

CLAT WHISPERS

(CLAT Mentorship Program)

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Passage 1

The Consumer Protection Act, 2019 modernized India's consumer law framework. It broadened the definition of "consumer" to include those availing services and introduced new grounds of complaints such as unfair contracts, product liability, and e-commerce transactions.

One of the most significant developments is product liability, making manufacturers, service providers, and sellers accountable for defective products or deficient services. A consumer need not prove negligence; liability arises if the product is defective, has inadequate warning, or fails to meet safety standards. For example, if a medicine is sold without adequate labeling about side effects, the manufacturer may be liable.

Similarly, unfair trade practices include misleading advertisements, false representations, and withholding information. For instance, celebrities endorsing products can also be held liable if the advertisement is misleading and they failed to exercise due diligence. The Act empowers the Central Consumer Protection Authority (CCPA) to impose penalties and order recall of goods or withdrawal of services.

The law also accommodates e-commerce and digital platforms, holding them responsible for transparent disclosure, refund policies, and grievance redressal mechanisms. For example, if an online marketplace sells counterfeit products, it may be jointly liable along with the seller.

The Act provides a three-tier redressal mechanism: District, State, and National Commissions, with jurisdiction based on the value of goods or compensation claimed. Importantly, consumers can file complaints where they reside or work, not merely where the seller is located. This makes consumer protection more accessible.

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By introducing stricter liability regimes, wider definitions, and modern regulatory oversight, the Act shifts the balance in favor of consumers. It aims to address asymmetry of power between corporations and consumers, ensuring fairness in the marketplace.

Q1. A consumer buys a pressure cooker online. It explodes due to a manufacturing defect, injuring her. Who is liable under the Act?

- a) Only the seller, since he sold it.
- b) Only the manufacturer, as defect was in production.
- c) Both seller and manufacturer, under product liability.
- d) Neither, unless negligence is proved.

Q2. A celebrity endorses a skin cream claiming it is “100% safe.” Consumers suffer allergies. Can the celebrity be held liable?

- a) Yes, for misleading advertisement.
- b) No, liability is only on manufacturer.
- c) Yes, but only if paid for endorsement.
- d) No, because consumers should test products.

Q3. An airline’s ticketing contract states that in case of flight cancellation, passengers will not get refunds under any circumstances. Is this valid?

- a) Yes, freedom of contract applies.
- b) No, it is an unfair contract.
- c) Yes, because aviation laws override consumer law.
- d) No, but only if regulator cancels the clause.

Q4. A consumer orders shoes online. The platform delivers counterfeit branded shoes. Who can be sued?

- a) Only the seller.
- b) Only the e-commerce platform.

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- c) Both seller and platform.
- d) Neither, because consumer chose to order.

Q5. A consumer files a complaint worth ₹35 lakhs. Which forum has jurisdiction?

- a) District Commission.
- b) State Commission.
- c) National Commission.
- d) Only High Court.

Passage 2

Public Interest Litigation (PIL) in India emerged as a transformative tool to ensure access to justice for disadvantaged groups. Relaxing the doctrine of locus standi, courts allowed “public-spirited citizens” to file petitions on behalf of those unable to approach courts.

PIL became particularly impactful in environmental law, where issues affect large groups and future generations. The Supreme Court developed innovative doctrines such as:

- Polluter Pays Principle – the party causing pollution must bear the cost of managing it.
- Precautionary Principle – preventive measures must be taken even if full scientific certainty is lacking.
- Sustainable Development – balancing economic growth with ecological protection.

Cases like *M.C. Mehta v. Union of India* laid down far-reaching directives on issues such as industrial pollution, vehicular emissions, and preservation of cultural heritage (e.g., Taj Mahal). The Court also recognized that environmental protection flows from Article 21’s right to life.

However, misuse of PIL has also been criticized. Courts have cautioned against “publicity interest litigation” and frivolous petitions burdening the judiciary. The principle is that PIL should only address genuine issues of fundamental rights and public welfare, not private disputes.

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PIL thus represents judicial activism, filling gaps where executive or legislative measures are insufficient. It has democratized constitutional remedies by allowing citizens to participate in governance through courts, particularly in environmental justice.

