Indian Legislation on E – Commerce and Consumer Protection Rights

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Abstract: In the modern age, electronic contracts are witnessing considerable expansion, especially in India. This paper underscores the systems established to protect consumer rights and interests, as a growing number of consumers find themselves susceptible to various forms of unfair trade and unethical business practices. The main aim of this paper is to evaluate the effectiveness and sufficiency of the existing Indian legislation that regulates various commercial transactions involving consumers and their enforceability. Moreover, it seeks to identify and discuss specific challenges that emerge in electronic contracts, such as defective or dangerous products, unfair contract provisions, inadequate services, security and privacy issues, and payment complications, while assessing whether current laws adequately tackle these challenges. Additionally, the paper presents an overview of the Consumer Protection (E-Commerce) Rules, 2020, including the penalties for noncompliance. In this context, the author intends to explore how the judiciary addresses consumer protection rights to provide safeguards and remedies for consumers participating in electronic transactions. The author endeavors to address the significant rulings of the Higher Courts, which have provided valuable guidelines over time. Additionally, the paper discusses the challenges associated with determining jurisdiction in the context of electronic contracts. It also examines contemporary issues that have emerged in the post-Covid era, highlighting the absence of legislative measures in this area, as well as other ambiguous aspects where the law remains silent in instances of online fraud perpetrated against consumers. This analysis aims to shed light on these critical topics and their implications for legal practice.

Keywords: E- commerce, Unfair Contract, Electronic Signature, Consideration Teleological Interpretant.

1. Introduction

Electronic contracts are as same to the traditional and old contracts. The usage of E–contracts are acceptable worldwide. There should be an "agreement" for the understanding of all primary terms. The agreement ought to obviously frame each party's liabilities and direct the prerequisites essential for full appropriateness. [1]. E-commerce is a type of business model that allows an individual or organization to conduct business via an electronic network, usually the Internet, or segments of a larger business model. Nonetheless, the word "e-commerce," which generally refers to conducting business via electronic channels as opposed to traditional physical channels, lacks a precise definition. E-commerce challenged businesses' conventional approach to customer service by assembling a variety of business models that gave customers more power. E-commerce refers to the exchange of goods and services, information, and products using computer networks. It is a way to do business online, typically using the Internet. It is the instrument that makes "enterprise integration" possible. With the growth of e-commerce, there is a rapid advancement in the use of e-contracts. But utilization of electronic contracts poses a lot of challenges at three levels, namely conceptual, logical and implementation. In this article we have discussed the various laws on E-contract, consumer protection rights, their enforceability and various other issues related to e-contracts. [2].

MEANING: E-contracts can be defined as contracts which are made by electronic means between two parties through the negotiations. They can also be known as online contracts, digital contracts and cyber contracts. In e-contracts, both parties mutually agreed on goods and services are exchanged for a certain amount of consideration. These contracts are very similar in nature of contracts which are made by parties with paper and documentary work except that they are drafted and signed electronically by parties. Thus, it is very easy to access and approach by seller to the consumer without the interference of a middleman [3]. An electronic contract (e-contract) is simply a contract created using electronic means. Like physical contracts, e-contracts have three components:

1. **Offer.** The set of terms and conditions presented by the party that drafted the contract.
2. **Acceptance**. Approval by all parties as indicated by electronically signing the contract.
3. **Consideration.** Following through on all terms and agreements in the contract.

These three components are very important and the basis for all contracts, and it is likely that you sign some form of electronic contact every day. Everything from clicking "I agree" on an app's terms of service to using e-signature to sign a purchase agreement when buying a house is considered signing an electronic contract. Moreover, it may not feel as formal as signing a paper contract, e-contracts are just as legally binding and enforceable when appropriately administered. In this modern era, it is upgrading from pen and paper to e-contracts which comes with a mass of benefits. But the main question is when it comes that how it benefits your business, there are three primary considerations that all add up to improved cost savings, quicker payments, and overall better business deals.

