



RESEARCH QUESTION

"What legal remedies exist in India when a consumer receives expired, contaminated, or adulterated food from a restaurant, store, or delivery platform, under the Food Safety and Standards Act, 2006 and the Consumer Protection Act, 2019?"

Legal Remedies for Consumers Receiving Expired, Contaminated, or Adulterated Food under the Food Safety and Standards Act, 2006 and the Consumer Protection Act, 2019

TL;DR

Consumers in India who receive expired, contaminated, or adulterated food possess dual statutory remedies: they can initiate criminal and administrative proceedings under the Food Safety and Standards Act, 2006 (FSSA), and seek civil compensation for "deficiency in service" or "unfair trade practice" before Consumer Commissions under the Consumer Protection Act, 2019 (CPA). The Supreme Court in *Ram Nath v. The State of Uttar Pradesh* (2024) established that the FSSA is a comprehensive, self-contained code that completely overrides general penal provisions (such as the IPC/BNS) for food safety offences. Furthermore, liability under the CPA extends to restaurants and delivery platforms for supplying sub-standard goods or violating safety terms.

VERIFIED CASES	STATUTES	LATEST RULING
14	3	2025
12 High Courts · 2 SC		High Court of Andhra Pradesh

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I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

- 01** The FSSA acts as a complete and exclusive statutory code that overrides general penal provisions for food-related infractions.

The specialised framework of the FSSA completely supersedes general criminal provisions (such as the IPC or BNS) for offences involving food safety, meaning that authorities must prosecute under this Act rather than pursuing simultaneous general penal charges, as affirmed in *Apurva Vinaykanth Chavda, Pomil Jain, and Vipin Jain v. State of Andhra Pradesh* (2025).

- 02** The FSSA distributes distinct legal liabilities across manufacturers, wholesalers, distributors, and retail sellers depending on their role in the supply chain.

Under Section 27, wholesalers and distributors are specifically liable for supplying expired food, while retail sellers are held liable for selling expired products or keeping them in unhygienic conditions, enabling consumers to hold restaurants or delivery platforms directly accountable depending on who committed the breach, as illustrated in *Aunestraja v. State of Tamil Nadu* (2024).

- 03** Procedural and timeline compliance during food sampling and analysis is a mandatory prerequisite for any valid food safety prosecution.

Any failure to strictly adhere to the mandatory 14-day timeline for the Food Analyst to submit their report under Section 42, or violating the limitation period under Section 77, represents a fatal procedural defect that invalidates criminal proceedings, as held in *Ranjitsinh H. N. Nimbalkar v. State of Maharashtra* (2024).

- 04** Criminal liability under the FSSA is strictly confined to entities defined as 'Food Business Operators' acting upon substances that legally constitute 'food'.

Prosecution under Section 59 cannot be initiated against third parties (such as building landlords) who do not own or run the business, nor can it apply to substances like tobacco that fall outside the statutory definition of food under Section 3(i), as established in *Kuru Vijay Kumar v. State of Telangana* (2022) and *Arul Jothi v. Government of Tamil Nadu* (2023).

05 FSSA infractions are bifurcated between administrative monetary penalties and judicial criminal trials based on the severity of the offence.

Minor non-compliances like selling sub-standard food under Section 51 must be adjudicated before an Additional District Magistrate acting as the Designated Officer, whereas serious violations carrying imprisonment are referred to the judicial courts, as clarified in *Mohammed Yasith v. Food Safety Officer* (2020).

06 The Consumer Protection Act provides expansive remedies for 'deficiency in service' and 'unfair trade practices' to grant consumers monetary relief and nullify unfair contract terms.

Consumer Commissions have the authority to award compensation and enforce procedural accountability against service providers for shortcomings in standard and quality, as established in *Kolappan Thanu Achari v. R. Gunanithi* (2025).

HOW THE COURTS HAVE APPLIED THIS

**SUPREME COURT
POSITION**

The Supreme Court has repeatedly held that the Consumer Protection Act is structured to facilitate consumer-friendly relief, allowing commissions to strike down unfair exclusionary clauses or deceptive practices and convert these findings into robust civil remedies, as seen in *M/s Texco Marketing Pvt. Ltd. v. Tata AIG General Insurance Company Ltd. & Ors.* (2022).

