EVIDENTIARY VALUE OF EXPERT'S OPINION IN CRIMINAL TRIALS IN INDIA - A STUDY THROUGH SUPREME COURT JUDGEMENTS

Dr. Sambeeta Dabral, Nari Gursahani Law College

ABSTRACT

An important aspect of criminal justice system is the use of expert's opinion during criminal trials. In an adversarial system, an expert witness provides the court with the advantage of scientific and technical knowledge which is not available to a layman. In India, as a general rule, a statement made by a third person is not admissible in the court of law. However, such a statement becomes relevant as evidence if the third person falls within the category of an 'expert'. An expert evidence is considered as an opinion evidence. Hence, it is the duty of the court to decide whether to rely on the expert's opinion or not.

The legal system faces challenge when it comes to admissibility and reliability of expert evidence. The courts while admitting scientific evidence face the difficulty in choosing the veracity of scientific explanation which is tendered by the expert witness. Hence, the experts are called to the court to be examined. It is also observed that expert's opinion cannot be considered as more reliable than the ocular evidence and hence, the courts do not base their decision only on expert evidence unless it is corroborated by independent evidence.

The Indian laws render relevancy to expert's opinion but does not lay down the standard for reliability on such evidence. This paper contextualises the concept of expert evidence; law relating to expert's evidence and the evidentiary value of expert's opinion in criminal trials through a study of Apex courts judgements.

INTRODUCTION

Forensic science is a branch of pure and applied science which is extensively used in the criminal investigation as it is capable of answering the question relating to the crime commission and help the court in establishing it. It provides science-based information to the courts through analysis of physical evidence obtained from the crime scene and includes techniques such as fingerprint analysis, DNA profiling, ballistics, toxicology, serology, etc.

The infusion of science and technology in the criminal investigation throughout the world has been a major breakthrough in the process of advancement of the criminal justice system. Since the last few decades, the police authorities have been using various scientific tools and techniques for detection of crime, identification of the accused persons and establishing the link between the accused and the crime committed. We cannot deny the fact that the effectiveness of the criminal justice system has enhanced drastically because of the use of forensic science, one of the important branches of science used extensively in a criminal investigation in India.

The burden of administration of the criminal justice rests on four bodies namely, police, prosecution, court and prison. Their function is to detect, prevent, prosecute and penalise the offender to maintain justice in the society. For the police and prosecution to function effectively, forensic science has played a dynamic role in maintaining the justice.

Today, the collection of forensic evidence has become an essential part of a criminal investigation. It fulfils several roles such as -

a) It establishes the commission of the crime;
b) It relates the accused with the victim or with the crime scene;
c) It establishes the identity of the accused person associated with the crime;
d) It corroborates the victim's testimony and assists in establishing the fact-in-issue, especially in heinous crimes.

Forensic evidence, also known as scientific evidence, has led to arrest and prosecution of the offenders in criminal cases, especially in heinous crimes such as culpable homicide cases. Scientific evidence is apparent in modern legal decisions. The question, however is which kind

of forensic evidence and how much of scientific knowledge is useful and accepted by the Indian courts especially in criminal matters.

Its use has proven problematic for both judges and lawyers because most of them are not technically trained. Much of the difficulty encountered by courts when facing scientific evidence lies not in a lack of understanding the underlying science but in the task of relying upon the scientific explanations tendered by the individuals known as experts and the delay that is caused due to the involvement of an expert in the case.

To curtail the delay and expenses involved in securing the assistance of experts, the law has dispensed with examination of some scientific experts. Section 293(2) of the Criminal Procedure Code,1973, the Court may if it thinks fit, summon and examine any such expert as to the subject-matter of his report, namely -

a) Any Chemical Examiner / Assistant Chemical Examiner to the Government,
b) The Chief Controller of explosives
c) The Director of Fingerprint Bureau
d) The Director of Haffkein Institute, Bombay
e) The Director, Dy. Director or Assistant Director of Central and State Forensic Science Laboratory.
f) The Serologist to the Government,
g) Any other Govt. Scientific Experts specified by notification of the Central Govt.

The report of any of the above Government Scientific Expert is admissible as evidence in any inquiry, trial or other proceeding and the court may, if it thinks fit, summon and examine any of these experts. But his personal appearance in the court for examination as witnesses may be exempted unless the court expressly directs him to appear personally. He may depute any responsible officer to attend the court who is working with him and conversant with the facts of the case and can depose in the court satisfactorily on his behalf.