- **Faster time to sign.** E-contracts are as quick and easy to send and receive other digital file. Utilizing workflow automation allows for a contract to be immediately forwarded to the subsequent signer upon its completion. This eliminates the need for physically transferring paper contracts from one location to another, whether within the same building or across different cities.
- **Version control.** E-contracts can be updated for all parties simultaneously in a central location, without having different drafts of the contract in multiple locations.
- **Better security.** Paper contracts are vulnerable to countless threats, like theft, sabotage, forgery and water damage. Best-in-class electronic contract providers offer a suite of digital and physical security measures to ensure the contracts stay safe from unauthorized access and tampering. [4].

HISTORICAL BACKGROUND

E-contracts are the advanced form of electronic or digital alternatives from traditional paper-and-pen-based contracts. According to the ***Indian Contract Act of 1872,*** an electronic contract must comply with all the same principles and formalities as a written or verbal contracts. The fundamental principles of E-contracts are governed by legal provisions which included offer and acceptance, free consent, capacity, and lawful consideration, and derive their validity from Section 10 of the ***Indian Contract Act, 1872***. Furthermore, Information Technology Act, 2000 recognizes sec 4 that mention the use of electronic records in place of conservative paper-based contracts and grants them legal validity. Also, Section 10(A) of the IT Act, 2000 guarantees legitimacy by acknowledging contract formation, acceptance, and revocation in electronic form. E-contracts are recorded and stored electronically with the parties concerned after their execution. E-contracts are not unenforceable only because of its electronic form. From 1990, e-commerce Enhance rapidly, especially when customers began using internet merchants to buy and sell goods both domestically and internationally. According to recent research, B2B sales accounted for over 80% of all e-commerce transactions, whereas B2C purchases made up only 10% to 20% in 2010. According to a Frost & Sullivan report, B2B e-commerce will reach $12 trillion in global sales by 2020. Two Since 2000, the majority of governments have approved and authorized internet infrastructure and the possibility for online consumer purchases, which are predicted to grow by 28% annually and reach $1 trillion by 2020. A study by Accenture and Ali Research projects that by 2020, consumers' online spending power would have grown by 15% annually to $3.4 trillion.

CHALLENGES THAT COME IN E-CONTRACT

Today India is giving tough competition to every country at the global level. Everyone can see that India is at par with most of the developing countries. But India being advanced even in technological field, e-commerce and e-contracts have not reached at the prudent level. It's being challenging for the India to bring this into the knowledge of every individual of the country. There are certain issues which the daily user of e-contract and e-commerce has to face. These challenges are mentioned below:

The Competence to Contract: There are several ingredients of the E-contracts from which one of the most important is that an individual who is becoming party to a contract is lawfully competent to become a part of an agreement. Regularly there is an unidentified person becoming the part an agreement. The person sitting on the other side does not have any idea about the person who clicked on "I Agree" symbol is legally eligible to become the part of an agreement. Under the Indian Contract Act, 1872, the Capacity of party to form a contract is one of the essential features of the contract. Section 10, 11 and 12 of the contract Act cover the topics relating to the ability of party to contract. If the person is not competent to make a contract but enter into a contract that contracts are void according to the provisions of contract. The situation may occur where the newborn child who is not mature gets into the contract by clicking on "I Agree" text or symbol.

The Free Consent of the Party

The fundamental essential of general agreement is free consent as well defined under contract laws. In the online agreements or commerce, there is not any expansion for exchange. This is an inconceivable barrier for the client. Be that as it may, the other option "stay completely content regardless. "On account of ***LIC of India Vs Consumer Education and Research Center***, [14] the honorable SC gave judgment that "In spotted line contracts there would be no event for a more fragile gathering to deal as to accept to have equivalent bartering power". He has either to acknowledge or leave the administration or merchandise as far as the dabbed line contract. The only possible choice he would be having is either to accept the preposterous or till the time ends, renounce the administration". Hence it tends to be inferred that the client should be judicious while giving his agree to stay away from inconveniences.

Choice on the Applicable Law

There are two main decisions given by the Indian law to implement an individual's purview, i.e., provision of consumer law implemented very precisely or implement the law of the site for the exchange of goods, or event that offered lead to the prosecution in any case. The superior courts are furnished the justifiable decision for choosing the genuine choice with the assistance of most determined regulation connected with the affiliation for specific course of action. There is not any limitation that law of an external country can't be applied or an Indian get-together couldn't be subject to a new region. The complement is on to pick fitting regulation.