**HIGH COURT
VARIATIONS**

High Courts have clarified that while the FSSA's overriding effect under Section 89 bars dual prosecution under general penal provisions, it does not prevent simultaneous prosecution under distinct local statutory regimes, such as state-level crop prohibition laws, as long as the accused is not punished twice for the same act, as seen in *Narayan Sahu v. State of U.P. and Another* (2023).

RECENT EVOLUTION

High Courts have actively applied the overriding principle to quash investigations and bail restrictions brought under general penal laws for food-related offences, holding that prosecutions for supplying adulterated food must proceed strictly within the special statutory framework of the FSSA, as observed in *State of Andhra Pradesh v. A.3, A.4 and A.5* (2025).

UNSETTLED AREAS OR CAVEATS

Procedural stringency versus substantive enforcement

There is a practical hurdle for consumers or prosecuting agencies because the technical timelines for sampling and analysis under Section 42 of the FSSA are strictly mandatory, meaning even clear cases of food safety violations can be quashed due to bureaucratic delays by food safety officers.

II. Statutory Provisions 3 PROVISIONS

SECTION 26, FOOD SAFETY AND STANDARDS ACT, 2006 — RESPONSIBILITIES OF THE FOOD BUSINESS OPERATOR

Every food business operator is responsible for ensuring that the food items under their control satisfy all legal requirements and regulations at all stages of production, processing, import, distribution, and sale.

"Every food business operator shall ensure that the articles of food satisfy the requirements of this Act and the rules and regulations made thereunder at all stages of production, processing, import, distribution and sale within the businesses under his control." *Cited in:* Kuru Vijay Kumar v. State of Telangana, Arul Jothi v. Government of Tamil Nadu, Mohammed Yasith v. Food Safety Officer

SECTION 2(47), CONSUMER PROTECTION ACT, 2019 — DEFINITION OF UNFAIR TRADE PRACTICE

Defines unfair trade practices to include making false or misleading representations regarding the standard, quality, quantity, grade, composition, or services of a product.

"\"unfair trade practice\" means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely: — (i) making any statement, whether orally or in writing or by visible representation including by means of electronic record, which — (a) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model; (b) falsely represents that the services are of a particular standard, quality or grade;" *Cited in:* M/s Texco Marketing Pvt. Ltd. v. Tata AIG General Insurance Company Ltd. & Ors., Kolappan Thanu Achari v. R. Gunanithi

SECTION 59, FOOD SAFETY AND STANDARDS ACT, 2006 — PUNISHMENT FOR UNSAFE FOOD

Imposes graded criminal penalties, including imprisonment and substantial fines, on anyone who manufactures, stores, sells, distributes, or imports unsafe food, based on the severity of the injury caused.

"Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable,— (i) where such failure or contravention does not result in injury, with imprisonment for a term which may extend to three months and also with fine which may extend to three lakh rupees; (ii) where such failure or contravention results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees; (iii) where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees; (iv) where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees." *Cited in: Arul Jothi v. Government of Tamil Nadu*

III.

