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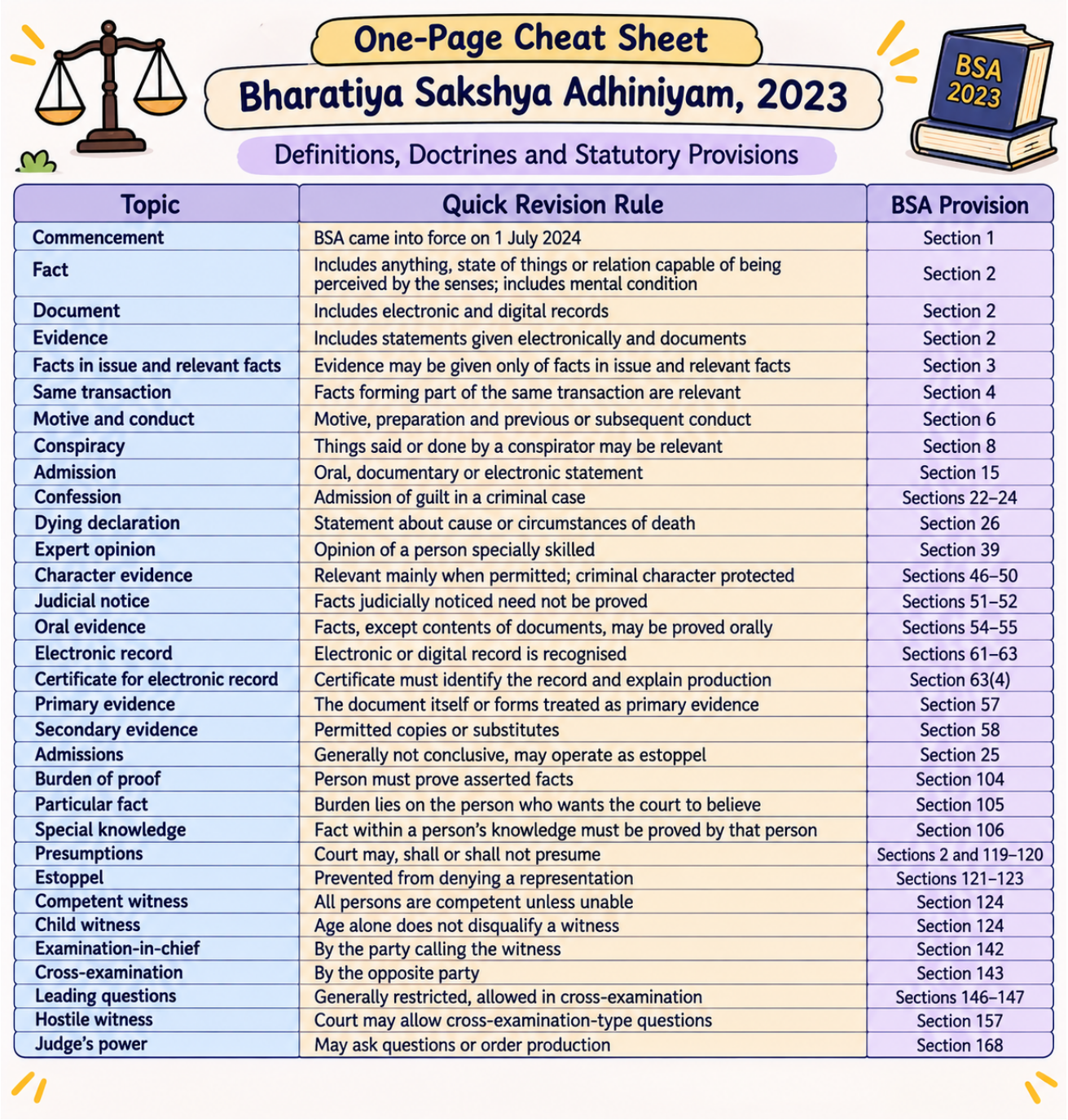
Quick Revision Notes(QRN): Bharatiya Sakshya Adhiniyam, 2023 (BSA) for CLAT PG

Julie Nigam · 16 Nov 2026

Quick Revision Notes: Bharatiya Sakshya Adhiniyam

The Bharatiya Sakshya Adhiniyam, 2023 (BSA) is India's primary law of evidence. It took effect on **1 July 2024**, replacing the **Indian Evidence Act, 1872**. Its main goal is to establish general rules and principles of evidence to ensure a fair trial. The Act applies to judicial proceedings before courts, including courts-martial, but not to affidavits or proceedings before an arbitrator. Students preparing for CLAT PG, should revise these quick revision notes on BSA which covers the important topics. Such as the basic difference between a fact in issue and a relevant fact, the rules of admissions and confessions, dying declarations, expert opinion, character evidence, documentary and electronic evidence, presumptions, burden of proof, estoppel and the examination of witnesses.

For detailed reading, see CLATalogue's notes on Burden of Proof under the Bharatiya Sakshya Adhiniyam and Admissibility of Electronic Evidence under the BSA, 2023.