Choice on the Court Jurisdiction:

E-contracts give a wide expansion for the explanation of action arising at a great deal of ecological regions. This might aggravate recording of cases at better places. On various geological regions defending claims on both exorbitant and frustrating level. Thus, choices of party articulations ought to be associated with all web-based arrangements. It looks good for the internet based expert supplier to limit their show to one domain symbolically speaking. A web-based expert supplier has no other verdict with the exception of that they open themselves to a conversation of single bundle individuals and material standards in a manner of speaking. The client has no unique choice, in any case, to recognize the expert associations Standard agreements by clicking an onscreen text or image "I Concur", "I Acknowledge" or "Yes".

Security and Privacy Challenge

In India, the development of web-based business in India permits client to buy commodities through exchanges that are concurred, moved and gotten comfortable an open virtual organization climate. Therefore, there are various security and protection gives that are of worry to the buyers which should be tended to Protection of Data Development has expected a incredible part in updating the limit of web affiliations and associations to assemble and analyze gigantic proportions of data relating to the clients who just visit their locales. As needs be, this raises a ton of stresses over how this data is managed and used. Before the presence of the web, associations used to follow their client's purchases solely and cautiously, regardless, the position as of now is that associations can in like manner record pages of locales that grab a client's attention. For example, a lot of associations request their consumers to register with the association through their locales by giving individual information. Regardless, there are a ton of destinations that decompose organizations to clients if they won't select with them. In the event that the individual profiting the improvement decides to enroll, there is no guarantee that should be possible with the utilization of that subtleties. It is exceptionally considered normal that organizations are probably going to send these subtleties to one more outsider for some prohibited and illicit demonstration.

Theft of Identity

The central concern for buyers revolves around the challenge of recognizing privacy intrusions in this practical setting. Identity theft refers to the illegal act of obtaining someone else's personal or financial information to misuse their identity for fraudulent purposes, such as making unauthorized purchases or transactions. Identity fraud can manifest in numerous ways, leaving victims frequently facing detrimental impacts on their finances, personal health, and reputation. Additionally, through the process of impersonating the consumer, the criminal charges their goods and services to the victim, thus creating a perpetual cycle of financial loss that the consumer experiences. It is increasingly common for customers to lack understanding and awareness regarding the impacts of data fraud, as the deception typically begins with small transactions that are not easily noticeable before escalating to larger ones. Furthermore, the use of credit cards, debit cards, and other smart cards can facilitate the recording, tracking, and selling of consumers' shopping and banking behaviors. There are different procedures through which information robbery can be submitted. This incorporates commits variety of crime like hacking, phishing, email satirizing, checking and wishing. Further, there is also the theft of intellectual property right happens wherein robbery of material that is copyrighted or robbery of proprietary advantages happens. One of the most well-known results of IP robbery is fake merchandise and theft. Basically, the occurrence of data fraud is happened in two stages; an unfair collection of character of an individual and afterward the illegitimate operation of such data with an expectation to cause legitimate mischief. Since wholesale fraud includes burglary and misrepresentation, the arrangements of fabrication under IPC,1860 is frequently conjured. Sections, for instance, fabrication, making counterfeit chronicles, distortion for inspiration driving cheating, reputation, using as truly a designed report and responsibility for evidence known to be fabricated and eager to use it as genuine can be coupled and examined with various region of the IT Act. The areas from the IT Act that oversee advanced burglary integrate Sec. 66 read with Sec.43 which communicates that if any individual, deceitfully or dishonestly, causes any exhibition that makes damage the PC or PC structure without the owner's assent, by then that individual is responsible with one or the other detainment for the broaden of time of long term or fine of INR 5 lakhs or both. Besides, Sec. 66B gives discipline to any person who dishonestly gets taken PC resources or specific contraptions. Sec.66C obliges the discipline of robbery of way of life as whomever, erroneously or deceitful uses someone's electronic imprint, secret expression or other intriguing ID features will be detained for quite a long time or fine of INR 1 lakh. Sec. 66D was inserted to reprove cheating by imitate using PC resources. Thus, above mentioned are the various issues which one may face in e-contract.