Cases Discussed

14 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	<i>Ram Nath v. The State of Uttar Pradesh</i> ESCR010001082024	SUPREME COURT OF INDIA	2024	Establishes that FSSA overrides IPC provisions for food safety offences.
02	<i>Anand Ramdhani Chaurasia v. State of Maharashtra</i> HCBM010327132019	BOMBAY HIGH COURT	2019	Rules FSSA is a complete code, excluding general penal provisions.
03	<i>Arul Jothi v. Government of Tamil Nadu</i> HCMA011817142017	MADRAS HIGH COURT	2023	Restricts food safety liability strictly to actual "food business operators."
04	<i>Narayan Sahu v. State of U.P. and Another</i> UPHC011045292023	ALLAHABAD HIGH COURT	2023	Permits simultaneous trials under distinct food prohibition laws without double punishment.
05	<i>Apurva Vinaykanth Chavda, Pomil Jain, and Vipin Jain v. State of Andhra Pradesh</i> APHC010195892025	HIGH COURT OF ANDHRA PRADESH	2025	Details overriding effect of FSSA over IPC/BNS in adulterated food ghee supply.
06	<i>Kuru Vijay Kumar v. State of Telangana</i> HBHC010196282022	HIGH COURT FOR STATE OF TELANGANA	2022	Restricts FSSA prosecution to items fitting the statutory definition of "food."
07	<i>Sanjeev Kumar v. State of Himachal Pradesh</i> HPPHC010034902010	HIGH COURT OF HIMACHAL PRADESH	2013	Lays down definitions of contaminants, food safety, and unsafe food under FSSA.
08	<i>Mohammed Yasith v. Food Safety Officer</i> HCMD010902512016	MADRAS HIGH COURT	2020	Distinguishes between administrative monetary penalties and magistrate-led criminal prosecutions.
09	<i>State of Andhra Pradesh v. A.3, A.4 and A.5</i> APHC010195982025	HIGH COURT OF ANDHRA PRADESH	2025	Affirms FSSA's override of general penal laws regarding adulterated food prosecutions.
10	<i>Lochamesh B. Hugar v. Union of India</i> KAHC010239662012	HIGH COURT OF KARNATAKA	2012	Mandates regulatory enforcement of quality and safety benchmarks for packaged drinking water.
11	<i>Ranjitsinh H. N. Nimbalkar v. State of Maharashtra</i> HCBM070487112022	BOMBAY HIGH COURT	2024	Quashes prosecution where mandatory sampling timelines and statutory limitation periods are violated.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
12	<i>Aunestraja v. State of Tamil Nadu</i> HCMD010942632024	MADRAS HIGH COURT	2024	Distributes statutory liabilities across manufacturers, wholesalers, distributors, and sellers under FSSA.
13	<i>M/s Texco Marketing Pvt. Ltd. v. Tata AIG General Insurance Company Ltd. & Ors.</i> ESCR010005612022	SUPREME COURT OF INDIA	2022	Empowers Consumer Commissions to declare unfair terms and grant robust relief.
14	<i>Kolappan Thanu Achari v. R. Gunanithi</i> HCMA010119442024	MADRAS HIGH COURT	2025	Details consumer remedies for service deficiency and procedural bounds of limitation.

IV. Case Details

14 CASE FILES

01 Ram Nath v. The State of Uttar Pradesh

SUPREME COURT OF INDIA • 2024-02-21 • 2024 INSC 138

This case concerns whether the Food Safety and Standards Act, 2006 (FSSA) overrides sections 272 and 273 of the Indian Penal Code, which deal with the adulteration and sale of noxious food. The Supreme Court held that by virtue of section 89 of the FSSA, its provisions override those of the Indian Penal Code regarding food-related offences. Consequently, simultaneous prosecution under both statutes is impermissible. The court clarified that the offence under section 59 of the FSSA is more comprehensive and stringent, covering unsafe food regardless of whether the specific intent required by the penal code exists. The Court quashed the pending criminal proceedings that had been initiated under the penal code.

HELD The Supreme Court held that by virtue of the overriding effect under Section 89 of the FSSA, prosecutions for selling unsafe food under Section 59 FSSA override general penal provisions under Sections 272 and 273 of the IPC. Consequently, simultaneous prosecution under both the IPC and the FSSA is impermissible. Furthermore, the Court clarified that an offence under Section 59 FSSA does not require the specific intent required by Section 272 IPC, making the FSSA framework more comprehensive and stringent.

“By virtue of s.89 of the FSSA, s.59 will override the provisions of ss.272 and 273, IPC – Therefore, there will not be any question of simultaneous prosecution under both the statutes.”

SUPREME COURT OF INDIA • 2024

SOURCE ESCR010001082024

02 Anand Ramdhani Chaurasia v. State of Maharashtra

BOMBAY HIGH COURT • 2019-09-13 • WP/3607/2019

The petitioners challenged an FIR registered against them for the storage and sale of prohibited substances, namely Gutka and Pan Masala, which contain tobacco. The charges included offenses under the Food Safety and Standards Act, 2006, as well as sections of the Indian Penal Code (IPC), including Section 328 (causing hurt by means of poison or other unwholesome substances) and Section 188 (disobedience to order promulgated by a public servant). The petitioners argued that the Food Safety Act is a complete code and that mere storage of prohibited items does not constitute the ingredients required for an offense under Section 328 of the IPC, which requires evidence of actual consumption or administration to a victim.