Topic	Quick Revision Rule	BSA Provision
Commencement	BSA came into force on 1 July 2024	Section 1
Fact	Includes anything, state of things or relation capable of being perceived by the senses; includes mental condition	Section 2
Document	Includes electronic and digital records	Section 2
Evidence	Includes statements given electronically and documents	Section 2
Facts in issue and relevant facts	Evidence may be given only of facts in issue and relevant facts	Section 3
Same transaction	Facts forming part of the same transaction are relevant	Section 4
Motive and conduct	Motive, preparation and previous or subsequent conduct	Section 6
Conspiracy	Things said or done by a conspirator may be relevant	Section 8
Admission	Oral, documentary or electronic statement	Section 15
Confession	Admission of guilt in a criminal case	Sections 22–24
Dying declaration	Statement about cause or circumstances of death	Section 26
Expert opinion	Opinion of a person specially skilled	Section 39
Character evidence	Relevant mainly when permitted; criminal character protected	Sections 46–50
Judicial notice	Facts judicially noticed need not be proved	Sections 51–52
Oral evidence	Facts, except contents of documents, may be proved orally	Sections 54–55
Electronic record	Electronic or digital record is recognised	Sections 61–63
Certificate for electronic record	Certificate must identify the record and explain production	Section 63(4)
Primary evidence	The document itself or forms treated as primary evidence	Section 57
Secondary evidence	Permitted copies or substitutes	Section 58
Admissions	Generally not conclusive, may operate as estoppel	Section 25
Burden of proof	Person must prove asserted facts	Section 104
Particular fact	Burden lies on the person who wants the court to believe	Section 105
Special knowledge	Fact within a person's knowledge must be proved by that person	Section 106
Presumptions	Court may, shall or shall not presume	Sections 2 and 119–120
Estoppel	Prevented from denying a representation	Sections 121–123
Competent witness	All persons are competent unless unable	Section 124
Child witness	Age alone does not disqualify a witness	Section 124
Examination-in-chief	By the party calling the witness	Section 142
Cross-examination	By the opposite party	Section 143
Leading questions	Generally restricted, allowed in cross-examination	Sections 146–147
Hostile witness	Court may allow cross-examination-type questions	Section 157
Judge's power	May ask questions or order production	Section 168

1. Scope and Structure of BSA

The provisions of the BSA are categorised into four primary parts:

1. **Preliminary Provisions**: Covers the short title, applicability, commencement date, and key definitions.

2. **Relevancy of Facts**: facts in issue, relevant facts, admissions, confessions, unavailable witnesses, judgments, opinions and character.
3. **On proof**: facts that need not be proved, oral evidence, documentary evidence, public documents, presumptions and exclusion of oral evidence by documentary evidence.
4. **Production and effect of evidence**: burden of proof, estoppel, witnesses, examination of witnesses, improper admission or rejection and repeal and savings.

Evidence law is based on several recurring ideas:

- relevant facts should be brought before the court,
- irrelevant material should be excluded,
- the best available proof should ordinarily be produced,
- oral evidence should be direct,
- hearsay is generally excluded unless an exception applies,
- admissions may simplify proof but are not always conclusive,
- the prosecution carries the criminal burden, subject to statutory presumptions and special rules, and
- the judge must assess evidence as a whole rather than mechanically counting witnesses.

2. Facts in Issue and Relevant Facts

Fact in Issue

A fact in issue is a fact from which a legal right, liability or disability necessarily follows. In a criminal trial, whether the accused caused the death, whether the act was intentional or whether the accused had the required mental element may be facts in issue.

Relevant Fact

A relevant fact is not itself the ultimate issue but has a legally recognised connection with it. The BSA permits proof of facts in issue and facts declared relevant by the Act, and not of every fact that may appear interesting.

Important Categories of Relevancy

Same Transaction: Section 4

Facts forming part of the same transaction are relevant even when they occur at different times and places. This principle is commonly associated with *res gestae*. To qualify, the facts must be closely tied to the event rather than merely similar or remotely related.

Occasion, Cause or Effect: Section 5

Facts that represent the occasion, cause or effect of a fact in issue or relevant fact can be relevant. The surrounding circumstances and any opportunity for the event to happen can also help the court.

Motive, Preparation and Conduct: Section 6

Motive explains why a person may have acted, while preparation covers the steps taken before an event. Previous or subsequent conduct can be relevant if it is connected with the fact in issue. Motive by itself does not prove guilt, but it may support other evidence.

Common Intention or Conspiracy: Section 8

Things said, done or written by one conspirator in reference to the common design may be relevant against other conspirators after there is reasonable ground to believe that the conspiracy existed. A statement made after the common design has ended requires careful treatment.

Facts otherwise Irrelevant: Section 9

A fact may become relevant when it is inconsistent with a fact in issue, makes a fact highly probable or improbable, or supplies the context necessary to understand the event.

