BLOGS

Burden of Proof under Indian Evidence Act

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Introduction

The term 'Burden of Proof' under Indian Evidence Act refers to the responsibility of substantiating statements with evidence. The Indian Evidence Act of 1872, specifically detailed in Chapter VII, enshrines this crucial concept.

The burden of proof encompasses the principles of *Onus Probandi* and *Factum Probans*. Onus Probandi dictates that the party making an affirmative claim must prove it. This burden rests on the side seeking to support their case with a specific fact they claim to know. Factum Probans is the actual evidence or proof presented to substantiate a claim in a legal proceeding.

Broad Classification of Burden of Proof

In Indian law, the fundamental principle is that the burden of proof rests on the individual making a claim or asserting a fact, unless a legal exception has been established. This concept of the burden of proof encompasses three distinct meanings:

1. Persuasive Burden: This refers to the legal and procedural obligation of demonstrating and substantiating a case. It pertains to the responsibility placed on a party to establish the elements of their argument within the framework of the law and pleadings.
2. Evidential Burden: In this context, it involves the duty of presenting concrete evidence to support specific factual claims. Those making assertions must produce evidence to substantiate the facts they are claiming.
3. Admissibility of Evidence: The burden of proof also extends to the admissibility of evidence in court. It means that the party introducing evidence must ensure it meets the criteria for

admissibility as per legal standards and rules of evidence.

Burden of Proof in Civil and Criminal Cases

When someone initiates a *civil proceeding*, it comprises two key elements: the case's facts and the legal basis. In such cases, the burden of proof rests with the plaintiff, the one who files the civil suit.

If the plaintiff fails to present convincing evidence to establish the existence or truth of the facts, even if the defendant doesn't offer a defense, the defendant will prevail. Consequently, defendants often focus on weakening the plaintiff's case rather than providing a positive defense.

In *criminal proceedings*, a fundamental principle is the presumption of innocence until proven guilty. Consequently, the primary responsibility for proving an accused person's guilt rests with the prosecution.

However, if the accused raises a defense or claims an exception, the burden of proof shifts to them to substantiate their assertion. The prosecution is obligated to demonstrate the case beyond a reasonable doubt. It places a substantial burden on them and provides an advantage to the defendant.

Burden of Proof under Indian Evidence Act

Section 101 of the Indian Evidence Act establishes the "burden of proof." It requires that anyone asserting a legal right or liability based on specific facts must prove those facts, thereby assigning the burden of proof to the person making the claim.

Section 102 of the Indian Evidence Act places the burden of proof on the person who would lose in a suit or proceeding if no evidence were presented on either side.

Section 103 of the Indian Evidence Act emphasizes that the burden of proof regarding a specific fact rests on the person wishing the court to believe in its existence unless otherwise specified by law.

Section 104 of the Indian Evidence Act states that the burden of proving any fact necessary to make other evidence admissible lies on the person wishing to present that evidence.

Section 105 of the Indian Evidence Act places the burden of proving that the accused's case falls within exceptions on the accused. It is with a presumption of absence of such circumstances by the court.

Landmark Cases on Burden of Proof

In the case of **V. Kalyanaswamy vs. L. Bakthavatsalam**, the Supreme Court clarified that when dealing with a will, the burden to prove its validity and dispel any suspicions lies with the person presenting the will. However, if the will is claimed to be a result of coercion, undue influence, or fraud, it is the responsibility of the party opposing the will to prove these allegations.

In the case of **M.S. Reddy vs. State Inspector of Police, A.C.B., Nellore**, it was established that the initial burden of proof lies with the prosecution. Requiring the defendant to shoulder this burden is unjust. It is essential for the prosecution to construct its case using its own evidence. If defendants were allowed to present their evidence before the prosecution, it could give the prosecution an opportunity to gain an advantage, potentially using tactics to weaken the case.

In the **Savithri vs. Karthyayani Amma** case involving a contested will allegedly executed under coercion, the court ruled that both sides must prove their respective claims. This means the party alleging coercion must provide evidence to support their claim.

In the case of **Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal and Others**, electronic evidence was introduced as part of the legal proceedings. The court made a significant determination in this case. Specifically, it ruled that the party presenting electronic evidence is responsible for establishing its authenticity and accuracy.

In simpler terms, if you bring electronic evidence into a legal case, you must prove that it is real and trustworthy. This burden of proof falls on the party that introduced the electronic document.

In **Mahboob Sab vs. Union of India**, a person fell from a moving train and a lawsuit ensued. The court determined that the burden of proof rested on the party making a specific claim. In this instance, the defendants needed to prove that the person didn't have a valid ticket as they had asserted.

Conclusion

The Indian Evidence Act of 1872 delineates the concept of the burden of proof. It varies between civil and criminal cases based on their respective requirements. Generally, the person seeking relief or judgment from the court carries the burden of proof, unless the law dictates otherwise. The foundational principle is the presumption of innocence until proven guilty. It places the onus on the plaintiff to establish the accused's guilt.