/- to Rs. 60,000/- and she was confused by that

Bidhayak Chakraborty and if four policies would be opened, in that case, the present deposited Rs. 5 lakh amount shall be refunded along with interest and the lady was completely perplexed. She was in turmoil being received of such six policies and only to get rid of such complication, that lady opened such other four policies. Subsequently it is found that his previous policy which was otherwise opened showing the report of all the policies became lapsed. When complainant appeared before this Forum for relief and in fact he actually deposited Rs. 7, 50,000/-.

Most interesting factor is that complainant's total income per year is Rs. 2,00,000/- lakh, whereas against 10 policies yearly deposited premium was fixed at Rs. 7,50,000/-. It is admitted by the opposite party that they never talked with that lady before opening the policies. But as per presentation of those policies by the agent, it was opened and it is also admitted by the opposite party that Bidhayak Chakraborty is their agent-cum-financial advisor and the allegation is against Bidhayak Chakraborty by the complainant. But that has not been denied by the opposite party and fact remains that from the original application it is clear that Bidhayak Chakraborty managed to procure signatures of that lady in different forms which was subsequently converted as insurance policy but no HDFC SL Crest Policy was opened.

So, considering that fact and the conduct of the agent including misleading assurance by the agent on behalf of the insurance company and also considering the poor yearly income of the complainant and also the act of the agent to deceive the complainant/lady was proved for which the said complaint was allowed directing the opposite party to refund the entire deposit of Rs. 7, 80,000/- after deducting 5 percent p.a. as service charge and the insurance company was directed to refund the balance amount along with 8 percent per annum interest and further compensation was awarded.

Present type of case is not a single instance, but in so many forums such sort of complaints are being filed day to day, particularly against the private insurance companies and the reality is that the private insurance companies are bringing to capture the market through their dishonest agents, financial advisors on the ground that the private insurance companies shall be compelled to close down their business if that dishonest and cheat agents do not continue such business. Situation is very serious and that Nobel Laureate Jean

Tirole already observed that insurance companies and bank shall be dealt with tough hands, otherwise the investors shall be deceived by them.

The insurance companies are in fact very dominant and they do not act in a reasonable manner but such sort of attitude of the insurance company is unwarranted and ethically indefensible.

### **Case-5**

Now-a-days, it is a trend of travelling unauthorized persons inside the railway reserved compartment of any long distance train having no tickets and the major responsibility rest on the railway authority to prevent intruders entering into the reserved compartment and if any bona fide reserved ticket holders bring any allegation against the railway authority, the railway authority resigns to the fact that they always reject such allegation and shift all liabilities upon the reserved ticket passenger for loss of any article etc.

In this regard, DCDRF Kolkata Unit – II passed one judgment in CC No. 341 of 2012 dated 07.02.2014 allowing the complaint of one Prasanta Kumar Ganguli and in the said complaint, complainant's case in brief is that he being a retired teacher as senior citizen went out for a tour to North India with his family for the period from 26.10.2011 to 11.11.2011. While boarding the scheduled Jammu Tawai – Varanasi Begampura Express (Train no. 12238; PNR 270-6146187) from Ambala Cantonment on 09.11.2011 having reservation in sleeper coach no.S-4 (seat nos. 65-69) and when the train reached the platform they found that both the doors of S-4, S-3, S-1 & S-2 were completely locked from inside and the coach was full with unreserved passengers. Finding no other alternative that reserved ticket holder passenger boarded at S-5 coach which was also not chock-a-block condition and while re-opening inside the said coach, he lost three bags. So, he lodged an FIR at Varanasi and thereafter he boarded reserved coach S-1 of Vibhuti Express at Varanasi Station and his son-in-law managed to put the luggage inside the compartment as S-4, S-3 and S-2 were locked with unauthorized passengers. However on the next morning at about 06:00 AM when they woke up they found that 1 trolley bag and 2 VIP bags kept under their seats containing dresses, woolen garments, identity proof, credit cards, ATM

cards, cash of Rs.11,500/- were missing. Thereafter another FIR was lodged at Howrah GRP after returning also. So, they lost the ATM card with huge amount which was withdrawn by the unknown passengers.