State of Mind and State of Body

Facts showing intention, knowledge, good faith, negligence, rashness, ill-will, bodily feeling or a relevant state of mind may be admitted when that state is in issue or relevant. The conduct or statement should be connected with the particular matter before the court.

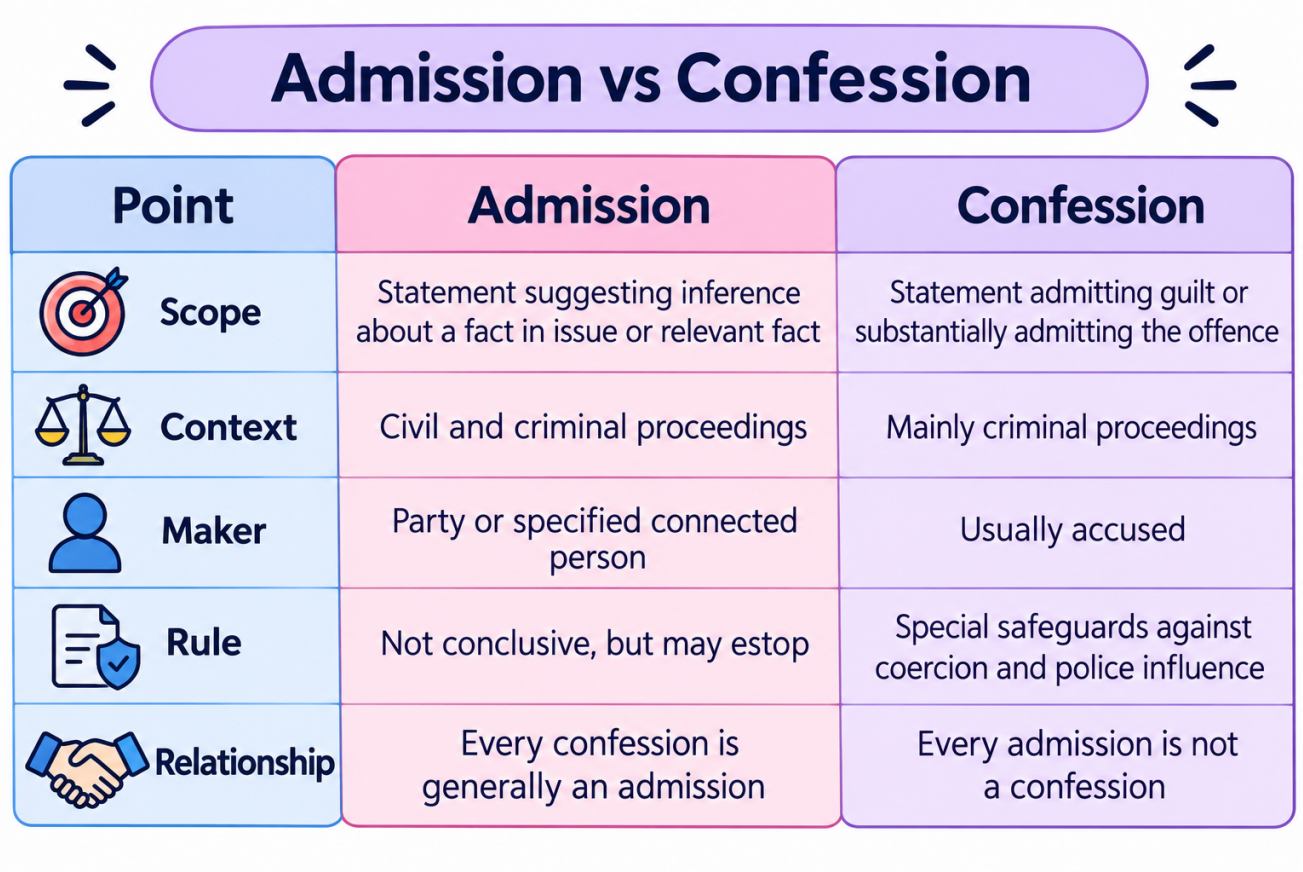
3. Admissions and Confessions

Admission: Section 15

An admission is an oral, documentary or electronic statement suggesting an inference about a fact in issue or relevant fact. It may be made by a party, an agent, a person whose position must be proved against a party, or a person expressly referred to by a party.

Admissions are relevant because a person's statement against their interest may make a fact easier to prove. However, an admission is not automatically conclusive. Section 25 states that admissions are not conclusive proof, although they may operate as estoppel.

An admission can be used against its maker. The maker may explain it, show that it was mistaken or prove that it is unreliable. A legal admission by counsel and a factual admission by counsel must also be distinguished. A lawyer generally cannot concede a legal position contrary to the client's instructions, but a clear factual statement made in proceedings may bind the client depending on the circumstances.



Confession

A confession is a statement by an accused admitting guilt or substantially admitting the offence. Every confession is an admission, but every admission is not a confession. The special rules on confessions mainly protect accused persons from coercion and unreliable police methods.