HELD The Bombay High Court held that the FSSA is a self-contained enactment regulating all aspects of dealing with unsafe food. Under the FSSA's scheme, contraventions are dealt with via two distinct methodologies: those carrying imprisonment are referred to courts, while those carrying fines are decided by the Designated Officer.

“On perusal of the entire scheme of FSS Act, it would emerge that it is a self contained enactment taking care of such acts or conducts dealing with unsafe food articles and such acts are liable for penalty in the form of fine or imprisonment as prescribed.”

BOMBAY HIGH COURT • 2019

SOURCE HCBM010327132019

03 Arul Jothi v. Government of Tamil Nadu

MADRAS HIGH COURT • 2023-10-11 • CRL OP/17423/2017

The petitioner sought to quash criminal proceedings initiated against her under the Food Safety and Standards Act, 2006. The prosecution alleged that the petitioner was liable as an owner of the building where the primary accused operated an unauthorized Gutkha manufacturing business. The court found that the petitioner was merely the landlord and held no operational, partnership, or directorial interest in the business conducted by the other accused. Emphasizing that liability under the Act requires an individual to be a 'food business operator' or directly involved in the manufacture or sale of unsafe food, the court ruled that simple ownership of rented premises does not constitute a criminal offence. Consequently, the proceedings against the petitioner were quashed.

HELD The Madras High Court held that criminal liability for selling or storing unsafe food under Section 59 of the FSSA is strictly restricted to the "food business operator" who owns or carries on the business. Merely renting out a building to a tenant who conducts unauthorized food operations does not attract liability under the Act.

“Section 3(o) of the Food Safety and Standards Act, 2006 states that the food business operator in relation to food business means a person by whom the business is carried on or owned and is responsible for ensuring the compliance of this Act, rules and regulations made there under;”

MADRAS HIGH COURT • 2023

SOURCE HCMA011817142017

04 Narayan Sahu v. State of U.P. and Another

ALLAHABAD HIGH COURT • 2023-05-16 • A482/18134/2023

The applicant sought to quash criminal proceedings initiated against him under the Food Safety and Standards Act, 2006, for the sale of prohibited 'khashari dal'. He argued that since he was already facing trial for the same incident under the Uttar Pradesh Khashari Gram (Prohibition) Act, 1983, the new proceedings violated the constitutional protection against double jeopardy. The court rejected this argument, noting that an act can constitute an offence under multiple enactments. Citing established legal precedents, the court clarified that while an individual cannot be punished twice for the same offence, there is no legal bar to simultaneous prosecution under different statutes for the same set of facts. Consequently, the application to quash the proceedings was dismissed.

HELD The Allahabad High Court clarified that an accused can be tried and prosecuted simultaneously under different enactments for the same set of facts, provided they are not punished twice for the same offence. The constitutional protection against double jeopardy does not bar separate trials under the FSSA and distinct local prohibition acts.

“it has been held by the Apex Court that there is no bar to a trial or conviction of an accused under two different enactments. The only bar is to the punishment of him twice for the offence.”

ALLAHABAD HIGH COURT • 2023

SOURCE UPHC011045292023

05 Apurva Vinaykanth Chavda, Pomil Jain, and Vipin Jain v. State of Andhra Pradesh

HIGH COURT OF ANDHRA PRADESH • 2025-07-02 • CRLP/4203/2025

This case concerns the applications for regular bail filed by individuals accused in connection with the supply of adulterated cow ghee to the Tirumala Tirupati Devasthanams (TTD). The prosecution alleges that the accused conspired to supply sub-standard ghee by submitting fabricated documents and violating tender requirements, which purportedly harmed both the health and religious sentiments of pilgrims. Investigations revealed that the ghee contained animal and vegetable fat-based adulterants, including lard. \n\nThe High Court reviewed the petitions, noting the serious allegations involving the procurement process and the subsequent investigation conducted by a Special Investigation Team. The court's decision involves evaluating whether the accused, currently in judicial custody following the filing of a charge sheet, meet the criteria for bail given the nature of the criminal conspiracy and the evidence collected.