Expert evidence presents several challenges to any legal system, and the international criminal justice system is no exception. The judges usually have no scientific or special training or knowledge, and accordingly would not be expected to form independent opinions on matters of science, including the social sciences, involving complex quantitative and qualitative

analyses. For that reason, the courts make use of experts who, due to their knowledge or training, can provide explanations that the court may rely upon in its decision making.

The expert evidence and the challenges it pose in the decision making by the courts is been discussed nationally and internationally for so many decades that it has become a 'talk of the town' pertaining to the issue of admissibility of expert evidence.

The function of an expert witness is to provide information about a point in issue or to help the court to interpret an information regarding a fact-in-issue, which is beyond the knowledge and experience of the court. Such a testimony of an expert witness helps the court to conclude the commission of the crime.

WHO IS AN EXPERT?

According to Powell, an expert is a person who has devoted time and studies to a special branch of learning and is especially skilled in the points in which he is asked to state his opinion.[1]Such a skilled person gives his opinion, not being an eye witness to the occurrence.

As per Lawson, an expert is a person who has special knowledge and skills in relation to a subject which is related to the enquiry before the concerned court.[2]

The term 'expert' is applied to a particular category of witness who is allowed to act as an expert witness and express his opinion related to the fact/s of the case, unless he qualifies to be called an expert as per S. 45 of Indian Evidence Act, 1872.[3] The provision under the Act does not lay down any standard or experience which qualifies a person to give evidence as an expert. Under the Act, a witness or a person is considered an expert if he is skilful or has acquired a skill in any particular art, science, trade and commerce etc. and possesses special knowledge in a particular area. He must either have done a special study on the subject or has acquired experience in the concerned area for a substantial period of time.

[1] Monir, *Law of Ev*idence, 10th Edition, 1979
[2] Lawson Evidence, Rule 2 Section 440 as quoted in John Woodroffe and Syed Amir Ali, *Law of Evidence* (16'" ed The ILaw Book Co (Pvt Ltd) 1996
[3] Ram Das V. Secretary of State, AIR 1930 All. 587

However, whether a person is fit to be an expert or not is a question to be decided by the Judge. Whenever a witness appears as an expert in a case, he must prove himself to be an expert in a particular science, art, trade or foreign law, he represents.

In a case where a person represents himself as an expert and places his opinion on record, the question must be asked whether the witness is sufficiently qualified by study or experience to act as an expert.[4]

In India, during the examination of witnesses, if a witness is produced as an expert witness and shown that the said witness is competent as an expert, his opinion will be taken as admissible. In law, there is no hard and fast rule to test the reliability of an expert's opinion. When an expert makes a statement in the form of an opinion, his opinion is taken as an expert's testimony.

The evidence of an expert witness differs from other ordinary or lay witnesses in the following respects -

a) Expert's opinion needs not be confined to actual facts. For example, a doctor performing post-mortem may not have been seen the assault but can give an opinion about the cause of death;
b) He can form an opinion on the basis of the experiments carried by him;
c) He can site treaties or books of admitted authority to establish his opinion relating to certain facts of the case.

The question is whether an expert ought to have a specific educational qualification in order to qualify as an expert? The Madras High Court in *Abdul Rehman v. State of Mysore*,[5] held that the opinion of a professional goldsmith as to the purity of the gold in question was held to be relevant as the opinion of an expert though he had no formal qualifications, his only qualification being his experience. An expert could be qualified by skill and experience as well as by professional qualifications.[6]It is not mandatory for an expert to have professional qualifications in the form of degree and diploma certificates. The question of competency of a witness as an expert is to be decided by the judge of the court in the concerned trial. However,

[4] Jarat Kumari Dassi v. Bissessur Dutt, 1912 ILR 39 Cal 245
[5] (1972) Cri LJ 407
[6] State of A. P. v. Gangala Satya Murthy, (1997) 1 SCC 272

compliance of S. 45 of Indian Evidence Act, 1872 is mandatory before accepting a person as an expert.