A confession caused by inducement, threat, coercion or promise from a person in authority is irrelevant in a criminal proceeding when it gives the accused a reasonable ground to expect an advantage or avoid a temporal evil in relation to the charge.

A confession made to a police officer cannot generally be proved against the accused. A confession made while in police custody is also protected unless made in the immediate presence of a Magistrate. The limited discovery rule allows only that portion of information which distinctly relates to the fact discovered.

A confession of a co-accused in a joint trial may be taken into consideration against another accused, but it is not generally treated as substantive evidence of the same quality as a confession made by the accused. It should not ordinarily be the sole basis of conviction.

Constitutional safeguards

Article 20(3) of the Constitution protects an accused from being compelled to be a witness against themselves. Supreme Court in *Nandini Satpathy v. P.L. Dani*, explained that the protection extends to compelled questioning that has a reasonable connection with the accusation. In *Selvi v. State of Karnataka*, involuntary narco-analysis, polygraph and brain-mapping tests were held to raise serious Article 20(3) and Article 21 concerns.

4. Statements by Persons who cannot be called as Witnesses

A statement made by a person who is dead, cannot be found, is incapable of giving evidence, is kept away by the opposite party or whose attendance cannot reasonably be secured may be relevant in the situations recognised by the BSA.

Dying Declaration

A statement relating to the cause of death or the circumstances of the transaction that resulted in death may be relevant when the maker has died. It is not necessary that the maker expected immediate death at the time of making the statement. The reason is practical: the maker is unavailable, and the law treats the statement as relevant because of its connection with the death.

A dying declaration may be oral, written, recorded electronically or communicated through signs, depending on the facts. A Magistrate's recording is desirable but not an absolute condition. The court must be satisfied that the maker was conscious, mentally fit and not tutored or influenced.

In *Laxman v. State of Maharashtra*, the Supreme Court decided that a medical certificate is helpful but not strictly required, as long as the person recording the statement is confident the maker is mentally fit and the evidence supports this.

Statements in the Ordinary Course of Business

Business records and account books maintained regularly may be relevant, but they cannot prove liability by themselves. The surrounding evidence and legal conditions must also be taken into account.

5. Opinion Evidence and Character Evidence

Expert Opinion

The court may consider the opinion of a person specially skilled in foreign law, science, art, identity of handwriting, fingerprints or other specialised matters recognised by the Act. Expert evidence is advisory. The judge remains responsible for deciding the issue.

In the *State of H.P. v. Jai Lal*, the Supreme Court held that an expert must have special study or experience and that the court should examine the reasons, data and methodology supporting the opinion. A bare conclusion is weak evidence.

The court must also distinguish between expert opinion and the expert's personal account of facts. An expert may explain specialised material but cannot decide the case for the court.

Character Evidence

In civil cases, character is generally irrelevant to prove that a person acted in a particular way, unless the character itself is in issue or the Act creates an exception. In criminal cases, the accused's good character may be relevant. The accused's bad character is generally not relevant unless the accused first introduces evidence of good character or the law permits it.

Character evidence should not become a shortcut for deciding guilt. The court must focus on the conduct charged and the legally admissible evidence connected with it.

6. Facts Exempt from Proof

Judicial Notice

Judicial notice may be taken by courts regarding facts deemed sufficiently indisputable or officially verifiable under the law. Such facts need not be proved through ordinary evidence.

Admissions

A fact admitted by a party need not be proved, although the court may require proof in the interest of justice. An admission is different from a concession that the court must accept without examination.

Estoppel

Estoppel prevents a person from denying a representation when they intentionally caused another person to believe it and act on that belief. The doctrine is based on fairness. It does not create a cause of action contrary to statute, and it cannot be used to validate an illegal act.

7. Oral Evidence and Documentary Evidence

Oral Evidence: Sections 54–55

Facts, other than the contents of documents, may be proved by oral evidence. Oral evidence must generally be direct:

- a witness who saw the event should speak about what they saw,
- a witness who heard a statement should speak about what they heard, and
- a witness who perceived a fact through another sense should describe that perception.

This is the general rule against hearsay. Hearsay is not admitted merely because it sounds believable. It is admitted only when a statutory exception or another recognised principle applies.