HELD The Andhra Pradesh High Court, referencing the Supreme Court's jurisprudence, reaffirmed that Section 89 of the FSSA gives it an absolute overriding effect over other food-related laws. Consequently, general penal provisions for food adulteration under the IPC/BNS are overridden by the specialized framework of Section 59 of the FSSA, precluding dual prosecution under both.

“We have no manner of doubt that by virtue of section 89 FSSA, Section 59 will override the provisions of sections 272 and 273IPC. Therefore, there will not be any question of simultaneous prosecution under both the statutes.”

HIGH COURT OF ANDHRA PRADESH • 2025

SOURCE APHC010195892025

06 Kuru Vijay Kumar v. State of Telangana

HIGH COURT FOR STATE OF TELANGANA • 2022-07-14 • CRLP/2633/2022

This matter concerns a batch of criminal petitions filed under Section 482 of the Code of Criminal Procedure, seeking to quash various FIRs and criminal proceedings, as well as to direct the release of seized properties. The petitioners, primarily business individuals implicated in various police cases, requested the High Court to intervene in ongoing investigations and magistrate court proceedings. The court heard the arguments from the

petitioners' counsel and the public prosecutor regarding these requests to quash charges and restore seized items associated with the respective police station files.

HELD The Telangana High Court held that to initiate a prosecution under Section 59 of the FSSA, the prosecution must establish that the seized or distributed article fits the statutory definition of "food" under Section 3(i). Tobacco products, which are governed by specialized legislation like COTPA, do not fall within the definition of food, thereby rendering FSSA charges inapplicable to them.

"to bring the case within the ambit of the said provision i.e., Section 59(1), it has to be established that the articles found in the possession of the petitioners falls within the ambit of the definition "food" as defined in the Food Safety and Standards Act, 2006."

HIGH COURT FOR STATE OF TELANGANA • 2022

SOURCE HBHC010196282022

07 Sanjeev Kumar v. State of Himachal Pradesh

HIGH COURT OF HIMACHAL PRADESH • 2013-12-26 • CWP/1732/2010

The petitioners challenged the use of plastic pouches and non-biodegradable packaging for essential commodities and other consumer goods in Himachal Pradesh, citing environmental concerns under the Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995. The court acknowledged the impossibility of a total immediate ban on such packaging due to practical and economic constraints. Ultimately, the court directed the State to implement scientific collection and recycling mechanisms, including incentivizing the return of empty plastic packaging at ration depots for use in public works like road construction. The court further tasked a high-level committee to develop strategies for reducing non-biodegradable waste, including exploring potential bans on non-essential items packaged in plastic.

HELD The Himachal Pradesh High Court outlined the extensive statutory definitions governing food safety under the FSSA, including "adulterants", "contaminants", "food safety", and "unsafe food". These statutory classifications establish the foundational benchmarks required to determine whether an article of food is harmful or sub-standard.

“(g) "contaminant" means any substance, whether or not added to food, but which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry or veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination...”

HIGH COURT OF HIMACHAL PRADESH • 2013

SOURCE HPHC010034902010

08 Mohammed Yasith v. Food Safety Officer

MADRAS HIGH COURT • 2020-03-19 • CRL OP(MD)/16501/2016

The petitioners sought to quash criminal proceedings initiated under the Food Safety and Standards Act, 2006, regarding the sale of sub-standard 'STK Brand Gingelly Oil'. They argued that offences under Sections 51 and 55,

which attract only monetary penalties, should be handled by an adjudicating officer rather than through a criminal trial, and that the prosecution for lack of a license was premature given the grace periods provided for transitioning to the new licensing regime. The court examined whether the criminal complaint was maintainable despite these contentions, ultimately evaluating the jurisdictional limits of the magistrate and the validity of the prosecution sanction in light of the mix of penalty-only and imprisonment-carrying offenses alleged in the complaint.