Expert is a useful witness where his evidence may constitute keystone of the case. An expert may be useful in any of the following ways -

- He may supply one or more missing links as evidence;
- He may strengthen one or more missing links in the chain of evidence;
- He may help in checking the accuracy of statements made by other important witnesses.

ADMISSIBILITY OF THIRD PERSON'S STATEMENT AS EXPERT OPINION

The legal system world-wide faces many challenges when it comes to the admissibility of expert evidence. The judges do not usually have special scientific knowledge and accordingly, they are not expected to form an independent opinion on matters of science, including the social sciences, involving complex quantitative and qualitative analyses. For that reason, the courts make use of experts who, due to their knowledge or training, can provide explanations which may be relied upon in decision making.

Admissibility means allowing something as judicial proof; the quality of being admissible. *Admissible evidence* means that the evidence introduced is of such a nature that the Court or Judge is bound to receive it; that is, allow it to be introduced at trial. For evidence to be admissible, it must be relevant.[7] It means the quality or state of being allowed to be entered into evidence in a hearing, trial or another official proceeding.[8]

The advent and advancement of science and technology introduced a marked change in the criminal justice system all over the world. These scientific advancements affected the evidence which was presented in the courts which included expert evidence. Expert evidence was based on science. However, the judges faced problem in understanding whether to admit the expert evidence or not as if they excluded its admissibility, it would affect the decision of the case.

In the United State of America, till 1923, there was no proper standard of admissibility of expert

[7] P Ramanatha Aiyar, *Concise Law Dictionary, 3rd Edition*, 2010, Lexis Nexis Butterworths, Wadhwa, Nagpur
[8] *Black's Law Dictionary, Ninth Edition*, Bryan A Garner, west, 2009

evidence to guide the courts. But in case of Frye v United States[9], a standard for evaluating the testimony of the experts was laid down by the Court. Frye's judgement was considered as the first most important decision passed by an American court over the issue of admissibility and acceptance of scientific evidence in the courts.

In India, the Indian Evidence Act, 1872 deals with the relevancy of expert's opinion in the Court. As per the Act, evidence may be given of only those facts which are personally known to a witness. However, these provisions are exceptional in nature to the general rule. It is based on the principle that the court cannot form an opinion or conclude on a matter which is technically complicated and sophisticated, without the help and assistance from a person who possesses special skill and knowledge on that matter. Such persons who have special knowledge such as medical, chemical, explosive, ballistic, fingerprint analysts are known as forensic experts.[10] Evidence may be given of fact-in-issue and relevant facts and of no others.[11] In India, there is no special law for the general acceptance or admissibility of forensic evidence and of expert's opinion. S. 45 of the Indian Evidence Act, 1872 is resorted to in this regard which deals with the opinion of the third person, when relevant.

> *'When the Court has to form an opinion upon a point of foreign law, or of science or art, or as to identity of handwriting [or finger impressions], the opinions upon that point of persons especially skilled in such foreign law, science or art, or in questions as to identity of handwriting [or finger impressions] are relevant facts. Such persons are called experts.'*[12]

The following conditions need to be fulfilled before admitting an expert's opinion-

1. that the concerned dispute cannot be resolved without an expert's opinion, and
2. the person expressing an opinion is fit to be called an expert.

Today, it is a well-settled rule that an expert's opinion cannot be more reliable than the testimony of the witness and hence, a judgement cannot be based on the sole testimony of an expert opinion. It is also unsafe to base a conviction purely on the opinion of an expert without substantial corroboration. The courts do not base their decision only on expert evidence unless it is supported by other independent evidence. Once experts' evidence is proved and admitted

[9] 293 F. 1013 (DC Cir. 1923)
[10] S P Sarkar, *Commentary on The Law of Evidence, second edition*, Dwivedi Law Agency
[11] S. 5 of the Indian Evidence Act, 1872
[12] The Indian Evidence Act, 1872 (1 of 1872), Professional's Book Publishers, 2018

as evidence, it can be read as part of the statement of the author. If the report of the expert is proved by its author, it can be into consideration.[13]