E-COMMERCE AND CONSUMER PROTECTION-LEGAL REGIME IN INDIA:

There are some important provisions which are enacted for Consumer Protection Measures that have been initiated all over India. The measures are also in the form of Acts that are reformed and rationalized from time to time. These are as Consumer protection Act,1986, Indian contract Act,1972, sales of goods Act, 1930, The prevention of food adulteration Act, 1954, The Trade Marks Act,1999 [15].

The Consumer Protection (E-Commerce) Rules, 2020 are designed to be applicable to:

- (i) All products and services bought or sold through digital or electronic networks,
- (ii) All e-commerce models, and
- (iii) All e-commerce retail formats, with the exception of natural people trading in their personal capacity (which is not part of any professional or commercial activity undertaken on a regular or systematic basis)

The Standards apply to e-contract organizations that are own, work, or control a computerized or electronic office or electronic business stage as well as sellers of things and administrations. All the more significantly, the Principle have been made obviously relevant to computerized items and that's what online business firms, albeit not being consolidated in India, "deliberately" offer labor and products to Indian clients. The Guidelines are likewise apply to the associations that offer totally advanced types of assistance, for example, beyond absurd substance supplier stages, ed-tech contributions, taxi flagging down/sharing organizations, occasion the executives/ticket distributing stages, selling channels, etc. Consumer Protection (E-Commerce) Rules, 2020-

These Rules prescribe a set of general conditions that platforms have to adhere to. Some of the key ones are as follows:

1) Compliance Officer-

To guarantee conformity with the Act and the Rules, platforms must designate a nodal officer or a substitute senior functionary who is an Indian resident. There are no necessities for such an officer’s qualifications, duties, or liabilities.

2) Consumer Grievances-

The principles incorporate various measures for client complaint goal, for example, laying out a period bound complaint redressal system, transmission a complaint official, and laying out a structure for clients to screen their objections.

3) Information Disclosure-

- Platforms must publish a considerable quantity of information in a clear and accessible manner in order to comply with the Rules.
- The terms and conditions regulating Marketplace Platforms' interactions with sellers, as well as a description of any differential treatment of products and services or sellers in the same category, must be included as part of the information provided.
- A marketplace Platform is needed to aid customers in the event of a disagreement by providing them with information about the relevant vendor, which is important for efficient dispute resolution.

4) Pricing, Purchase, Refunds and Cancellation-

- The Rules specify criteria for determining whether pricing is unjustified, such as current market conditions, nature of goods or services, and extraordinary circumstances.
- No cancellation fees are allowed unless the Platform Company pays equivalent fees for cancellation.
- There is a restriction on refusing to accept a return or refund in the case of defective/deficient/spurious goods/services, late deliveries (excluding delays due to force majeure), and giving fraudulent customer reviews in the case of inventory-based Platforms.
- If an inventory-based Platform expressly or implicitly vouches for the authenticity of the goods/services it sells, or promises that they are real, it will be held liable for any action connected to the authenticity of such goods/services.

5) Steps to prevent violation of IPR-

Platforms must also make realistic steps to keep check of retailer who have sold products or services in violation of trademarks, copyright, or the Information Technology Act on several occasions. Platforms must also obtain guarantees from sellers that the descriptions, pictures, and other material associated with products or services are accurate.

Obligation of Sellers on Platforms:

1) The Rules require sellers to refrain from misrepresenting themselves as consumers, posting reviews about goods or services, or misrepresenting their quality, as well as to disclose back-to-back information, such as pricing, mandatory notices and expiry dates, country of origin, details of goods and services, exchange, returns, and refunds.
2) Platforms' responsibilities in terms of appointing grievance officers, bans, and limits on returns and misleading advertising also apply to vendors. The above-mentioned considerations on these problems would also apply to vendors.
3) While big institutional sellers may still be able to implement these criteria, small sellers may find them burdensome.

