

Food Poisoning

We all love food, preferences may be different. The effects of liberalization are not only visible in the products and services but also may be noticed in different varieties of cuisines available in the country. Some two decades ago, the food which was considered as being available at selected stores has become the fast food prepared by street vendors today. Some of these preparations require such ingredients which have to be stored within specified temperatures and have limited shelf life. If such ingredients are not stored properly, the food preparations may be dangerous for human consumptions, or in other words may cause poisoning effects which we generally term as “**food poisoning**”. Food poisoning may not be limited to only the street food but may also take place in 5 star hotels, if the prescribed standards are not adhered to. Of course, here the liability of the vendors towards the consumer becomes too strict and may be of higher magnitude as compared to that of street vendors and its consumer where bills are hardly issued and generally at such joints is considered *volenti non fit injuria*.

We would like to throw some light on legal aspects of food poisoning hereunder-



Food poisoning is a common, usually mild, but sometimes deadly illness. Depending on the contaminant, fever and chills, bloody stools, dehydration, and nervous system damage may follow. These symptoms may affect one person or a group of people who ate the same thing (called an outbreak).

Causes

Food poisoning often occurs from eating or drinking:

- Any food prepared by someone who did not wash their hands properly
- Any food prepared using unclean cooking utensils, cutting boards, or other tools
- Dairy products or food containing mayonnaise (such as coleslaw or potato salad) that have been out of the refrigerator too long

- Frozen or refrigerated foods that are not stored at the proper temperature or are not reheated properly
- Raw fish or oysters
- Raw fruits or vegetables that have not been washed well
- Raw vegetable or fruit juices and dairy
- Undercooked meats or eggs
- Water from a well or stream, or city or town water that has not been treated

Responsibilities of the Food business operator.

Food business means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution of food, import and includes food services, catering services, sale of food or food ingredients, and **food business operator** in relation to food business means a person by whom the business is carried on or owned. For examples owner's of restaurants, food joints and hotels etc

The relevant act which is enacted in India to ensure responsible behavior of the Food Business Operators is the **Food Safety and Standards Act, 2006** which came into force on 5th August 2011 and the prior Act .i.e. The Prevention of Food Adulteration (PFA) Act 1954 was repealed. In addition to this **Food Safety and Standards Authority of India** for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto have been established. The objective of the PFA Act was to prevent adulteration in food articles but the aim of the Food Safety and Standards Act, 2006 is to ensure safe and hygienic food. The responsibilities of Food Business Operators subject to **Section 26** of this Act are as under:-

- (1) 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.
- (2) No food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food –
 - (i) which is unsafe; or
 - (ii) which is misbranded or sub-standard or contains extraneous matter; or
 - (iii) for which a licence is required, except in accordance with the conditions of the licence; or
 - (iv) which is for the time being prohibited by the Food Authority or the Central Government or the State Government in the interest of public health; or
 - (v) in contravention of any other provision of this Act or of any rule or regulation made thereunder.

- (3) No food business operator shall employ any person who is suffering from infectious, contagious or loathsome disease.
- (4) No food business operator shall sell or offer for sale any article of food to any vendor unless he also gives a guarantee in writing in the form specified by regulations about the nature and quality of such article to the vendor:

Provided that a bill, cash memo, or invoice in respect of the sale of any article of food given by a food business operator to the vendor shall be deemed to be a guarantee under this section, even if a guarantee in the specified form is not included in the bill, cash memo or invoice.

- (5) Where any food which is unsafe is part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment within a specified time, it is found that there is no evidence that the rest of the batch, lot or consignment is unsafe:

Provided that any conformity of a food with specific provisions applicable to that food shall be without prejudice to the competent authorities taking appropriate measures to impose restrictions on that food being placed on the market or to require its withdrawal from the market for the reasons to be recorded in writing where such authorities suspect that, despite the conformity, the food is unsafe.

.....Penal provisions to be continued in next edition