



Consumer Protection Under E- Contract

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KEYWORDS

Introduction:-

In the process of promotion of trade & business all kept in mind one thing that is to consume very less time to satisfy the demand of other and for this they adopting many techniques and methods. To make this easy they spent lots of money on R & D which fruitfully results in making computer which was a step in a digitalized world. So for making trade & commerce very easy and for this we start commercialization of the Internet, the world of the consumer has experienced a fundamental change. The Internet allows consumers and entrepreneurs to conclude contracts for the exchange of goods and services worldwide without leaving their computers at home. objective to protect consumer. These laws make an attempt to ensure that the consumer is not at a worse off position in relation to the trader.

there is lots of efforts have been made to protecting the consumer rights under the e contract or e transaction.

Salient features of E-Contract are:-

Generally the silent features of that specify online contract for trading regularize by in three means:-

- information flow,
- cash flow and
- commodity flow

There three factors that make e-contact unique. In which Information flow represents the means of trading, cash flow provides the conditions for trading, and commodity flow is the result of the trading process.

Essentials of an e-contract:

As same like as the general principle of contract the fundamental principles of contract law apply to all contracts notwithstanding whether they are formed electronically, orally or through paper based communications. As in every other contract, an e-contract also requires the following necessary elements:-

- Offer
- Acceptance
- Lawful Consideration
- Lawful Object
- Intention to Create Legal Relations
- Competency of the Parties
- Free Consent
- Certainty and Possibility of Legal Performance

These all are the essential part of the contract which is comply with the e-contract also. With the fail to comply any one the contract will be void.

Offer:-

In this situation a question arises when an offer is made this reply in the 4 part 1 which says that when it comes on knowledge to the person to whom it made.

Acceptance:-

With regard to the Acceptance there is two situations:-

- a) General rule or Receipt rule &
- b) Postal rule or Mail Box rule

(a) General rule:-

It was held in the case of Adams V Linson- 1819 that in a postal situation a offer is said to be accepted when it put in transaction. This rule is applicable to English Law also.

In India: -

With regard to the acceptance an offer is said to be accepted when it reaches to the offeror that he accepted. But a condition arises if that acceptance is not in understandable language or when acceptance letter has sent but didn't receive.

To solve this situation in English & Indian law have different situation:-

(b) Postal rule:-

This postal rule has a different situation that acceptance to the offer can be withdrawn before it reaches to offeror. This rule is made only due to the business expediency. This postal rule is also called as Mail box rule is said to be exception to the general rule.

If a letter is received by a postman who is called as a agent to the principle and that will amount to be accepted by agent on behalf of principle.

Kinds of e- contract:-

Based on the practice generally there are 4 kinds of e-contract:-

- (I) Individual Negotiable contract
- (II) Shrink wrap contract
- (III) Click wrap contract
- (IV) Web wrap contract

(I) Individual Negotiable contract

Based on the want of the better expression or appropriate expression, this individual negotiable contract is very generic in nature. This contract is negotiated at individual basis between parties with the using electronic mode. Like E mail, SMS.

This kind of contract may be fully or partially in electronic mode.

(II) Shrink wrap contract:-

In this kind of contract when a person to buy a software & those software cover under container & some condition is written over it that when you tear those container means automatic understandable that you have accepted those term or contract.

This name is only in case of shrink wrap contract.

(III) Click wrap contract:-

In this type of contract when a person want to open account on any web page like Gmail, yahoo etc you have to accept term & condition only by clicking he will get into.

This click wrap contract is of two kinds-

There is option to type yourself that you are agreed then click.

Sampling by clicking on the button specified

(IV) Web wrap contract:-

In this contract there is hyperlink provided when we click on that link we will enter into that term & condition part and after agreed to that terms you can enter into.

In all the above 4 kinds of e contract 2, 3, & 4 i , e shrink wrap, click wrap, or web wrap contract consider to be Standard form of Contract. There is no scope of negotiation between parties only option is to yes or no.

Different stages of forming e-contract:-

There are different stages involve in forming an e-contract trading process, generally it comprises of three main stages:-

- Pre contractual,
- Contractual process and
- Post contractual

In all these stages contain risks for consumers as:-

- Personal information may be exposed and consumer behavior may be tracked without the knowledge or consent of the consumer⁵.

Consumer protection under E-contract in India:- Act:-

- Section 14 tells about the Free Consent as the one without Fraud, Misrepresentation etc.
- Section 19 Indian Contract Act provides with an opportunity to make a claim that contract is invalid.

Object of Consumer Protection Act:-

The objectives of Consumer Protection Act are:-

- the right to be informed about the quality, quantity, potency, purity, standard and price of goods, or services so as to protect the consumer against unfair trade practices
- The right to seek redress against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers.
- the right to be protected against marketing of goods and services which are hazardous to life and property
- the right to consumer education

- the right to be assured, wherever possible, access to variety of goods and services at competitive prices
- the right to be heard and be assured that consumers' interests will receive due consideration at appropriate forums.

Laws protecting to Consumer protection in India:- To protect the customers in India there is:-

- The Indian Contract Act,
- The Sale of Goods Act,
- The Dangerous Drugs Act,
- The Agricultural Produce (Grading and Marketing) Act,
- The Indian Standards Institution (Certification Marks) Act,
- The Prevention of Food Adulteration Act,
- The Standards of Weights and Measures Act,
- The Trade and Merchandise Marks Act, etc
- Information Technology Act, 2001

prohibited the use of such devices which was not feasible when the contract act was passed 135 years ago. Hidayatul-lah, C.J.I.⁶.

Electronic Commerce Act, 1998

Conclusion:-

In the age of technical development all peoples are indulge in the rapid development of a digital economy which affect the commercial transactions. This gives Internet to highly important for economic growth. Internet is global and represents a unique market place in terms of market expediency. By the computer anyone throughout the world connected to the internet & can access a website and may carry out an electronic transaction through e contract. As e-commerce will grow rapidly and the number of both commercial (B2B transactions) and consumer contracts (B2C transactions) through the Internet will rise, the legal framework governing both the Internet and e-commerce is of particular importance. To make that commercial in digitalized way there is need of Consumer protection policy is indispensable in building consumer confidence and establishing a balanced relationship between businesses and consumer in transactions. Electronic contract is at a growing stage and to ensure more consumer participation. The first step to activate consumers shall be to provide a complete, trustable structure for transacting procedures and as the Internet has become the need of modern trade so or this there should be advanced consumer protection in modern business not in the structural but in the substantial form also. To achieve this purpose many countries have made laws in this regard. They have made not only law but also establish a consumer dispute resolution system to resolve the dispute arose at the time making e contract for the transaction.

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