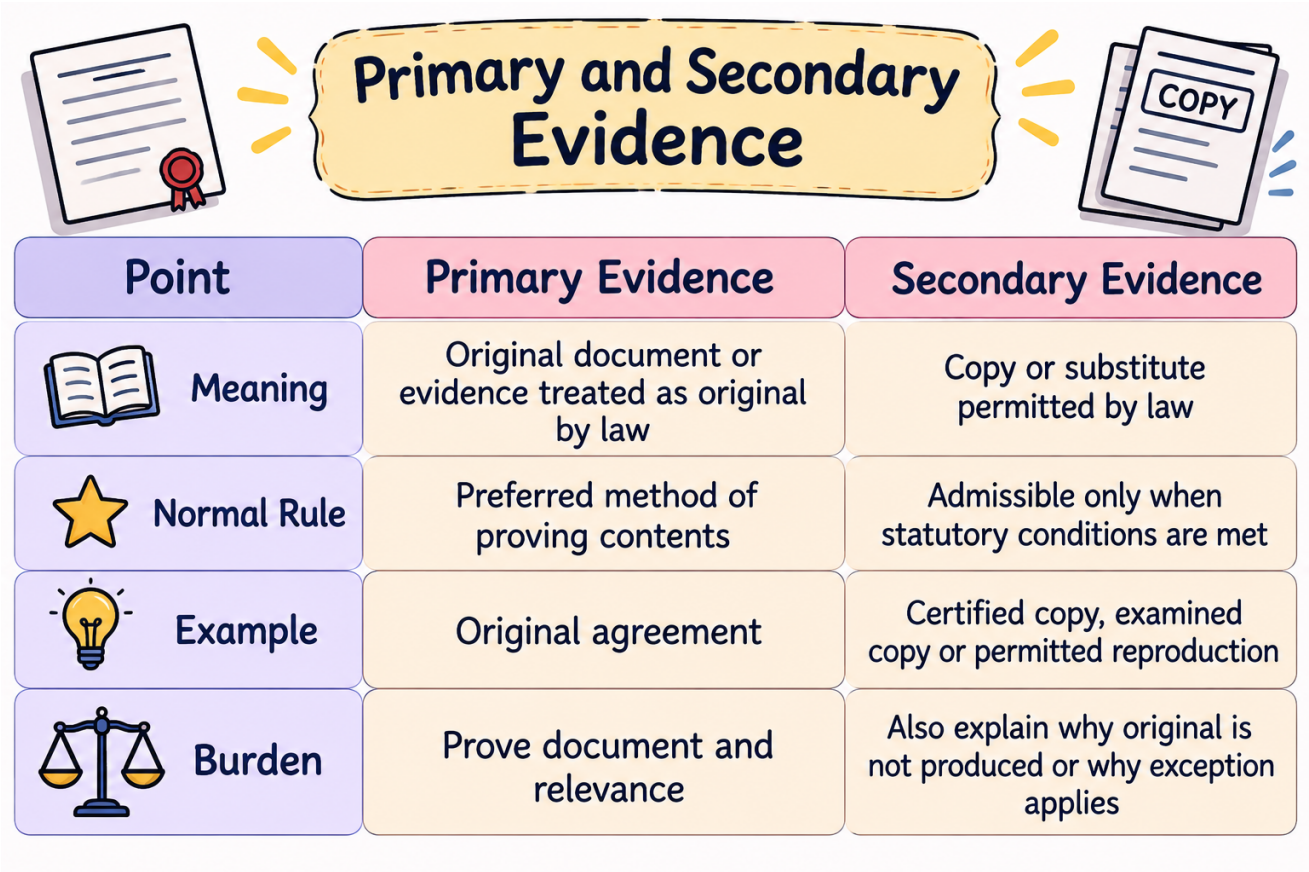
Documentary Evidence

Documents include paper records as well as electronic and digital records. The contents of a document are ordinarily proved through the document itself or admissible secondary evidence. The best-evidence principle prevents a party from relying on an inferior copy when the original is available without justification.

Primary and Secondary Evidence

Primary evidence is the document itself or a form of evidence treated as primary by the Act. Secondary evidence includes copies or substitutes allowed under specific conditions, such as when the original is lost, destroyed, held by the opposing party, or consists of public or bulky records.

Photocopies are not automatically admissible in court. The party must first show why secondary evidence is permitted and then prove its contents in the legally prescribed manner.



Exclusion of Oral Evidence by Documentary Evidence

When the terms of a contract, grant or disposition have been reduced to writing, the document is generally the best proof of those terms. Oral evidence cannot ordinarily be used to contradict, vary, add to or subtract from the document, subject to statutory exceptions such as fraud, mistake, want of consideration, illegality, separate oral agreement on a matter on which the document is silent and ambiguity of language or surrounding facts.

8. Electronic and Digital Evidence

The BSA expressly recognises electronic and digital records. Emails, messages, chats, server data, GPS records, computer outputs, CCTV footage, photographs, audio recordings, metadata and cloud records may be relevant electronic evidence. Relevancy alone does not establish authenticity or admissibility.

Sections 61–63

Section 61 gives electronic or digital records legal recognition as documents. Section 62 contains special provisions for evidence relating to electronic records. Section 63 deals with admissibility of electronic records and substantially carries forward the computer-output conditions associated with Section 65B of the Indian Evidence Act.

Under Section 63, a computer output may be admitted without producing the original device when the statutory conditions are satisfied. The conditions include:

- the computer or communication device was regularly used for the relevant activity,
- information of the relevant kind was regularly fed into it in the ordinary course,
- the device was operating properly, or any malfunction did not affect the record, and
- the output reproduces or is derived from information fed into the device in the ordinary course.

