



# WHO IS NOT A “CONSUMER” ACCORDING TO THE CONSUMER PROTECTION ACT, 1986?

## INCLUSION OF COMMERCIAL ENTERPRISES WITHIN THE TERM “CONSUMER”

The Consumer Protection Act is a vital piece of legislation designed to safeguard the interests of consumers and provide them with a mechanism for the redressal of their grievances. In recent years, there has been a growing recognition that the provisions of the Act should be interpreted in a liberal and constructive way to ensure that the objectives of the Act are fully achieved. Courts have a crucial role to play in this regard. It is their duty to give effect to the provisions of the Act and ensure that consumers are not left without any remedy in case of any deficiency in goods or services.

Keeping this in mind, the Supreme Court recently ruled that a **commercial enterprise is not excluded from the term "consumer" under the Consumer Protection Act of 1986**. Under the Act, a commercial enterprise may file a consumer dispute in connection to any items acquired or services obtained that are not for commercial reasons. To determine if it is for "commercial purposes," the items or services must have a close and direct link to the profit-generating activity.

### SPECIAL EMPHASIS

Meaning of the word  
“CONSUMER”  
&  
“COMMERCIAL PURPOSES”



“The Court has to adopt a constructive liberal approach while construing the provisions of the Consumer Protection Act, 1986.”

### DETAILED DIVE INTO THE TERMS “CONSUMER” & “COMMERCIAL PURPOSE”

**CONSUMER:** In general, a consumer is defined as a person who buys products or receives services for a consideration that has been paid or promised or partly paid and partly promised, or under any delayed payment system, according to the definition of consumer under the Consumer Protection Act, 1986.

However, the definition of Consumer does not cover the individual who purchases products and services for resale or commercial purposes. But, if the commercial usage is by the purchaser himself for the goal of making a living through self-employment, such a purchaser of products or services is still a consumer. It may also be the case that a person engaged in commercial activities has purchased goods or obtained services for his or her personal use or consumption, such purchase being **unrelated to their ordinary commercial transaction or profit-generating activities**, in this instance as well such a person may claim to be a consumer. Thus, the transaction in regard to which the claim has been lodged under the Act of 1986 by a person claiming to be a "consumer" is crucial.

**COMMERCIAL PURPOSE:** The phrase "commercial purpose" would imply that the goods purchased or services hired should be used in any manner that is directly intended to generate profit, and profit is the main goal of the commercial purpose, but it would not be a commercial purpose if goods were purchased or services were hired for an activity that was not intended to generate profit. Profit is the main aim of commercial purpose.

**Lilavati Kirtilal Mehta Medical Trust v. M/S Unique Shanti Developers & Ors.**

In this case, the question before the Court was whether the purchase of flats for the purpose of providing accommodation to the nurses employed by the Lilavati Kirtilal Mehta Medical Trust hospital qualifies a purchase of services for commercial purpose and whether the Hospital Trust can be excluded from the definition of "consumer" under Section 2(1)(d) of the Act. The Ld. Court found that **there was no direct connection between the purchase of flats by the Trust and its profit-generating activities as the flats were not occupied for undertaking any medical/ diagnostic facilities.** The accommodation of nurses has nothing to do with earning of profits in providing facilities to the nurses and held that the trust is a "consumer".

**FOR EXAMPLE-** If a firm is manufacturing a product for which they must acquire goods, such as raw materials, the purchase would be for 'commercial purpose'. However, if the manufacturer buys a refrigerator, television, or air conditioner for the workplace, there is no clear link to profit. As a result, it would not be termed a 'commercial purpose'. Not all business interactions by commercial enterprises will take the hue of "**commercial purposes**".

Thus, there is no such exclusion of a commercial enterprise from the meaning of the word "consumer" or a person covered under the expression "person" specified in Section 2(1)(m) of the Act just because it is a commercial enterprise.

**Whether a commercial entity that has availed services to safeguard its business against losses be considered a "consumer"?**

**National Insurance Co. Ltd. v. Harsolia Motors & Others**

Harsolia Motors, a commercial entity engaged in the business of sale of vehicles had obtained a fire insurance of Rs. 75,38,000 and Rakesh Narula And Co. (also a commercial entity) had obtained an insurance of Rs. 90 lakhs. The insured's assets were destroyed by fire during the 2002 Godhra riots. The National Insurance Co. Ltd. denied Harsolia Motors' claim but accepted Rakesh Narula And Co.'s claim to the extent of Rs. 54,29,871.

**The question before the Hon'ble Court was whether the commercial entities approaching the Consumer Forums fall within the ambit of "consumers" as defined under the Act.**

The relationship between the service, i.e., the insurance policy availed by the Commercial entity, and the profit-generating activity of the entity was taken into consideration. The Hon'ble Court was of the opinion that in the instant case, hiring of insurance policy is clearly an act for indemnifying a risk of loss and there is no element of profit generation involved hence it can be stated that the insurance policy availed does not fall under the phrase "commercial purposes" and the Commercial entity is a "consumer" under Section 2(1)(d) of the Act, 1986. It was further explained that an insurance contract always indemnifies losses. However, the Court also stated that the same should be considered on a case-by-case basis and be decided with regard to the transaction in question.

In conclusion, it is imperative that the Courts have started adopting a forward-looking approach to ensure that the Act remains relevant and effective in the years to come. This would go a long way in ensuring that the consumers are adequately protected and their rights are safeguarded.

**“The provisions of the Consumer Protection Act, 1986 have to be construed as it is a social benefit-oriented legislation.”**



**Hon'ble Supreme Court stated-**  
“The law meets long felt necessity of protecting the common man from such wrong for which the remedy under ordinary law for various reasons has become “illusory” and the impact of the Act lies in promoting welfare of the society by enabling the consumer to participate directly in the market economy.”