BLOGS

Types of Evidence in Indian Evidence Act, 1872

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Introduction

Various types of evidence holds paramount significance in legal proceedings as it substantiates claims and allegations in court. Without evidence, assertions lack substance. The term 'Evidence' originates from the Latin 'Evidens Evidere,' signifying clarity and noteworthiness in proof.

Section 3 of the Indian Evidence Act, 1872, defines the types of evidence in Indian Evidence Act and legal proceedings, encompassing two primary categories: oral evidence, which includes statements made by witnesses relevant to the matter under inquiry and presented with court authorization, and documentary evidence, comprising documents, whether physical or electronic, submitted to the court for examination.

This section establishes the fundamental framework for the admissibility and assessment of evidence in the Indian legal system, ensuring a systematic approach to presenting facts and information in court proceedings.

Types of Evidence in Indian Evidence Act

I. Oral Evidence

Oral evidence pertains to spoken statements and can stand alone as proof without the need for supporting documents, provided it is deemed credible. Primary oral evidence is firsthand, acquired through a witness's own sensory perception, making it direct evidence according to **Section 60** of the Indian Evidence Act.

Indirect or hearsay evidence, which involves a person reporting facts they did not directly witness, is generally inadmissible in court. However, exceptions exist, allowing the admission of hearsay evidence under specific circumstances, as outlined in **Sections 32** and **Section 33** of the Indian Evidence Act.

II. Documentary Evidence

Documentary evidence encompasses any material that conveys information through writing, symbols, or other means of recording. It is presented in the form of documents to substantiate contested facts in a legal proceeding.

Primary documentary evidence pertains to original documents, as defined in **Section 62** of the Indian Evidence Act. In contrast, secondary documentary evidence involves copies of documents admissible in court under specific conditions, as stipulated in **Sections 63** and **Section 65** of the Indian Evidence Act.

In legal proceedings, oral and documentary evidence falls into two main categories: direct and indirect.

I. Direct Evidence: This type of evidence offers clear and conclusive proof of a fact without the need for interpretation. For example, eyewitness testimony is direct evidence.

In legal contexts, we can understand direct evidence in two ways. Direct evidence refers to firsthand information that an individual acquires through their senses or personal perception.

In contrast, hearsay evidence involves information that someone else conveys to a witness, as Section 60 of the Indian Evidence Act emphasizes. On the other hand, direct evidence squarely pertains to the central issue and, if credible, can definitively establish or refute a fact. An example is the testimony of an eyewitness in a murder case.

Conversely, ***circumstantial evidence*** doesn't directly prove the primary issue; instead, it relies on deduction or inference. For instance, evidence suggesting a person had a motive to commit murder, was seen with a weapon near the crime scene, and was later discovered with blood-stained clothing constitutes circumstantial evidence.

II. Indirect Evidence: Indirect evidence establishes facts by presenting related but not directly conclusive facts. It relies on inference and deduction to support a conclusion. An example is

evidence indicating motive, opportunity, and actions surrounding a crime.

Emergence of Digital Evidence

In the realm of the Indian Evidence Act, there's a growing prominence of digital evidence, which refers to digital files collected from electronic sources. Think of it as stuff like audio and video recordings, emails, text messages, and documents snatched from places like storage systems, servers, and hard drives.

But here's the twist – investigators can even fish out digital evidence from unexpected sources like home gadgets and video game consoles! It's like bringing the digital world into the courtroom.

Under the Indian Evidence Act, the admissibility of electronic records is specified in Section 65 and Section 65B. Section 65B outlines the procedure for proving the contents of electronic records. According to Section 65B, printed information from electronic records on paper or copies made on optical or magnetic media are deemed secondary evidence if they meet certain conditions.

The original source of the information, i.e., the electronic device, is also admissible without further proof in court proceedings. The key elements for electronic evidence include authorization, regularity of storage, functioning state during storage or copying, and authenticity without distortion or manipulation.

Various types of electronic records, such as DVDs, CDs, hard drives, and more, are admissible in both primary and secondary forms, depending on how they are presented. Original audio and video recordings hold more value than copied versions, and compliance with Section 65B is necessary for their admission.

Emails are recognized as valid evidence, typically submitted as printouts with Section 65B certification. Mobile phone records, including media, calls, and emails, are admissible when presented in their original form, while copied versions must adhere to Section 65B requirements for court admission.

The case of ***Anvar P.V v. P.K.Basheer & Ors*** (2014) holds significant importance in today's technology-driven world as it dealt with the admissibility of electronic evidence in court, specifically considering ***Section 65B*** of the Indian Evidence Act, 1872.

In this landmark case, the Supreme Court reinterpreted the application of provisions 63, 65, and 65B of the Act of 1872, overturning its earlier decision in the case of ***State (NCT of Delhi) v. Navjot Sandhu*** (2005), also known as the Parliament Attack case.

The Supreme Court, comprising Chief Justice R M Lodha and Justices Kurian Joseph and Rohinton Fali Nariman, ruled that electronic records should be considered documentary evidence under Section 3 of the Indian Evidence Act. It emphasized that any documentary evidence presented in the form of electronic records under **Sections 59** and 65A must adhere to the procedure outlined in Section 65B.

Section 65B serves the purpose of approving electronic forms as secondary evidence in Indian courts, and the Supreme Court highlighted that Section 65B starts with a non-obstante clause.

Conclusion

Evidence is a crucial element in establishing the truth and substantiating claims in both civil and criminal cases. Its importance cannot be overstated, as it is the foundation upon which the outcome of a case relies. Various forms of evidence exist, each subject to specific criteria for relevance and admissibility. In essence, the resolution of a case hinges on the presence of evidence to support or refute the presented facts. Simply put, the absence of evidence renders the determination of case outcomes virtually impossible.