The Role of Performance of the E-Contracts

An e-contract is an electronic form of getting into a contract. Here, the parties don't get to assemble physically and since it is carried forward in electronic standard there is no boundary as such. Since the web is not the least bit liberated from the grip of chance, the security calculates e-contracts should be high. Further, an imperative feature of e-contracts is that there is no handwritten physical signature that is required since there are digital signatures that will carry forward the same functions as that of a conventional handwritten signature. This has still not gained a lot of prominence in the Indian scenario. The Indian Contract Act of 1872, has recognized all traditional kinds of contract agreements which even include verbal agreements. The contract entered could be implied or explicit in nature. However, the agreement needs to be entered into with the consent of the parties who are competent to enter into the contract. The electronic agreements contracts are not expressly or impliedly prohibit under any provision of Act. However, even to enter into an electronic agreement there needs to be a lawful consideration and it should be done with the consent and free will of the parties and not out of force. Further e-contract is also recognized by the Indian Evidence Act. The Act refers to a 'document' as information that could be electronic, paper-based, recorded, stored, or copied. These documents will very much serve as a basis of evidence in the courts. Although e-contracts are still not absolutely in usage and conventional handwritten contracts are preferred over e-contracts, there are a few types of e-contracts that are commonly used [16].

Penalty for Contravention of Rules

The Consumer Protection Act, 2019 shall be applicable for any violation of the provisions of these rules. Section 94 of the Consumer Protection Act of 2019 discusses measures to prohibit unfair commercial practices in e-commerce, direct selling, and other similar situations. It states that the Central Government may take such measures in the prescribed manner to prevent unfair trade practices in e-commerce, direct selling, and so on, as well as to protect the interests and rights of consumers [17].

CHALLENGES IN COVID -19

In the time period of corona virus, the convenience of e-commerce accelerate due to the compulsions on account of Covid 19. In order to enhance the capabilities and understand the true prospective of the e-commerce sector in India as well as diminish and address the issues plaguing the sector, the Department Related Parliamentary Standing Committee on Commerce (Committee) decided to examine the issues related to promotion and regulation of E-commerce in India. Registration with (DPIIT) As per the amendments proposed by Department of Consumer Affairs to the Consumer Protection (E-commerce) Rules, 2020 (Draft Rules) it was suggested that every e-commerce entity operating in India be required to register itself with the Department for Promotion of Industry and Internal Trade ("DPIIT") and obtain a registration number .The Committee, concerned that critical data regarding e-commerce has not been collated and maintained by the Government and that e-commerce companies are not registered with the DPIIT, which is the parent department with regards to e-commerce, also recommended that DPIIT make it mandatory for all e-commerce companies to be registered with them and for simplification of the process of registration, in line with the ease of doing business [20]. The restaurant business likewise saw an obvious diminishing in typical income and productivity across designs because of Corona virus prompted limitations. The typical Income Post the primary lockdown saw a de-development of 46% and normal productivity saw a de-development of 88% contrasted with pre-Corona virus times. The main decrease was seen by top notch cafés and bars, bars, bistros and parlors (PBCL) sections contrasted with fast assistance eateries and easygoing feasting eateries. Be that as it may, post the subsequent lockdown, industry player's income saw a development of 33% contrasted with the principal lockdown however is still to return to pre-Corona virus levels. Meanwhile, with consumers switching to digital platforms, share of deliveries and takeaways for restaurant players increased on an average from 13 per cent during the pre-Covid times to 33 per cent during post-Covid times. The report added that normal request regard additionally rose by 43% during the pandemic. Cafés in the southern, western and northern districts were all the more seriously affected contrasted with the eastern locale. The area confronted the greatest brunt of the pandemic in New Delhi and Mumbai because of serious limitations around seating limit and functional hours. The food administrations industry has begun to give indications of retrieval toward the finish of second quarter of FY22, batting on decreased cases, better shopper feeling and higher speed of inoculation, the report expressed. The business body has additionally repeated its interest for arrangement of information tax break office with 12% GST to assist with cutting down fixed working costs and work on main concern. NRAI has likewise expressed that there is need to have a level-playing online business strategy to keep aggregators from abusing their predominant position.