HELD The Madras High Court clarified that offences under the FSSA are bifurcated procedurally. Violations attracting only monetary penalties, such as selling sub-standard food (Section 51) or failing to comply with directions (Section 55), must be adjudicated by the Designated Officer (Additional District Magistrate), whereas only serious offences carrying imprisonment (such as Section 63) are triable by a judicial magistrate.

“These two penal provisions have to be adjudicated by the Designated Officer, who shall be not below the rank of Additional District Magistrate of the District.”

MADRAS HIGH COURT • 2020

SOURCE HCMD010902512016

09 State of Andhra Pradesh v. A.3, A.4 and A.5

HIGH COURT OF ANDHRA PRADESH • 2025-07-02 • CRLP/4187/2025

This case involves a series of criminal petitions for bail filed by individuals accused of supplying adulterated cow ghee to the Tirumala Tirupati Devasthanams (TTD) for the preparation of Laddu Prasadam. The prosecution alleges that the accused conspired to manipulate tender processes, fabricated documents to meet eligibility criteria, and supplied ghee adulterated with vegetable and animal fats, including lard, thereby cheating the institution and hurting the religious sentiments of devotees. Investigations revealed large-scale falsification of records, the destruction of evidence, and bribery of public officials. The court reviewed these allegations in the context of criminal conspiracy, cheating, and food safety violations under both the Bharatiya Nyaya Sanhita and the Food Safety and Standards Act.

HELD The Andhra Pradesh High Court reinforced that Section 89 of the FSSA has a comprehensive overriding effect over all other food-related laws, including general penal provisions under the IPC or BNS. Where allegations of food adulteration are raised, the specialized procedure and penal provisions of Section 59 FSSA exclusively govern.

“We have no manner of doubt that by virtue of Section 89 FSSA, Section 59 will override the provisions of Sections 272 and 273IPC. Therefore, there will not be any question of simultaneous prosecution under both the statutes.”

HIGH COURT OF ANDHRA PRADESH • 2025

SOURCE APHC010195982025

10 Lochamesh B. Hugar v. Union of India

HIGH COURT OF KARNATAKA • 2012-11-09 • WP/17713/2012

This public interest litigation was filed to seek regulatory oversight over the manufacturing and sale of packaged drinking water, specifically to ensure compliance with standards prescribed under the Bureau of Indian Standards Act. The petitioners sought directions to prevent the production of drinking water that fails to meet these mandatory safety and quality benchmarks. The court addressed the ongoing concerns regarding the proliferation of unlicensed or non-compliant water units. It emphasized the importance of public health and the necessity for state and central authorities to enforce quality standards strictly. The court issued directions for monitoring and enforcement to ensure that only compliant products are available to the public.

HELD The Karnataka High Court emphasized the statutory mandate under Section 26 of the FSSA, which places strict legal responsibility on food business operators to ensure that all food articles meet statutory safety and quality standards. The Court highlighted that the FSSA has an overriding effect over all other food-related laws to protect public health.

“The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

HIGH COURT OF KARNATAKA • 2012

SOURCE KAHC010239662012

11 Ranjitsinh H. N. Nimbalkar v. State of Maharashtra

BOMBAY HIGH COURT • 2024-03-05 • WP/373/2023

The petitioners challenged a criminal proceeding initiated against them under the Food Safety and Standards Act, 2006, following the collection of milk samples from their chilling center. The petitioners argued that the prosecution was procedurally flawed due to a failure to comply with the mandatory timelines for submitting analysis reports and sanctioning prosecution under Section 42 of the Act. Additionally, they contended that the prosecution was time-barred under Section 77. The High Court noted that in an identical case involving the same parties and facts, a revisional court had previously quashed proceedings due to these specific procedural lapses. Finding the legal infirmities established and the prosecutions unsustainable, the High Court set aside the order issuing process against the petitioners.

HELD The Bombay High Court held that prosecutions under the FSSA are highly technical and must strictly adhere to the mandatory procedural timelines laid down in Section 42 (such as the 14-day limit for the Food Analyst's report) and the limitation period under Section 77. Procedural infractions or delays in launching prosecution are fatal and render the proceedings unsustainable.