Certificate under Section 63(4)

When an electronic record is submitted through the computer-output route, a certificate must accompany it at each instance of submission. The certificate identifies the electronic record, explains how it was produced, gives relevant device particulars and addresses the statutory conditions. Under the text of Section 63(4), it is signed by the person in charge of the device or relevant activity and an expert, in the prescribed form.

The certificate is a method of authentication. It does not automatically prove that the contents are true. The opposing party may challenge the source, chain of custody, integrity, authorship, accuracy and relevance of the record.

Original Device and Certificate

The law distinguishes between producing the original electronic source and producing a computer output or copy. When the original device or source is produced in an admissible manner, the court must still examine authenticity and relevance. When a computer output is relied upon, the Section 63 conditions and certificate become important.

Important Electronic-Evidence Cases

- Anvar P.V. v. P.K. Basheer: electronic records produced as computer output require compliance with the certificate rule under the old Section 65B framework.
- Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal: While a certificate is generally mandatory for submitting secondary electronic evidence, courts have the discretion to order its production or summon the responsible individual when necessary.
- Tomaso Bruno v. State of Uttar Pradesh: Electronic records like CCTV footage can be crucial, and failing to present the best available evidence may weaken the prosecution's case.
- Sonu v. State of Haryana: objections to the mode of proof should ordinarily be raised at the appropriate stage. As the nature of the defect affects the remedy.

The BSA changes the statutory numbering and introduces a certificate format, but students should continue to know the principles developed under Section 65B because courts will use them while interpreting the new provisions.

Read Admissibility of Electronic Evidence under the BSA, 2023.

9. Onus of Proof and Legal Presumptions

Section 104: The General Rule

Whoever asks a court to rule on a legal right or liability must prove the facts they claim. In a criminal case, the prosecution generally carries the burden of proving the charge beyond

reasonable doubt.

Section 105: Particular Fact

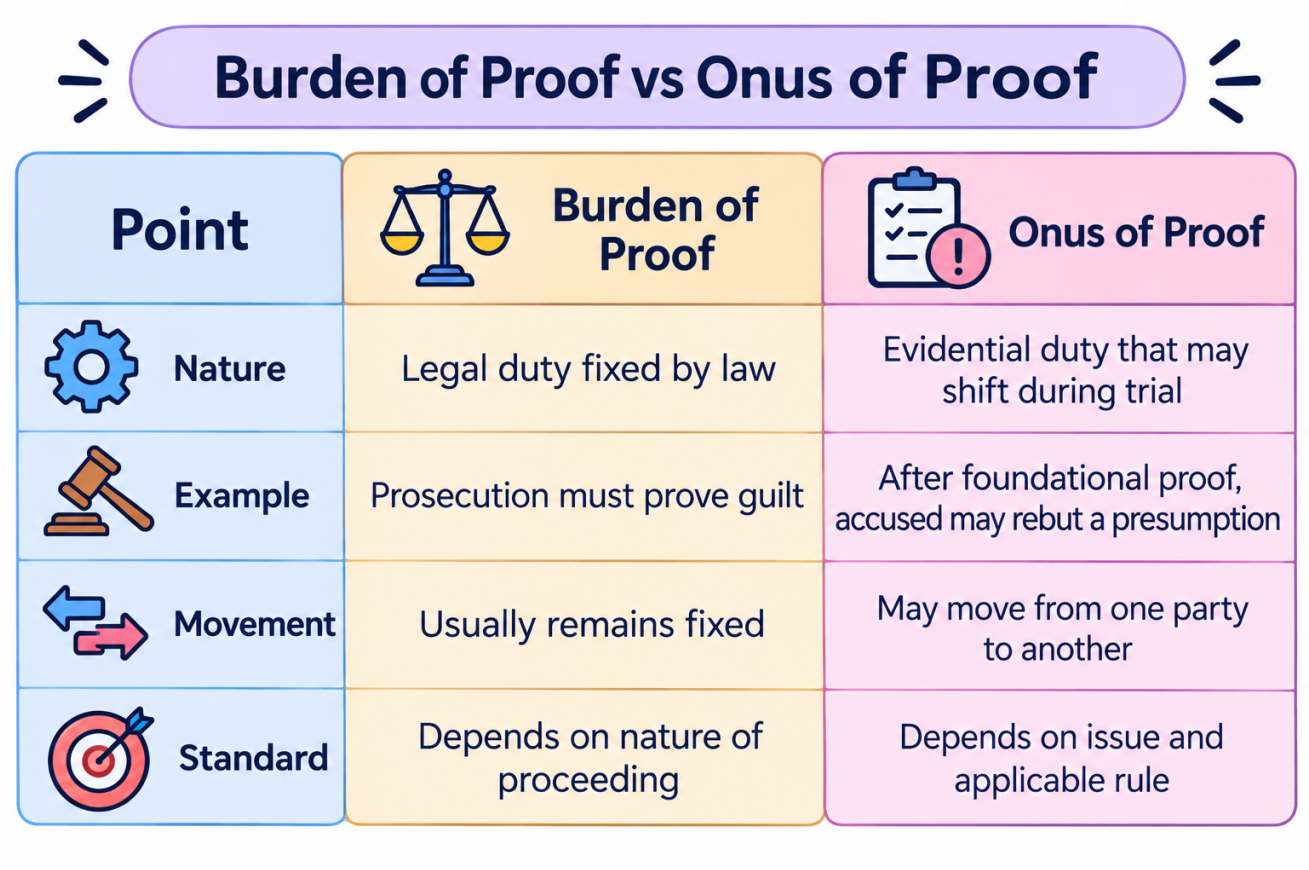
The burden of proving a particular fact lies on the person who wants the court to believe it, unless law places it elsewhere. If an accused relies on a general exception, the accused may have a burden to establish the facts bringing the case within that exception. This burden is not ordinarily the same as the prosecution's primary burden to prove guilt.

