

# Consumer courts show the way

Some of the important judgments in 2012

NEHA PANDEY DEORAS

Mumbai resident Lopamudra Roy was taken aback when a leading restaurant charged her ₹75 for a 500 ml bottle of Sprite, usually available for ₹30 elsewhere. When she raised the issue with the management, it refused to give her a satisfactory answer.

Roy didn't complain to the consumer forum about the inflated price. But Raigad district resident Prahlad Padalikar did. When he was charged ₹25 for a one litre-bottle of Oxyrich mineral water at Kamat Hotel, he filed a complaint with the Maharashtra Consumer Disputes Redressal Commission. The bottle, usually available for ₹15 elsewhere, was labelled 'Specially packed for Kamat Hotel'.

The Commission took up Padalikar's complaint as a case of exploitation of consumer and ruled

that, "₹25 is a much higher, exorbitant and unconscionable price at which the Oxyrich bottle, is sold to the complainant. The stamping 'Specially packed for Kamat Hotel' is equally misleading and misrepresenting, since it has no nexus with either quality, quantity, purity or service other than the one which are available with Oxyrich packed drinking water bottle available at ₹15, elsewhere." The purchase cost for Kamat Hotels, the Commission said, was ₹10.75 a bottle. Most people face the issue of dual pricing in many consumer products, and thus the case is a landmark for all. As 2012 comes to a close, consumers have quite a few judgments to fall back on in the future.

Here are some that might impact many.

## Damage to car due to waterlogging can be claimed

The Union Territories' Consumer Disputes Redressal Forums ruled that damages to a car due to waterlogging after heavy rains can be claimed after Chandigarh-based Harjit Singh's insurance company rejected his claim. While travelling in 2011, Singh was caught in heavy rains and his car got stalled. He paid ₹1 lakh to repair the car but his insurance company blamed the damage on the owner's negligence, as he allegedly tried to start the car on a water-logged road and damaged the engine, which Singh denied. The consumer forum observed that the policy had promised cover against loss due to "flood, typhoon, hurricane, storm, tempest, inundation, cyclone, hailstorm, frost" and directed the insurance company to pay ₹97,646 to Singh towards repair of the car, ₹25,000 as compensation for the harassment caused to him, and litigation costs of ₹10,000.

Panchkula-resident Ramesh Mehta's car was also stalled on a water-logged road, within its warranty period. The dealer charged ₹1.76 lakh for repairs, saying the damage was caused due to ingestion of water through the intake system, which is not covered under warranty. The forum observed that the insurance company was liable to indemnify Mehta against loss or damage caused due to natural calamities. "Insurers almost always cite it as a reason to not honour claims. And many policyholders fall for it," an insurance broker said.

## Check electric meter only in customer's presence

After hearing a complaint that energy bills were wrongly calculated, the Nashik Consumers' Grievances Redressal Forum ordered the

Maharashtra State Electricity Distribution Company (MSEDCL), to recalculate bills based on average metered units prior to the duration in question. Bhupinder Paitl, the complainant, had alleged that the MSEDCL tested his electricity meter without informing him. The forum said the company should test the meter in the laboratory in front of the customer.

## Immigration firms must note change in rules

Jalandhar-based teacher Verna had paid ₹50,000 and another \$500 (Rs 27,500) to an immigration firm, which had said she was eligible for immigration to Canada as her elementary teacher training (ETT) experience was covered under rules. But after two years, her application was rejected as the Canadian authorities had changed their visa rules by then.

The forum held that the immigration company must be aware of change in immigration rules and showed deficiency in services. "It is difficult to keep track of all regulatory changes in foreign countries for immigration companies at all times," said a senior executive of a Mumbai-based immigration company, who did not want to be named.

## Late information does not mean claim rejection

A car insurer (removing name of insurance company as no other insurance company was mentioned by name. Please advise) was directed by the New Delhi District Consumer Forum to pay ₹6.3 lakh to a policyholder after for refusing to reimburse his loss after the theft of his car.

The claim was rejected as the insured vehicle was let on hire and



ILLUSTRATION: BINAY SINHA

insurers don't cover loss due to theft by the hirer, unless an additional premium is paid. Additionally, the company said that the theft was reported late. The forum said the insurer had failed to justify the rejection of the claim for a stolen car, as it did not file a formal reply to the complaint or a copy of the policy rules on basis of which it had refused to pay him. It also disagreed with the insurer on the delay in reporting the theft.

"Question of delay in reporting the theft is not of much significance in this case because the complainant came to know about the theft only when he visited cab service office and, thereafter, he lodged the report," it said holding the insurance company guilty of deficiency of service.

## Delay in project is deficiency in service

Pushpanjali Farm Owners and

Residents Welfare Association took Ansal Properties to court on non-completion of the Pushpanjali Farm Scheme as advertised by the developers, which carried a special feature in the form of a country club. The complainant alleged that there were long delays in execution of the development work and no provision of the club.

The National Consumer Disputes Redressal Commission ruled, "No special expertise is required to appreciate that Ansal Properties would have realised significantly lower price from these farms, had the project been marketed without the country club. Therefore, the element of loss suffered by individual farm purchasers cannot be ignored. In this case, the failure of Ansal Properties to provide a country club tantamounts to deficiency in service and unfair trade practice."

## COMING UP Malls shouldn't charge for plastic bags

A group of 23 people have filed a class action petition with the Maharashtra State Consumer Disputes Redressal Commission against 12 malls and supermarkets for being "illegally charged" for plastic bags provided by these establishments. According to the Union ministry of environment and forests, the municipal authority should fix the price for carry bags. But Mumbai's municipal body has not yet determined a minimum price for the bags, and so retailers cannot charge for these bags. Also, the amount collected by commercial establishments for the plastic carry bags must be accounted for and passed on to the municipal body for waste management.