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**Review Document**

**INDIAN EVIDENCE ACT, 1860**

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## **INDIAN EVIDENCE ACT, 1860**

### **Significance**

The law of evidence is based on reasoning and logic. Without a proper piece of evidence to determine the merit of the case in the Court of the Law, there will be much delay in trial to ascertain and give justice to the people. Thus, the very idea of the formation of the Indian Evidence Act is to give power to the judiciary and help them to decide the case and give a verdict of conviction and acquittal depending on the facts and evidence brought before it. Therefore, the Indian Evidence Act is a mode or an instrument through which the court upheld its functions by reaching the truth of each case.

### **Objective**

To prevent laxity and negligence in the admissibility of evidence and to introduce a full proof and uniform rule of practice than what was previously used.

### **Important Provisions**

**Section 3-** states that “Evidence” means and includes’

- i) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of facts under inquiry;
- ii) all documents which also include electronic records produced for the inspection of the Court; such documents are documentary evidence.

**Section 4-** dealt with

- "May presume"- whenever it is provided by this act that the court may presume a fact, it may either regard such fact as proved, unless and until it is disproved.
- "Shall presume"- whenever it is provided by this act that the court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.

- "Conclusive proof"- when one fact is declared to be conclusive proof of another the court shall regard the other as proved and shall not allow any other evidence for disproving it.

**Sections 5-** Evidence may be given in any suit or proceeding of an existence of non-existence of every fact in issue and such other facts are declared to be relevant.

**Section 6-** The doctrine of Res Gestae is expressed under section 6 of the Indian Evidence Act, 1872 in the following words-Facts which though not in issue are so connected with the facts in issue so as to form a part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

**Section 8-** Any fact is relevant which shows or constitutes a motive, preparation, conduct whether prior or subsequent for any fact in issue or relevant fact.

**Section 11-** any irrelevant fact may become relevant if they are inconsistent with any fact in issue or relevant fact; or if by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

**Section 17-** it defines 'admissions'. It is a statement whether oral, documentary or contained in an electronic form, made by any person as mentioned in section 18 which suggest any inference or which is said to be true to any fact in issue or relevant fact.

**Section 18-** Admission can be done by following persons:

- By party to a proceeding or his agent
- By party interested in subject matter
- By person from interest is derived

**Section 21-** Admissions are relevant and may be used against the person making it or his representative in interest but it cannot be made on behalf of the person who makes it or by his

representative in interest except if a person making it were dead, or where there exist any state of mind or body in such cases it would be relevant.

**Section 24-** A confession made by accused person is irrelevant in a criminal proceeding if making of the confession appears to the court to have been caused by way of threat or promise, inducement having reference to the charge against the accused person.

**Section 25-** Confession made to a police officer is irrelevant and is inadmissible in court.

**Section 26-** Confession made in police custody is also irrelevant.

**Section 30-** when more persons than one are being tried for the same offence, and a confession is made by one such person affecting himself or such other persons is proved then court may take into consideration such confession as against other person as well as against the person who makes it.

**Section 32-** The statements whether written or verbal, of relevant facts made by a person who is dead or who is incapable of giving evidence or whose attendance cannot be procured without an amount delay under the circumstances of the case, appears to the court unreasonable are themselves relevant facts.

**Section 40-** puts a bar on a consecutive trial on the same issue. Here the past decision is a relevant evidence to prevent a new case to be tried.

**Section 45-** when court has to form an opinion upon a point of foreign law or science, art or as to identity of handwriting, the opinions upon that point of persons who is specially skilled in such foreign law, science, art [or in questions as to identity of handwriting or finger impressions] are relevant facts. Such persons are called experts.

**Section 53-** states that in criminal cases, the previous good character of the accused is relevant evidence.

**Section 54-** states that in criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

**Section 59 and 60-** Oral evidence.

Oral evidence of a witness is generally admissible evidence if he has direct and personal knowledge of the fact deposed by him. It is referred in 'section 3' of the Act, which says that "all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry, such statements are called oral evidence.

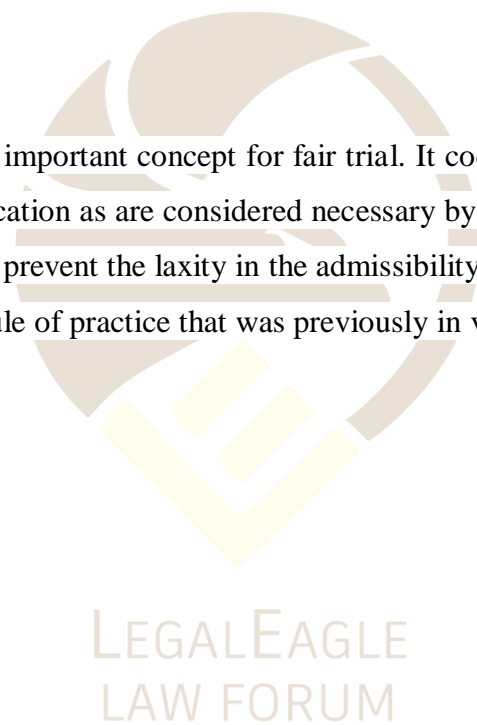
## **Conclusion**

The evidence law is the most important concept for fair trial. It codifies the rules of English law of evidence with such modification as are considered necessary by the peculiar circumstances of our country. Thus, in order to prevent the laxity in the admissibility of evidence, and to introduce a more correct and uniform rule of practice that was previously in vogue, the Indian evidence act came into picture.

## **Reference**

<http://lawhelpbd.com>

<http://www.indiacode.nic.in>



## **About the Author**



I'm Pritika Nagpal from Jims School of Law, Greater Noida. It was an immense pleasure to work with LegalEagle Law Forum as a part of one month internship. I felt quite amazed after reviewing six different bare acts as a part of my task. I personally had gained a vast knowledge about the sections of the bare act. Indeed, it was such a good experience for me as I have seen a different scenario of work apart from my other previous online internships. Thanks to LegalEagle Law Forum for providing such a tremendous platform and giving me a wonderful opportunity to be a part of BARE ACT REVIEW PROGRAM INTERNSHIP.

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