Consumer Jurisdiction Over Distance Contracts

The requirement of the conclusion of a contract raises the question whether consumer jurisdiction rule applies only if a contract is concluded at a distance. In ***Daniela Muhlleitner v. Yusufi*** **and** ***Lokman Emrek v. Vlado Sabranovic*****, [18]** the question raised was: 'Does the application of Article 15(1)(c) Brussels I Regulation presuppose that the contract between the consumer and the undertaking has been concluded at a distance. In ***Muhlleitner v. Yusufi, Ms Muhlleitner,*** domiciled in Austria, searched on the internet to buy a German-made car for private use. A list of vehicles corresponding to the characteristics showed up. She was directed to an offer, which corresponded best to her search criteria. It was provided by Mr A. Yusufi and Mr W. Yusufi who operated a motor vehicle retail business, a partnership established in Hamburg, Germany. Muhlleitner contacted the defendants to obtain more information about the vehicle, using the telephone number stated on the website, which included an international dialing code. Since the vehicle was no longer available, she was offered another vehicle, details of which were subsequently sent by email. She was also informed that her Austrian nationality would not prevent her from acquiring a vehicle from the defendants. Muhlleitner went to Germany, signed a sale contract in Hamburg, bought the vehicle from Yusufi and took immediate delivery of it. Muhlleitner found the vehicle was defective later. She brought proceedings in the court of her state of domicile, claiming that she concluded the contract as a consumer with an undertaking directing its commercial or professional activities to Austria, which fell within the scope of Article 15(1)(c) Brussels I. The defendants contested the status of Muhlleitner as a ‘consumer’ and the international jurisdiction of the Austrian courts, arguing that they did not direct their activities to Austria and that Muhlleitner concluded the contract at the seat of their undertaking in Germany. The Appeal Court classified Muhlleitner as a ‘consumer’, but referred to the joint statement by the Council and the Commission on Articles 15 and 73 of the Brussels I Regulation, according to which a purely ‘passive’ internet site is not sufficient. The agreement should be closed a way off to legitimize that a association is synchronized to the purchaser's State, while the site at issue had the qualities of a 'detached' site. The High Court thought about that the litigants guided their exercises to Austria, having respect to the chance of counseling the site in Austria and the occurrence of contacts a good way off between the gatherings to the agreement, by phone and email. The question was whether Article 15(1)(c) Brussels I (current Article 17(1)(c) Brussels applies solely to distance contracts. The CJEU admitted that the need for the consumer contracts to be concluded at a distance is mentioned in the joint statement and Recital 24 Rome I Regulation. Yet Article 15(1)(c) Brussels I does not expressly make its application conditional on the fact that the contracts falling within its scope have been concluded at a distance. Instead, this provision applies where two specific conditions are satisfied: first, the trader’s activities have targeted at the consumer’s home country, and second, the concluded contract falls within the scope of such targeting activities. Moreover, the explanatory memorandum of the Brussels I Regulation indicates that Article 15(1)(c) Brussels I applies to contracts which were concluded in a State other than that of the consumer’s domicile, as it has removed the condition in Article 13 Brussels Convention which requires the consumer to take necessary steps in his State. Whilst Article 13 Brussels Convention required both the trader and the consumer to fulfill certain requirements, Article 15(1)(c) Brussels I merely confines the behavior of the trader. So does Article 6 Rome I, since the predecessor merely covers passive consumer and may deprive the protection of active and mobile consumers. The conditions are worded more generally than they were, in order to ensure better protection for consumers in the context of the development of electronic commerce and new means of communication. This implies that a customer who has been requested by a business on the web and closes an agreement disconnected in the business' Condition of home may likewise be secured. A teleological interpretation of Article 15(1)(c) Brussels I implies that the requirement of the conclusion of consumer contracts online or at a distance would be against the objective of that provision. Although the defendant argued that Article 15(1)(c) Brussels I could not apply because the contract with the consumer had been concluded on the spot and not at a distance, the CJEU asserted that both the conclusion of a contact and the reservation of goods or services at a distance are indications that the contract is connected with directing activities. The Joint Declaration on Articles 15 and 73 also mentions that contracts concluded at a distance among other marketing methods, which cannot be equivalent to the requirement that the contracts must be concluded at a distance. Although it seems that the Joint Declaration, Recital 21 Rome I Regulation and the Brussels Ibis Regulation overly focus on websites and online selling, it would be a backward in terms of consumer protection comparing to Article 13(1) Brussels Convention if the contract has to be concluded at a distance. Thus, the application of Article 17(1)(c) Brussels Ibis does not depend on the way a contract was concluded [19].

