

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, SOUTH MUMBAI, MUMBAI**

**Puravatha Bhavan, 1st Floor, General Nagesh Marg,
Near Mahatma Gandhi Hospital, Parel, Mumbai- 400 012**

Consumer Complaint No: 112/2019

Complaint Filed on: 14/05/2019

Final Order on: 27/06/2025

Ms. Inderpreet Kaur Dhillon,

R/o 004/Bldg. No. 2, Rashmi Hetal Phase-III,

Opp. Vagad Nagar, Mira-Bhayandar Road,

Mira Road (East)

Thane- 401 107

..... Complainant

V/S

1. Britannia Industries Ltd.,

Through its Manager,

Reay Road, Mazgaon,

Mumbai – 400010.

..... Opposite Party No. 1

2. M/s Ashok M. Shah (Chemist Shop),

Churchgate Railway Station,

Mumbai – 400020

..... Opposite Party No. 2

**BEFORE: HON'BLE PRESIDENT MR.SADIKALI B. SAYYAD
HON'BLE MEMBER SMT. G. M. KAPSE**

ADVOCATE ON RECORD:

For Complainant:

Adv. Pankaj Kandhari

For Respondent No.1 :

No WS/Adv. R.D. Khare

For Respondent No.2 :

Adv. A. M. Sayyad

J U D G M E N T

(Decided on 27/06/2025)

HON'BLE PRESIDENT MR.SADIKALI B. SAYYAD

1. Introduction

The present complaint is filed under Section 12 of the Consumer Protection Act, 1986 by the complainant, Ms. Inderpreet Kaur Dhillon, alleging deficiency in service and unfair trade practice against the Opposite Parties—Britannia Industries Ltd. (manufacturer) and M/s Ashok M. Shah (retailer) in relation to the sale of a food product found to be contaminated.

2. Brief Facts of the Case

The complainant purchased a packet of “Good Day” biscuits manufactured by Britannia Industries Ltd., from Opposite Party No. 2, a chemist shop located at Churchgate Station. Upon consumption, she discovered a live worm embedded in the biscuit, leading to nausea, vomiting, and mental distress. She preserved the contaminated biscuit and approached the Municipal Food Laboratory of the BMC, which, after testing the sample, issued a Food Analyst Report dated 29/08/2019 confirming the presence of extraneous matter.

The complainant issued a legal notice dated 04/02/2019 to the manufacturer (OP No. 1). However, no compensation was offered, prompting her to file this complaint claiming ₹2.5 lakhs as compensation for mental agony and ₹50,000 for litigation costs.

3. Defence of Opposite Parties

Opposite Party No. 1 – Britannia Industries Ltd.:

- Denied liability by stating that the complainant failed to produce the wrapper or batch number to establish linkage to their manufacturing unit.
- Claimed that the complainant had not followed the proper procedure for sampling under the Food Safety and Standards Act, 2006.
- Asserted that their manufacturing processes are ISO and HACCP certified and adhere to the highest quality standards.

Opposite Party No. 2 – M/s. Ashok M. Shah (Chemist Shop):

- Denies any sale to the complainant and states she has not produced any receipt, wrapper, or batch number.
- States that he is a small shopkeeper with no record of complaint from any other customer.
- Disputes jurisdiction and complainant's locus, invoking Section 2(1)(d) and 2(1)(o) of the Act.
- Questions the admissibility of the food analyst report due to non-compliance with Sections 46–49 of the FSS Act, 2006.
- Contended that the complainant has not proven the actual purchase from their outlet.
- Denied any responsibility and argued that they only sell sealed products from manufacturers.

4. Issues for Determination

Sr.no.	Points	Findings
1	Whether the complainant is a “Consumer” as defined under the Consumer Protection Act, 1986?	Yes
2	Whether the goods sold by the Opposite Parties, namely the biscuit packet, were defective or contaminated?	Yes
3	Whether there was deficiency in service and unfair trade practice committed by the Opposite Parties?	Yes
4	Whether the Opposite Parties are liable to compensate the complainant for mental agony, harassment, and loss caused due to consumption of contaminated product?	Yes
5	What relief or compensation should be granted to the complainant?	As Per Order.

DISCUSSION OF ISSUES

Issue No. 1: Whether the complainant is a “Consumer”? The complainant has purchased the biscuit from Opposite Party No. 2, a chemist shop, which is an authorized retailer of Opposite Party No. 1’s products. The complainant used the product for personal consumption and suffered injury due to contamination.

As per **Section 2(1)(d)** of the Consumer Protection Act, 1986, a consumer includes any person who buys any goods for a consideration. The complainant has fulfilled this condition. Opposite Parties have not denied the sale or that the complainant is a consumer.

Hence, the complainant qualifies as a consumer under the Act.