But the railway authority took a defence stating that the loss or damage was due to the negligence of the complainant and further alleged that District Forum has no jurisdiction to decide the case because already a criminal case is pending. After proper consideration of the materials on record, it is found that it is the today's Indian Railway's common defence that the provision of Section 100 of Indian Railway Act 1989 is applicable and the railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any luggage unless a railway servant has booked the luggage and give a receipt therefore and in the case of luggage which is carried by the passenger in his charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on its part or on the part of any of its servants and the complainant did not book his luggage in Railway and in the instant case the complainant is not entitled to get any relief as per provision of Section 100 of Railways Act 1989. The grievance of the complainant regarding deficiency of service on the ground is that Railway Administration is under obligation and to render safety to the reserved compartment passengers, the said complaint was allowed and that judgment was also confirmed by State Commission in FA Case No. 300 of 2014 on 19.02.2015.

#### **Case-6**

At present air ticket passengers are often harassed by the air flight companies for ambiguity in the regulations and also for several type of harassing, misleading code number without any decoding number in the receipt or in the back of the receipt and for which many passengers are being harassed and when they pray for refund that is being rejected showing the ambiguous regulation.

Such a matter was also handled by the DCDRF Kolkata Unit-II and in CC Case No. 429/2014 one Tanmoy Biswas was the complainant who ultimately won over by getting such compensation for the negligence of the air flight company.

In the present case Air India Ltd. is the company and truth is that complainant Tanmoy Biswas for the purpose of journey at London purchased journey ticket from Kolkata to Heathrow and also return journey ticket at a time and he availed of his journey from London to Kolkata. But for his return journey from Kolkata to London that ticket was fixed for journey on 23.10.2013 from Delhi to London. But he cancelled the same on 15.10.2013 though he purchased the said air ticket in the month of August from the Air-India at London and for return journey. As per general terms and conditions of the Air-India regarding ticket First Class, Executive Class and Economy Class of tickets, it is specifically mentioned that totally unutilized of open tickets and domestic tickets are valid for one year period from the date of issue and unless otherwise specified on the ticket, the period of validity of International tickets issued at normal one way, round or circle trip fares shall be one year from the date of commencement of first travel or if the first flight coupon of the international ticket is open dated and or unused, the ticket is valid from the date of issue thereof and customer can change his/her itinerary after he/she has purchased the ticket through offices or through an authorized travel agent.

But peculiar factor is that when complainant cancelled his return journey from Delhi to Heathrow Airport on 15.10.2013, he prayed for fixing another journey date of his journey from Delhi to London and after waiting a month together the Air-India Authority reported that as per said ticket what he purchased, it was valid for only six months from the date of his first journey and op Air-India authority claimed that E-ticket was valid up to 11.02.2014 on the ground in the ticket there is a code noted S6MGBSPL and that it means that it is valid for six months.

After considering the materials including all other factors it is found that nowhere in the ticket, the code as mentioned is decoded or details of the code is not noted. But as per terms and conditions of the tickets as per regulation of Air India such a ticket is valid for one year from the date of purchase and the opposite party, Air India failed to produce any such document to show that any customer or air ticket purchaser can realise what is the validity of the said ticket as per said code.

But in the rules and regulations it is specifically mentioned that it is valid for one year. In this case, practically the complainant did not get any relief and he did not get refund of such money, rather it was declared that the said ticket is invalid but he failed to realise

the claim of the Air-India because there is ambiguity in the regulation which is evident from the fact that regulation is valid for one year but in the ticket it is noted a code without detail of the decoded form. Such sort of sale of ticket is no doubt one kind of adopting unfair practice and the fact is that in the present case it is proved that complainant purchased the said ticket for return journey also as it was valid for one year from the date of purchase and practically the validity period would be 10.08.2014. But the opposite party, Air India, declared it as invalid on and from 11.02.2014 without any reason and harassed the complainant and for which the negligent and deficient manner of service on the part of the Air India and their misguiding regulation of the Air India, the complainant was deprived and ambiguity in the regulations had made it easier for airlines to avoid payment of compensation.