Jurisdiction on E-Contracts consumer rights and case law

The Supreme Court of India in the case of ***Bhagwan das Goverdhan das Kedia vs. Girdhari Lal Parshottamdas & Co [20].*** held that at the place of proposer where the acceptance is received shall have the jurisdiction for enforcement of contracts entered into using computer internet. Thus, in the case of E-Contracts acceptance is completed when the offeror receives the acknowledgment of acceptance by the party to which the offer is made. In the case of **WWE v. M/S Reshma Collections,** Delhi High Court held that: to carry on business, the presence of the person concerned was not necessary. The bench recognized the virtual presence of e-contracts and refined the applicability of the judgment to define the meaning of the term carrying on business.
Court further held that: since the transaction took place instantaneously and the acceptance of the offer by WWE was communicated to the customer in Delhi, the contract was concluded in Delhi and the Delhi court that jurisdiction. Further, it held that: When the shop in the physical sense is replaced by a virtual shop because of the advancement in technology, in our view, it cannot be said that the appellant/plaintiff would not carry-on business in India. Because of this verdict passed by the court now, the case can be filed where the sales are made and if the sale is made across India, then the plaintiff can choose the forum of its own choice. In the case of **Himalayan Drug Company v. Sumit [21].** Delhi High Court tried the case even though Defendant belongs to Italy because the damage is done in Delhi. In this case, another test developed in India called the Effect Test says that if the impact of a particular transaction is felt in India, then the Indian Courts

will have jurisdiction.

Statute View: Section 13 of the IT Act 2000 talks about the rule of law related to the dispatch and receipt of an electronic record, now as I mentioned above E-Contract can also be treated as an electronic record so this section helps us in addressing the issue related to jurisdiction of the court in E-Contract. Section 13(1) of the IT Act 2000 talks about the dispatch of the E-Contract through electronic transmission (E-Mails) from the offeror to the party it is offered and when it is out of the hand of the offeror to recall it and make amend in the E-Contract then it considered that the contract is communicated to the other party. Section 13(2) of the IT Act 2000 talks about the time of the receipt of the E-Contract by the other party to which the contract has been sending by the offeror. If the other party has given the designated address (e-mail address) to the offeror then the time of the receipt of the contract will be the time when the contract enters the designated computer resource. And if the designated address is not provided by the other party, then the time of the receipt will be the time when the contract thus sends is retrieved by the other party. Section 13(3) of the IT Act 2000 talks about the address of the place where the contract was generated and the place where the contract is received. A contract is generated at the place where the offeror has his place of the business and it is received at the place where the receiving party has his place of business. Section 13(4) of the IT Act 2000 says that the location of the computer source is not important in identifying the address of the place from where the contract is dispatched or received. A designated E-Mail address is important for that purpose. Section 13(5) of the IT Act 2000 helps in determining the place and time of dispatch or receiving of the offer by emphasizing the place of business and usual place of residence. It says that:

- ❖ If the offeror or the other party has more than one or more Places of business then the registered address of the business is the place of business.
- ❖ If the offeror or the other party does not have a place of business, his usual place of residence shall be deemed to be the place of business.
- ❖ Usual place of residence, about a body corporate, means the place where it is registered.

In the case of ***PR Transport Agency vs. Union of India***,[22] the Allahabad High Court applied the above provision to decide the question of jurisdiction of the court. The respondent had sent the letter of acceptance by e-mail to the petitioner's e-mail address. After that, the respondent sent another e-mail canceling the e-auction due to some unavoidable reasons. The petitioner challenged this communication in the Allahabad High Court, objection was raised by the respondent about the territorial jurisdiction of the Court based on the cause of action that had not arisen within Uttar Pradesh. In this case, the principal place of business of the petitioner was in the Chandauli district of U.P. and his other place of business was in Varanasi of U.P. The Court, based on Section 13(3) of the IT Act, held that the acceptance of tender by e-mail would be deemed to have been received by the petitioner at Varanasi or Chandauli, which are the only two places where the petitioner has his place of business. As both these places fell within the territorial jurisdiction of the Allahabad High Court, the Court assumed the jurisdiction to try the dispute. Thus, it is observed that the principal place of business of the offeror and the other party to which offer is made become the criteria to decide the jurisdiction of the Court. However, the contracting parties particularly in E-contract must insert a specific clause on jurisdiction to avoid further complications.