Section 106: Facts Especially Within Knowledge

When a fact is especially within a person's knowledge, that person has the burden of proving it. This rule does not relieve the prosecution of proving the basic case. It applies only after the prosecution has established a foundation and the relevant fact is particularly within the accused's or party's knowledge.

Burden and Onus

The legal burden remains fixed by law. The evidential onus may shift during the trial when one party produces sufficient material. For example, after the prosecution establishes foundational facts for a statutory presumption, the accused may have to rebut it on the balance of probabilities, depending on the statute.



Presumptions

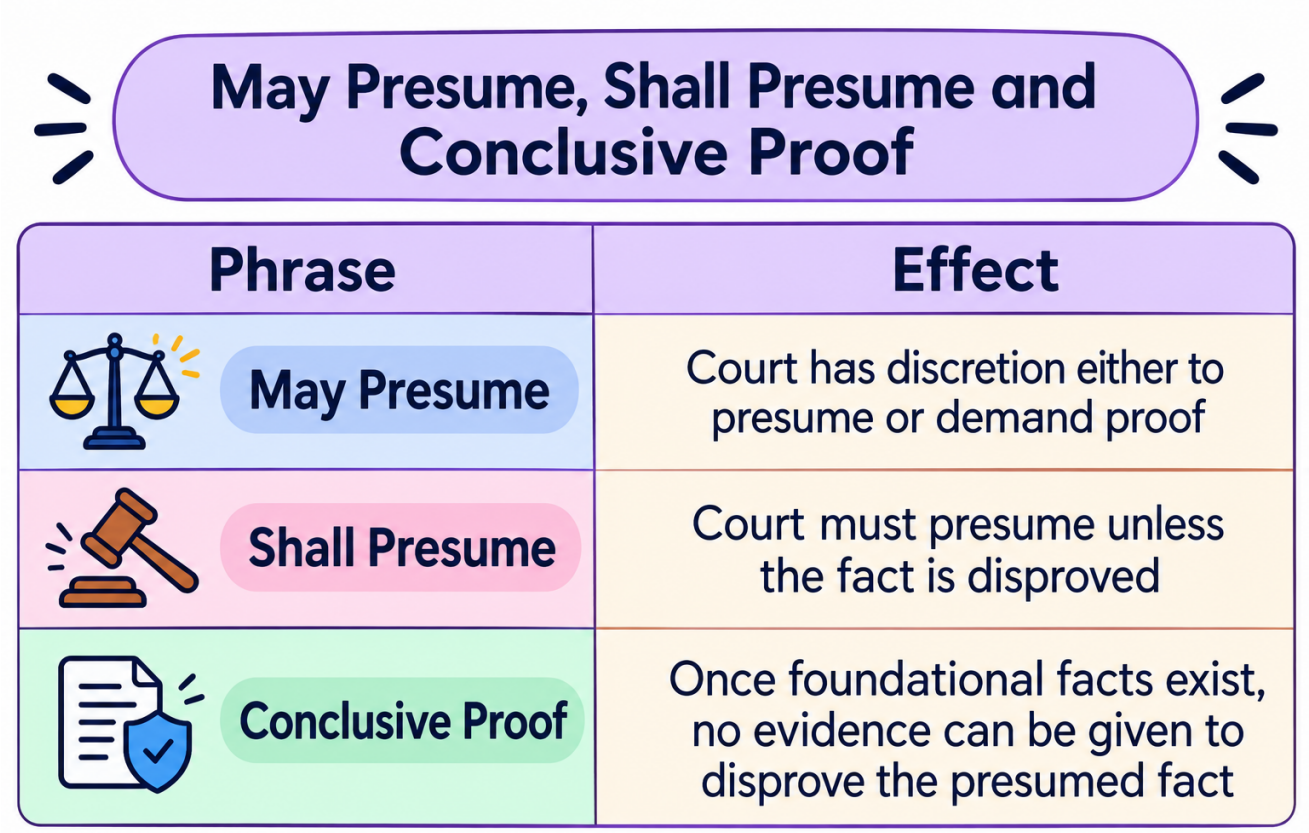
A may presume provision gives the court discretion to presume a fact or call for proof. A shall presume provision requires the court to presume the fact unless it is disproved. A conclusive proof provision prevents the court from allowing evidence to disprove the fact once the statutory conditions are met.