The Indian courts have time and again said that 'opinion evidence is not decisive and substantial evidence.' It is only where there is no direct evidence that expert evidence becomes relevant. It may be that, in a given case the opinion evidence about the identity of fingerprints or handwriting may be so categorical and indisputably good that a party's case to the contrary sought to be proved by his own interested testimony or the testimony of such witnesses as could be said to be equally interested or otherwise unreliable, maybe disbelieved in the light of the opinion of the expert. But if the direct evidence of the witnesses is clear and there is nothing improper or incredible about their evidence and the same is believed by the trial court which had the opportunity of seeing the witnesses and watching their demeanour, and there is no other evidence on the basis of which the direct evidence of those witnesses could be discredited as false, the opinion of the experts cannot outweigh such direct evidence.[14]

In England, an expert's hearsay opinion is admissible only if the facts and data underlying the opinion are disclosed before the court. In India, the position is the same as in England. The rule excluding hearsay opinion is stricter. Section 60 of the Indian Evidence Act, 1872 states that oral evidence must, in all cases, be direct. The only exception (regarding expert evidence) to this rule is enumerated in Sections 292 and 293 of the Code of Criminal Procedure. According to these Sections, the report of Government scientific experts is admissible even though they are not examined. He is also not bound to disclose the nature of particulars of any test or experiments conducted in the course of the examination of the thing he was entrusted. The court has, however, been given the discretion to summon and examine any such expert as to the subject matter of his report. Section 293 renders admissible the report of the Chemical Examiner as a whole, including the averments with regard to the condition of the sample and the seals thereon and the manner of its receipt.

RELIABILITY AND EVIDENTIARY VALUE OF EXPERT'S OPINION

If we observe the trend of the judicial decisions, it leads us to two generalisations pertaining to the probative value of expert evidence -

[13] Rajkumar v. State, 2005 Cr.L.J. 1322 (J&K)
[14] Brij Basi v. Moti Ram and others, AIR 1982 Allahabad 323

1. Expert evidence is not substantive evidence of conclusive nature, but a corroborative evidence;
2. The Court shall satisfy itself as to the value of expert's evidence in the same way in which it would satisfy it regarding the value of other evidence.[15]

Practically, courts do not place its reliance on expert's evidence unless it is corroborated with other evidence.

An expert witness is essential for the proper functioning of the criminal justice system. Without an expert's opinion regarding facts-in-issue, it will be very difficult to establish the truth involved in the case. Expert's testimony serves two important purposes -

1. They inform the judges that the eye witness's testimony may not be taken as completely reliable evidence; and
2. They educate the judges that human memory may affect the accuracy of identification and that science may be relied upon for establishing the truth.[16]

Experts act as consultants to the legal system. The legal system takes the help of experts wherever necessary to help law achieve its ends. For example, in culpable homicide cases, forensic evidence is an integral part of the investigation. They are used in a trial in order to establish the guilt of the accused person.

Till today, there is general acceptance of admissibility of scientific evidence and expert's Opinion in Indian Courts. There is no special law with respect to this except Section 45 of the Indian Evidence Act which is insufficient in this regard. However, various courts have through their decisions laid down precedents with respect to the evidential value of expert's opinion in criminal cases which are analysed below -

- The expert's evidence is only a piece of evidence. A Judge of fact will have to consider that evidence along with the other pieces of evidence. Which is the main evidence and which is the corroborative one depends upon the facts of each case? But this general

[15] Ladharam Narsinghdas V. Emperor [AIR 1945 Sind.4]
[16] Daniel A. Bronstein, *Law for the Expert Witness,* Jaylon and Francis Group, LLC, 4th Ed. 2012

statement does not really affect the decision made by the Judge, as he has considered the entire evidence along with the expert's evidence.[17]