Non-repudiation of e-contract:

Non-repudiation of agreement happens when both of the gathering commits a break of the understanding made by preventing the validness from getting the reports or messages. It fills in as evidence to show the legality and authenticity of the agreements went into. Divergent to customary agreements, e-agreements will expect congregation to take responsibility for breaks that emerge because of specialized workings like composing mistakes or any such others. The gathering needs to guarantee the security of the subtleties in the understanding and go to any remaining essential lengths to lessen or kill the extension for break of responsibility. Further, regulations should be outlined to resolve the concerned issues with respect to e-contracts. In a computerized agreement, there is an advanced mark. Which is the information which can't be produced nor renounced. It incorporates a name that the party has included. Computerized marks are safer than ordinary transcribed marks and they are perceived by numerous nations like India, the USA, Japan, and a couple of others. Nations like Pakistan additionally have a few superficial electronic marks somewhat. In advanced marks, non-disavowal is crucial for ensure that no party to the agreement could keep the credibility from getting their mark.

In the case of, ***Mehta v. J Pereira Fernandes S.A*, [23]** the court held that any offer sent through the signed mail is not sufficient proof, and neither can the mail address of such a sender be considered a valid electronic signature. Although digital signatures are secure nothing is still guaranteed in cyberspace.

Therefore, parties should adopt and take various measures so that no breach or repudiation occurs. Further, through e-mail non-repudiation can be monitored by tracking the email status and whether the mail has been delivered to the other party to the contract.

Online privacy issues related to e-contract

Now, Contracts have become a common part of our day-to-day lives that most of us don't even realize that we have entered into one such contract as we make accounts by giving our personal information while we use online platforms such as Facebook, Instagram, Netflix, or other social sites, knowingly or unknowingly we enter into online agreements by signing up on these and clicking on 'I agree' to certain provided terms and conditions.

1. Privacy concerns with Facebook:

From years, Facebook had faced plentiful privacy concerns. There are instances that arose from the company's revenue model that involved selling information about users which led to violation of privacy. In 2018, Cambridge Analytical, an English political counseling firm was uncovered by a sting activity where it gathered private information of around fifty million clients of Facebook from companion arrangements of Facebook clients to make psychometric profiles to be utilized by customized political applications, crusades, promotions. It additionally utilized counterfeit news to swing races all over the planet. As to this Facebook had gotten frequent alerts about its information and security arrangements. However, Facebook found not a meaningful preventive measures to check these illegal activities.

2. Privacy concerns with Instagram:

Some of the vague and arbitrary terms and conditions of Instagram violate the user's right of privacy, these include;

- Instagram has sole copyright over the media content and photographs that are posted on its platform. It means the user is only prima facie account holder but the copyright over the account is of Instagram.
- Instagram has the right to disclose the private information provided by the users to third parties.
- Class action suit cannot be filed against Instagram, which means a suit cannot be filed against Instagram collectively.

Internet applications like WhatsApp and Instagram collect and save data publicly and have legal rights to freely access it. Such kind of electronic footprints are consistent evidence. It was held in the judgement of **Anvar P.V. v. P.K. Basheer** [24] September 18, 2014, that taking any kind of output from all electronic device shall be valid legal electronic evidence.

3. Privacy concerns with Netflix

Netflix contains two basic reasonable grounds that make its policies illogical and irrational which violate the information of the users, which are;

- Netflix without letting the proper information to its customers, can change its terms and conditions anytime, where it can even disclose the personal data of the users without informing them.
- It can also reveal specific and major information to third parties without the consent of the users.

CONCLUSION

In India, the legal dimensions of e-commerce, especially regarding consumer rights and data privacy, are primarily governed by the Consumer Protection Act of 2019. This legislation establishes a strong foundation for the protection of consumers engaged in online transactions and ensures the responsible management of their data. Nevertheless, considerable challenges persist in enforcement, particularly concerning cross-border transactions and enhancing consumer awareness. The future of e-commerce regulation necessitates a balanced strategy that fosters innovation while safeguarding consumer protection and maintaining market stability. It is essential to facilitate effective collaboration among government agencies, industry stakeholders, and consumer advocacy groups in the formulation and execution of regulatory frameworks. This cooperative approach guarantees that regulations are both practical and effective, addressing the requirements of all involved parties.

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