In such a manner airlines are harassing, relying upon such sort of fake terms to cover most vulnerability and by that means they are depriving the passengers and harassing the passengers and this judgment no doubt pointed out and discussed different types of adopting code without decoding the meaning of all those codes and even a very intelligent person cannot say what is the meaning of those codes. It is observed in the said judgment that passengers should be dealt with fairly by the airlines and at the time of selling ticket terms and conditions, validity etc. shall be written in clear form so that the passenger can realise what would be the fate of the ticket after such period or how he shall have to avail such journey.

#### **Case-7**

Most common problems are being faced by different category of general public after getting ATM card and ATM fraud is rampant nowadays. General public at the time of withdrawing their money by using ATM card are being deceived for several types of technological procedure as adopted by the hackers. All over India, banking authorities have not taken the matter seriously only on the ground that there have their certain judgments of National Commission to the effect that if PIN code number and ATM card are within the custody of the card holder and if he does not use it, there is no question of withdrawal of the money from the account of such card holder in absence of ATM card and PIN number and following that judgment, all over India, State Commission and Forum are passing judgment.

However in this regard in one case being C.C. No. 337 of 2014 DCDRF Kolkata Unit-II passed a judgment on 04.02.2015 and came to a conclusion that decision of the said National Commission is not at all scientific. In view of the fact that there are several factors for withdrawal of the money even if the particular ATM card holder has used the same but ATM system does not work properly and in that judgment this Forum came to a conclusion after studying different types of procedures as adopted by many hackers which is more scientific than that of judgment passed by the National Commission.

It is a fact that the banking authority has failed to control hacking and such sort of withdrawal of amount from different ATM by hackers is a fault on the part of the banking authority. But banking authority has not yet taken such step for using anti-devices to check and control such ATM fraud

There are several procedures of hacking, one is skimming and ATM skimming is most prevalent and well known attack against ATM and ATM card skimming are devices used by perpetrators to capture card holder data from the magnetic stripe on the back of an ATM card. These sophisticated devices are smaller than a deck of cards and resembling a hand-held credit card scanner are often installed factory installed card reader his card into the card reader, the skimmer captures the card information before it passes into ATMs card reader to initiate the transaction. The transaction continues in a normal fashion, when removed from the ATM, a skimmer allows the download of personal data belonging to everyone who uses the ATM. An expensive, commercially available skimmer can capture and retain account numbers and PINs for more than 200 ATM Card typically, criminals design skimming devices to be undetectable by consumers.

At the same time there are certain kinds of card skimming attack and that generally occasion External Card Skimming. Skimming is made by placing a device over the card reader stop (motorized or dip) to capture consumer data from the magnetic stripe on the card during a transaction. This is the most common form of card skimming. There is another procedure i.e. called card trapping or fishing and card trapping and fishing attempt to steal consumer's card as they are inserted into the card reader during a transaction. The purpose of this type of attack is to steal the card and use it at a later time to make fraudulent withdrawals from the consumer's accounts.

There is another type of trapping and fishing and currency trapping and fishing is an attempt by perpetrators to capture currency that is dispensed by the ATM during a transaction whether it be in an envelope or as cash that is being deposited by the consumer during a transaction and trapping is made by a false dispenser front placed over the shoulder of the dispenser with adhesive or tape on the inside to trap the notes before they are dispensed whereas fishing is the methods used are similar to those used to fish for cards, virus probes and hooks that are difficult for the consumer to see are used to prevent cash from being dispensed. When the unwary consumer leaves the ATM, the perpetrator returns and uses the fishing device to retrieve the currency. There is another hacking system malware and with any computer system the purpose of installing malicious software (malware) is to violate the confidentiality, integrity and/or authenticity of data on that computer system. Designed to collect card holder data and/or dispense card, malware and hacking can occur both locally or remotely. Local attacks operate by accessing the top hat and down loading the malware using a USB or attacking a USB sniffing device to intercept communication between the card readers and the ATM's computer. Remote attacks on ATM network occur at some point in the communication with the host or at the backend infrastructure.

