

Law of Evidence-
Overview on Indian Evidence
Act, 1872

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The Indian Evidence Act, 1872

- A total of 167 sections, 11 chapters and 3 parts.
- It came into existence on 1st September, 1872.
- Applicable to all Courts and Judicial Authorities except to Affidavits and Arbitral Tribunals.
- A review of the law of evidence is, it is acknowledged by one and all, one of the most formidable and challenging tasks for any Commission. The Act was drafted in 1872 by one of the most eminent jurists of the nineteenth century Sir **James Stephen**.

Interpretations

- **Court, Fact, Relevant, Facts in Issue, Document, Evidence, Proved, Disproved, Not Proved, India, Certifying Authority, Electronic Signature, Document (genuineness & contents), Evidence (Best, Circumstantial, Corroborative, Direct, Hearsay, Indirect, Original, Percipient, Positive, Presumptive, Primary, Rebutting, Secondary, Substantial, electronic records etc.), Presumptions (may presume, shall Presume and conclusive proof)**

Relevancy Of Facts

Fact means and includes:

- anything, state of things or relation of things, capable of being perceived by the senses;
- any mental conditions of which any person is conscious.

Eg: there are certain objects arranged in a certain order in a certain place, is a **fact**.

- Relevant
- Facts in issue
- Documents
- Evidence: Best, Circumstantial, Corroborative, Direct, Hearsay, Indirect, Original, Percipient, Positive, Presumptive, Primary, Rebutting, Secondary, Substantial etc.
- Proved
- Disproved
- Not proved

Motive, Preparation, Attempt, Commission, Previous and Subsequent Conduct

- Conduct of accused
- Conduct of witness
- Identification Parade
- Conspiracy
- Alibi, plea of alibi and burden of proof
- Beyond reasonable doubt
- Act- Accidental/Intentional

- Admission (Inducement, Threat or Promise)
 1. Judicial, Extra-Judicial
 2. Confession
 - Retracted- Confession
 - Confession to Police Officer
 - Dying declaration (if survives)
 - Previous Character
 - Previous Judgments
 - Judgment of Criminal Courts not binding on Civil Courts.

Opinions

- Opinion and Expert Opinion
- Handwriting Expert
- Finger Print Expert
- DNA Test
- Doctor's Opinion and Medical Evidence
- Narcotic Analysis
- Lie Detector
- Electronic Evidence- Signature, email, social medial statements, opinions as to cust---
- Opinion on relationships

Facts which need not be proved

○ Judicial Notice:

1. All Laws and Enactments
2. Currency
3. Titles and National Flag
4. Division of Time
5. Festivals
6. Holidays
7. Directions
8. Maps
9. Territories
10. Judgements

Evidences

- Facts Admitted need not be proved
- Proof and Facts
- Types of Evidence:
- Oral, Documentary, Primary Evidence, Secondary Evidence, Electronic records, Proof of Execution, Digital Signature, Public Documents, Certified Copies, Photo Copies, Official Documents, Newspapers, Gazettes, Maps, POA, Electronic Agreements, Foreign Judicial Record, Electronic Messages, Documents (30 years) old, Person Electronic record of 5 years.

Production & effect of Evidence

- Burden of Proof (Civil & Criminal)
- Private Defence
- Plea of Insanity
- Death of a person, Life of a person
- Birth during Marriage (conclusive proof)
- Abetment of suicide (married women)

1. Doctrine of Estoppel
2. Competency of Witnesses: PoA, Child Witness, Dumb & Deaf, Judges & Magistrates, Affairs of the State, Official Communications, Professional Communications, Accomplice etc.
3. Examination in Chief
4. Cross Examination
5. Re-Examination
6. Leading Questions
7. Indecent & Scandalous Questions
8. Hostile Witnesses
9. Judge's Powers to put questions and order production