BLOGS

Hearsay Evidence under Indian Evidence Act, 1872: Definition, Admissibility, Exceptions

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Introduction

Hearsay evidence is a fundamental concept in the law of evidence, and it plays a crucial role in determining the admissibility of statements made outside the courtroom. Generally, such evidence is excluded from court proceedings because it lacks the reliability and trustworthiness that come from direct testimony and cross-examination of witnesses.

In this post, we will delve into the concept of hearsay evidence under the Indian Evidence Act, its admissibility, and exceptions.

Definition of Hearsay Evidence

Hearsay evidence is typically understood as a statement made by a person not called as a witness, which is offered in court to prove the truth of the matter asserted in that statement. In simpler terms, it involves the use of statements made by someone who is not testifying in court to prove the facts stated in those statements.

Admissibility of Hearsay Evidence

The general rule under the Indian Evidence Act is that any evidence that is hearsay is not admissible. Section 60 of the Indian Evidence Act specifically addresses this issue. It states that oral evidence in the form of hearsay, i.e., a statement made by someone other than the witness who is testifying, is not ordinarily admissible. The reason behind this rule is to ensure that evidence presented in court is reliable, trustworthy, and subject to cross-examination.

[To read more about Admissibility of Evidence, click here!]

Exceptions to the Hearsay Rule

While the Indian Evidence Act largely excludes any evidence that is hearsay in nature, it recognizes certain exceptions where such evidence may be admitted. These exceptions are based on the principle that hearsay evidence may be considered reliable in certain circumstances. Some notable exceptions include:

Dying Declarations (Section 32): One of the most significant exceptions to the hearsay rule in India is the admission of dying declarations. A statement made by a person who is about to die, under the belief of impending death, is admissible as evidence. The rationale is that a person in such a condition has no motive to lie.

Statement of a Person Who is Dead (Section 32): Statements made by a person who is dead can be admitted if they relate to the cause of death or any of the circumstances of the transaction that resulted in the person's death.

Statement Against Interest (Section 32): Statements made by a person against their own interest are admissible. The idea is that people generally do not make statements that would harm their interests unless they are true.

Statements in Documents (Section 32): Statements in documents such as wills, deeds, and agreements are admissible as evidence if they are relevant to the matter in question. This is known as the "doctrine of admission against interest."

Statement in the Course of Business (Section 32): Statements made by a person in the ordinary course of business, and in particular, in any book of account or other record, are admissible.

Public Documents (Sections 74-75): Public documents, which are maintained by a public officer or are admissible under law, are exceptions to the hearsay rule. These documents include government records, official publications, and certified copies of public documents.

Res Gestae (Section 6): Statements that are part of the res gestae, meaning they are so closely connected to a transaction that they form part of it, are admissible. The statements must be made contemporaneously with the transaction and describe or explain it.

Importance of Hearsay Evidence in Indian Courts

Hearsay evidence is a significant aspect of Indian jurisprudence. Understanding its admissibility and exceptions is crucial for lawyers, judges, and other legal professionals. It is essential to strike a balance between the need to admit trustworthy evidence and the risk of admitting unreliable statements.

In many cases, such evidence can be critical, especially when direct witnesses are unavailable or deceased. The exceptions provided in the Indian Evidence Act recognize the value of certain hearsay statements in delivering justice.

Practical Considerations

Corroboration: In cases involving evidence that is hearsay, it is often essential to corroborate such evidence with other material evidence to strengthen its probative value and reliability.

Credibility of the Declarant: The credibility and reliability of the person who made the statement become crucial when assessing the admissibility of any evidence that is hearsay in nature. Factors such as the declarant's motive to lie or their state of mind at the time of making the statement can impact admissibility.

Burden of Proof: The burden of proof in a case remains with the party who seeks to establish a fact. Any evidence that is hearsay in nature can only be used to support or challenge the evidence presented by either party, but it does not shift the burden of proof.

Cross-Examination: The reason behind such strict hearsay rules lies in the fact that such evidence lacks the critical element of cross-examination, which is an essential tool for testing the credibility and reliability of witnesses.

Expert Opinion: Expert opinions can sometimes involve the use of hearsay evidence, particularly when the expert relies on information provided by others in forming their opinion. The court often assesses the expert's qualifications and the basis for their opinion in such cases.

Conclusion

Hearsay evidence is a complex and nuanced area of evidence law in India. While the general rule is that hearsay is not admissible, there are important exceptions that allow for its admission in

specific circumstances.

These exceptions are rooted in the principle of reliability, ensuring that statements made under certain conditions are considered trustworthy and can be used in court. Legal professionals must navigate these rules carefully to present or challenge evidence effectively, ultimately contributing to the fair and just resolution of legal disputes in India.

[To read more about Relevancy of Facts, click here!]