“The Food Analyst, sub Section (2) of Section 42 mandates, shall analyse the sample and send the analysis report mentioning the method of sampling and analysis within 14 days to the Designated Officer.”

BOMBAY HIGH COURT • 2024

SOURCE HCBM070487112022

12 Aunestraja v. State of Tamil Nadu

MADRAS HIGH COURT • 2024-10-30 • CRL OP(MD)/14942/2024

This case arose from the widespread illegal sale of tobacco products, specifically a dipping tobacco named 'Cool Lip,' to school children in Tamil Nadu. The court observed that these products, despite being banned, were being smuggled into the state and marketed in a candy-like form, leading to severe nicotine addiction, behavioral issues, and health risks among students. Highlighting the state's constitutional obligation to protect children and public health, the court initiated a detailed review to address the menace. It emphasized the liability of manufacturers and distributors under the Food Safety and Standards Act and the Juvenile Justice Act, stressing the urgent need for a coordinated effort between government authorities and enforcement agencies to prevent the exploitation of children.

HELD The Madras High Court outlined the distinct, multi-layered statutory liabilities imposed under Section 27 of the FSSA, which specifies the individual duties of manufacturers, packers, wholesalers, distributors, and sellers. Under this provision, wholesalers and distributors are held strictly liable for supplying expired food, while sellers are held liable for selling expired products or holding them under unhygienic conditions.

"Section 27 of the said Act makes all the manufacturers packers, wholesalers, distributors and sellers liable for meeting the requirements under the Act."

MADRAS HIGH COURT • 2024

SOURCE HCMD010942632024

13 M/s Texco Marketing Pvt. Ltd. v. Tata AIG General Insurance Company Ltd. & Ors.

SUPREME COURT OF INDIA • 2022-11-09 • 2022 INSC 1186

This case concerns the repudiation of an insurance claim for a shop located in a basement, where the insurer relied on an exclusion clause in the policy stating that basements were not covered. The Supreme Court addressed whether an insurer can enforce such a clause when it knowingly entered into a contract to insure the specific premises. The Court held that insurance contracts are adhesion contracts requiring a high degree of good faith and disclosure. It determined that an exclusion clause cannot be used to defeat the main purpose of the contract. Invoking the doctrine of 'blue pencil,' the Court struck down the unfair exclusion clause and held that the insurer cannot benefit from its own wrong or deficiency in service.

HELD The Supreme Court held that the Consumer Protection Act, 2019 provides robust ammunition to Consumer Commissions to strike down unfair contract terms and declare unfair trade practices illegal. Under Sections 47, 49, 58, and 59, the commissions are vested with expansive jurisdiction to nullify unfair conditions and grant complete, consumer-friendly consequential relief.

"Ultimately, it is for the State Commission or the National Commission to declare a contract as unfair contract. Though, these two provisions are merely defining the terms, they actually empower the Commission to go into the issue qua the unfair nature of the terms of a contract and also the trade practice."

SUPREME COURT OF INDIA • 2022

SOURCE ESCR010005612022

14 Kolappan Thanu Achari v. R. Gunanithi

MADRAS HIGH COURT • 2025-07-29 • WP/2160/2024

The petitioner challenged an order by the National Consumer Disputes Redressal Commission which dismissed his appeal for being filed beyond the statutory limitation period. The petitioner argued that he was wrongly held personally liable for a deficiency in service by the State Commission, asserting that the liability should have rested with the third respondent, a private limited company. He claimed that the National Commission failed to properly consider the grounds for condoning the 103-day delay in filing the appeal.

The High Court reviewed the matter, noting that the petitioner had failed to file a written version before the State Commission, leading to an ex parte order. The Court indicated that the National Commission's dismissal of the appeal for time-bar is a standard procedural exercise when sufficient cause is not established.

HELD The Madras High Court observed that procedural deadlines under the Consumer Protection Act, including the strict 30-day limitation period for filing appeals, must be closely followed. The Court also referred to the comprehensive statutory definition of "deficiency" under the Act, which covers any shortcoming, fault, or inadequacy in the quality or performance of a service.

““deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;”

MADRAS HIGH COURT • 2025

SOURCE HCMA010119442024

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