Q1. An NGO files a PIL seeking closure of a factory polluting a river. The factory argues only affected villagers can file. Is the PIL maintainable?

- a) Yes, NGO has standing in public interest.
- b) No, only directly affected parties can sue.
- c) Yes, but only if authorized by villagers.
- d) No, unless Parliament permits.

Q2. A private individual files a PIL asking the Court to declare him the legal heir of his uncle's property. Is this valid PIL?

- a) Yes, all matters can be filed as PIL.
- b) No, this is private interest litigation.
- c) Yes, if property has cultural value.
- d) No, unless High Court allows.

Q3. A mining company argues that pollution must be tolerated since economic development requires compromise. Which principle counters this?

- a) Polluter Pays Principle.
- b) Sustainable Development.
- c) Precautionary Principle.
- d) Both (b) and (c).

Q4. The Court orders an industrial plant to pay for cleaning up contamination even though it had government permits. Which doctrine applies?

- a) Polluter Pays Principle.
- b) Public Trust Doctrine.

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- c) Doctrine of Proportionality.
- d) Strict Liability.

Q5. A citizen files PIL against increased vehicular emissions in Delhi. Which constitutional right forms the basis?

- a) Article 14 (equality).
- b) Article 19 (speech).
- c) Article 21 (life & liberty).
- d) Article 32 (remedies).

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Answers:

Passage 1

1. C

Explanation: Under the Consumer Protection Act 2019, product liability extends not only to manufacturers but also to sellers and service providers. Since the defect was in production, the manufacturer is responsible, but the online seller is also jointly liable for making available a defective product. Importantly, negligence need not be proved; the existence of defect itself establishes liability.

2. A

Explanation: The Act holds endorsers accountable if they fail to exercise due diligence before making claims. Since the celebrity assured safety without verifying the product's risks, it amounts to a misleading advertisement. The liability applies regardless of whether the endorser was paid, as the duty is to avoid misleading representations to consumers.

3. B

Explanation: The Act defines unfair contracts as those causing significant consumer disadvantage, such as denying refunds in unreasonable circumstances. Such terms are not enforceable, as consumer rights override absolute "freedom of contract" when exploitation occurs. Therefore, this blanket no-refund clause is void for being unfair.

4. C

Explanation: The Act makes e-commerce platforms accountable for ensuring transparency, authentic goods, and fair trade practices. If counterfeit goods are sold, the platform along with the seller can be held jointly liable. This ensures that digital intermediaries cannot escape by shifting blame solely on third-party sellers.

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5. A

Explanation: The 2019 Act specifies jurisdiction based on the claim amount. District Commissions handle cases up to ₹1 crore, State Commissions between ₹1–10 crores, and the National Commission above ₹10 crores. Since ₹35 lakhs falls within the ₹1–10 crore range, the case falls under the jurisdiction of the State Commission.

Passage 2

1. A

Explanation: PIL relaxes *locus standi*, allowing public-spirited citizens and NGOs to represent affected groups. Since river pollution impacts villagers and the ecosystem, the NGO is justified in approaching the court. The Court recognizes environmental cases as quintessential public interest matters.

2. B

Explanation: PILs are meant for issues of fundamental rights, public rights, or matters affecting large sections of society. Inheritance disputes are purely private in nature and cannot be disguised as public litigation. Courts have warned against “personal or publicity interest litigations”.

3. D

Explanation: The Sustainable Development principle requires striking a balance between economic growth and environmental protection, while the Precautionary Principle emphasizes preventive steps even in uncertainty. Together, they counter the mining company’s argument that development justifies pollution.

4. A

Explanation: This doctrine holds that whoever pollutes the environment must bear the cost of cleanup, regardless of permits or authorizations. The liability is absolute, ensuring that the cost of externalities is not shifted to the public or government.

5. C

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Explanation: The Supreme Court has interpreted the right to life under Article 21 to include the right to a clean and healthy environment. In pollution-related PILs like *M.C. Mehta v. Union of India*, the Court has explicitly linked environmental protection with the right to life.

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