Presumptions are tools of reasoning, not substitutes for proof of every foundational fact. The party relying on a presumption must first satisfy the conditions that trigger it.

Important Presumptions

The BSA contains presumptions relating to documents, electronic records, official acts, absence of life, legitimacy, dowry death, abetment of suicide by a married woman and absence of consent in specified sexual-offence prosecutions. Each presumption must be read with its exact statutory language and conditions.

Read Burden of Proof under the Bharatiya Sakshya Adhiniyam.



10. Examination of Witnesses

Competency

Every person is competent to testify unless the court considers that the person cannot understand questions or give rational answers because of tender years, extreme old age, disease of body or mind or another similar cause. A child is not automatically disqualified. The court should test whether the child understands questions and the duty to speak truth.

Examination-in-Chief

The party calling the witness conducts the examination-in-chief. The purpose is to bring the witness's relevant account before the court.

Cross-Examination

The opposite party conducts cross-examination. It tests accuracy, memory, perception, bias, credibility, contradiction and omissions. Leading questions are generally permitted in cross-examination.

Re-Examination

The party that called the witness may re-examine them to explain matters raised in cross-examination. Re-examination is not a chance to introduce an entirely new case without permission.

Hostile Witness

A witness does not become useless merely because they depart from the earlier version or assist the opposing side. The court may rely on the credible part of the testimony. The party calling the witness may seek permission to ask cross-examination-type questions.

Accomplice Evidence

An accomplice is a competent witness against an accused. Conviction based on accomplice testimony is legally possible, but courts ordinarily look for material corroboration because the witness may have an interest in shifting blame or obtaining benefit.

Refreshing Memory

A witness may refresh memory using a writing made by them at the time of the event or soon after, or a writing shown to be accurate. The opposing party generally receives the right to inspect and cross-examine on the writing.

15 Important Evidence-Law Judgments for BSA Revision

S. No.	Case Name	Legal Principle / One-Line Holding
1.	Anvar P.V. v. P.K. Basheer	Secondary electronic evidence must satisfy the statutory certificate requirement; Section 63 of the BSA carries forward this central principle.

2.	Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal	The electronic-evidence certificate is generally mandatory for computer output, though courts may enable its production through appropriate procedure.
3.	Tomaso Bruno v. State of Uttar Pradesh	Courts may draw an adverse inference when the prosecution withholds important available electronic evidence, depending on the facts.
4.	State of Karnataka v. Shivanna	Investigation and procedural safeguards in sexual-offence cases must be treated seriously; evidentiary evaluation remains fact-specific.
5.	Laxman v. State of Maharashtra	A medical certificate is not an absolute precondition for a dying declaration if the evidence otherwise proves the maker's fitness and voluntariness.
6.	Khushal Rao v. State of Bombay	A truthful and voluntary dying declaration can support conviction without mandatory corroboration, but the court must carefully assess reliability.
7.	Pulukuri Kottaya v. King Emperor	Only the portion of information from an accused in custody that distinctly relates to the discovered fact is admissible.
8.	Nandini Satpathy v. P.L. Dani	Protection against compelled self-incrimination extends to police questioning connected with the accusation.
9.	Selvi v. State of Karnataka	Involuntary narco-analysis, polygraph and brain-mapping tests violate constitutional protections against compelled testimonial responses.
10.	Tofan Singh v. State of Tamil Nadu	An officer with police powers under the relevant narcotics law cannot use a confession recorded by that officer as a confession to the police for conviction.
11.	Sharad Birdhichand Sarda v. State of Maharashtra	Circumstantial evidence must form a complete chain consistent only with guilt and inconsistent with innocence.
12.	Kali Ram v. State of Himachal Pradesh	If two reasonable views are possible, the one favourable to the accused should be adopted; prosecution must prove guilt beyond reasonable doubt.

13.	State of U.P. v. Krishna Gopal	Evidence must be assessed by quality and reliability, not by mechanically counting witnesses or looking for mathematical certainty.
14.	State of H.P. v. Jai Lal	Expert opinion is advisory and must be supported by reasons, specialised knowledge and reliable material.
15.	Sat Paul v. Delhi Administration	A witness may be treated as hostile, but the credible portion of their testimony can still be relied upon after careful scrutiny.

Next Subject: Related Notes, Judgments and Mock Tests

After revising the BSA, move to the connected criminal-law subjects:

- Quick Revision Notes on BNS
- Understanding the Bharatiya Nagarik Suraksha Sanhita
- Questions on Bharatiya Sakshya Adhiniyam for CLAT PG
- MCQs on the Bharatiya Sakshya Adhiniyam
- Practice Questions on Bharatiya Sakshya Adhiniyam
- Sectional Test on Documentary Evidence for CLAT PG
- Sectional Questions on Circumstantial Evidence
- Top 100 Important Supreme Court Judgments for CLAT PG 2027