Typically, these sophisticated attacks are carried out by well-funded criminal organizations. As per present global problem of ATM hacking malware threats are of particular concern as they are on the rise and constant by evolving on attempt to stay a head of security measures. For malware to be installed physical and administrative access to the ATM platform's operative system is necessary.

In the present case it is found that there are some other hacking of ATM by the hackers which are collected from some books on the subject the present situation in the global market on the ATM fraud around the world. Peculiarity is that in all judgments nowhere all these types of hacking are discussed. But only the simple method is adopted is that an unauthorized person cannot withdraw money from ATM without using ATM card and PIN Code, but worldwide computer experts have expressed that there is no necessity to get the card and ATM PIN Code from the customer. A person having computer knowledge of ATM system can easily trap the ATM card number and ATM by using devices and also the PIN code by playing some process by applying devices and thereafter they use it.

In the present case it is found that hackers adopted illegal process because complainant went to ATM centre and inserted his ATM card and thereafter he put his pin number and after that machine was processed for some time and thereafter the money did not come out and after waiting for some time when the money did not come out ATM did not reflect any result, the complainant went away when the hackers came and managed to withdraw the cash and considering that fact, this Forum did not accept the said Commissions' judgment opinion as scientific because it is more scientific than that of the judgment for which this Forum allowed that complaint by directing the banking authority to return the entire amount of Rs. 20,000/- including punitive damages of Rs. 10,000/- and Rs. 5,000/- as cost, but from that judgment it would be revealed that more study is required by the Forums at all levels to determine ATM fraud cases.

#### **Case-8**

Appellants / Opposite Parties being aggrieved by impugned order dated 24.10.2013, passed by State Consumer Disputes Redressal Commission UT Chandigarh have filed the appeal.

The fact is that in response to the scheme launched by the appellants under the name "Mohali Hills", comprising sectors 105, 108 & 109 the respondent /complainant applied for registration of a plot measuring 500 sq. yards (plot no. 253) with them in Mohali Hills (Sector 109), Punjab. The same plot was allotted to the respondent. The agreement was made on 04.07. 2007. The respondent paid a sum of Rs. 67,50,590/-. As per the Plot Buyer's Agreement, the appellants were liable to handover the residential plot within a period of two years and not later than three years from the date of agreement. But it was not handed over within the due date. Naturally the respondent is entitled to get 18 percent interest per annum on the amount deposited and also a compensation for mental agony and physical harassment. Accordingly, the respondent lodged a consumer complaint for the compensation. The appellants admitted that the respondent was provisionally allotted the plot. It was also stated that the respondent failed to remit all the instalments in time. As per the statement of account, it was stated, an amount of Rs.64,63,690/- had been paid by the respondent, not the amount of Rs.67,50,590/- The various other allottees, it was mentioned, had taken over the possession of plot in sector 109. It was also noted that as per clause 2 (f),

in case of failure by allottee to perform his obligations, the appellants were entitled to forfeit earnest money of Rs. 17,25,000/- which is equal to 30 percent of the sale price of Rs. 57,50,000/-. The State Commission partly accepted the complaint of the respondent and passed the order as follows. The opposite parties (OPs) are directed to refund the amount of Rs. 64,63,090/- along with interest @12 percent per annum and also to refund a sum of Rs. 1,50,000/- as compensation to the complainant. Also, the OPs to pay Rs.10, 000/- as cost of litigation to the complainant. It was found that the possession of plot was given after one year of the stipulated date. Considering the totality of the facts and circumstances of the case, the appeals have been dismissed with costs amounting Rs.2, 00,000/-. The appeal is gross abuse of process of law and thus is dismissed with punitive action amounting Rs. 5,00,000/- of which Rs. 2,50,000/- be given to the respondent and the remaining amount i.e. Rs. 2,50,000/- would be deposited in the Commission by way of demand draft in the name of Consumer Legal Aid Account.