Issue No. 2: Whether the goods sold by Opposite Parties were defective or contaminated?

The complainant found a live worm inside the biscuit packet, which is a clear indication of contamination and defect.

The Food Analyst Report from the Municipal Corporation of Greater Mumbai (BMC) confirms the presence of extraneous matter and declares the product unfit for human consumption.

Opposite Parties have not challenged or disputed the authenticity of this report through counter expert evidence.

The Supreme Court in Nagar Nigam, Bareilly v. Ajay Kumar (2008) has held that such reports have the presumption of correctness unless rebutted.

Thus, the product sold was **defective** and contaminated, violating Section 2(1)(f) of the Act which defines “defect” as any fault in the quality of goods.

Issue No. 3: Whether Opposite Parties committed deficiency in service and unfair trade practice?

Deficiency in service includes failure to deliver services to the standard expected.

By allowing a contaminated product to enter the market, Opposite Party No. 1 (manufacturer) has failed in its duty to ensure safety and quality as mandated under

the Food Safety and Standards Act, 2006 (Sections 26 & 27), which obligates food business operators to ensure that food articles are safe and wholesome.

Opposite Party No. 2, as the retailer, has also failed to exercise reasonable care by selling a contaminated product.

This conduct amounts to both deficiency in service and unfair trade practice as per Sections 2(1)(g) and 2(1)(r) of the Consumer Protection Act, 1986.

The Supreme Court in Hindustan Coca Cola Beverages Pvt. Ltd. v. Nitin Mittal (NCDRC) observed that contamination of food products constitutes an unfair trade practice and the manufacturer is liable irrespective of actual fault.

Issue No. 4: Whether opposite Parties are liable to compensate the complainant?

The contamination caused the complainant physical distress, nausea, vomiting, and mental agony.

The complainant also incurred expenses for medical attention and legal recourse.

The law, including Spring Meadows Hospital v. Harjol Ahluwalia, states that the Consumer Protection Act is a social welfare legislation designed to protect the weaker sections and ensure justice.

Liability arises without the complainant having to prove negligence or intent; the presence of contamination is sufficient to fix liability under strict liability principles.

Hence, Opposite Parties are liable to compensate the complainant for physical injury, mental anguish, and litigation expenses.

Issue No. 5: Failure of Opposite Party No. 1 to file Written Statement

It is on record that Opposite Party No. 1, namely Britannia Industries Ltd., failed to file their written statement within the statutory period as mandated under the Consumer Protection Act, 1986.

Consequently, vide order dated 17th September 2019, this Forum passed an order against Opposite Party No. 1, treating their pleadings as non-existent.

This conduct amounts to an admission of the claims made by the complainant, insofar as the facts stated in the complaint remain uncontroverted.

In such circumstances, the principle of Order 8 Rule 4 of the Civil Procedure Code (analogous), and settled consumer law, permit this Forum to proceed ex parte against Opposite Party No. 1 and draw adverse inference.

This non-compliance further strengthens the complainant's case, and Opposite Party No. 1 is liable to be held responsible for the defect and deficiency alleged in the complaint.

Issue No. 6: Relief

In light of the above, the complainant deserves monetary compensation that is both compensatory and deterrent in nature.

The principle laid down in Charan Singh v. Healing Touch Hospital suggests adequate compensation to deter such negligence and to uphold consumer rights.

CONCLUSION

The Opposite Parties have failed to demonstrate that the biscuit packet sold was free from contamination or defect. The manufacturer's claim of stringent quality checks without direct evidence cannot absolve them of liability.

The sale of a contaminated biscuit is a grave breach of consumer trust and statutory duties under Food Safety laws and Consumer Protection laws.

Both Opposite Parties are jointly and severally liable for the deficiencies and unfair trade practices committed.

Final Order

In view of the above discussion and findings, we pass the following order:

1. The Consumer complaint No. 112 of 2019 is partly allowed.

2. Both Opposite Party No. 1 (Britannia Industries Ltd.) and Opposite Party No. 2 (M/s. Ashok M. Shah) are held jointly and severally liable.
3. Opposite Parties are directed to pay the complainant ₹1,50,000/- (Rupees One Lakh Fifty Thousand only) as compensation for mental agony, harassment, and physical discomfort.
4. Additionally, Opposite Parties shall pay ₹25,000/- as litigation costs.
5. The above amounts shall be paid within 45 days from the date of receipt of this order, failing which they shall carry interest @ 9% p.a. till realization.
6. Free certified copy of this order be issued to both parties.

Pronounced in open court on this 27th day of June, 2025

Sd/-
(SMT. G. M. KAPSE)
MEMBER

Sd/-
(MR. SADIKALI B. SAYYAD)
PRESIDENT

DISTRICT CONSUMER DISPUTE REDRESSAL COMMISSION,
South Mumbai, at Parel