- It is a well-settled position of law that the Court is the expert of experts. The evidence of expert is not substantive evidence, but it is only a corroborative piece of evidence.[18] The courts do not consider it conclusive. Without independent and reliable corroboration, it may have no value in the eye of law. Once the court accepts an opinion of an expert, it ceases to be the opinion of the expert and becomes the opinion of the court.
- An expert is not an accomplice. There is no justification for condemning his opinion-evidence to the same class of evidence as that of an accomplice and insist upon corroboration.
- It has occasionally been said on very high authority that it would be hazardous to base a conviction solely on the opinion of a handwriting expert. But, the hazard in accepting the opinion of any expert, handwriting expert or any other kind of expert, is not because experts, in general, are unreliable witnesses, the quality of credibility or incredibility being one which an expert share with all other witnesses, but because all human judgment is fallible and an expert may go wrong because of some defect of observation, some error of premises or honest mistake of conclusion. The more developed and the more perfect a science, the less the chance of an incorrect opinion and the converse if the science is less developed and imperfect. The science of identification of finger-prints has attained near perfection and the risk of an incorrect opinion is practically non-existent. On the other hand, the science of identification of handwriting is not nearly so perfect and the risk is, therefore, higher.
- An expert deposes and not decides. His duty is to furnish the judge with the necessary scientific criteria for testing the accuracy of his conclusion, so as to enable the judge to form his own independent judgment by the application of these criteria to the facts proved in evidence.
- It is to be borne in mind that the opinion of an expert in writing is the weakest and the least reliable evidence and that it is not at all safe to base a conviction upon the opinion of writing expert alone. Courts have refused to act upon the evidence of expert unless it is corroborated by independent evidence. In a catena of decisions, it was ruled by the

[17] Guntaka Hussenaiah v. Busetti Yerraia, AIR 1954 AP 39
[18] Umed Chand Ramola v. State of Uttaranchal, 2006 Cr.L.J 951 Uttarakhand

Apex Court that it would be highly unsafe to convict a person on the sole testimony of an expert. Therefore, the evidence of the expert who deposed in court basing on the opinion given by him earlier cannot be said to be conclusive proof. It is so more particularly because of the fact that the said evidence is not corroborated by any independent evidence. An opinion based on the specimen signatures which are not taken in open Court, cannot be relied upon by the Court as it is not a valid opinion. Therefore, a conviction cannot be based solely placing reliance on such opinion.[19]

- Over-dependence on opinion evidence, even if the witness is an expert in the field, to challenge the direct testimony by an eyewitness is not safe modus adoptable in criminal cases. It has now become unquestionable that medical evidence can be used to repel the testimony of eyewitnesses only if it is so conclusive as to rule out even the possibility of the eyewitness's version to be true. A doctor usually confronted with such questions regarding different possibilities or probabilities of causing those injuries or post-mortem features which he noticed in the medical report may express his views one way or the other depending upon the manner the question was asked. But the answers given by the witness to such questions need not become the last word on such possibilities. After all. he gives only his opinion regarding such questions. But to discard the testimony of an eyewitness simply on the strength of such opinion expressed by the medical witness is not conducive to the administration of criminal justice.[20]
- The expert opinion is only opinion evidence on either side and does not aide the court in interpretation.[21]
- Once the report of the expert is proved and admitted into evidence it can be read as part of the statement of the author of the report i.e. the expert. It is not necessary that the report should be corroborated by his statement before Court, for taking it into consideration.[22]
- It is well settled that medical evidence is only an evidence of opinion and it is not conclusive and when oral evidence is found to be inconsistent with the medical opinion, the question of relying upon one or the other would depend upon the facts and circumstances of each case. No hard and fast rule can be laid down. The ocular evidence if otherwise is acceptable has to be given importance over medical opinion. However,

[19] M. Durga Prasad, Spl. Assistant, Syndicate Bank and etc v. The State of A.P. and etc., 2004 Cr.L.J 242 A.P.
[20] Ram Swaroop v. State of Rajasthan, 2008 Cr.L.J 2259 SC
[21] The Forest Range Officer and others V. P. Mohammed Ali and others, AIR 1994 SC 120
[22] Raj Kumar v. State, 2005 Cr.L.J 1322 J & K

where the medical evidence totally makes the ocular version improbable the same can be taken to be a factor to affect the credibility of the prosecution version. Thus, no reliance can be placed upon the opinion of the Medical Officer that the injury in question could have been caused only with bullet since he is not a ballistic expert. This part of the evidence of the Medical Officer cannot be considered to be the opinion of an expert and the same has no evidentiary value.[23]

- If the medical evidence is at variance with ocular evidence, it has to be noted that it would be erroneous to accord undue primacy to the hypothetical answers of medical witnesses to exclude the eye-witnesses' account which had to be tested independently.[24]
- It is also settled position of law that opinion of an autopsy Surgeon is not evidence in the real sense of fact in issue but when such an opinion is accepted by the Court, it assumes considerable significance as corroborative value of substantive evidence.[25]
- When the ocular evidence is totally consistent with the opinion of doctors who have given injury report and the post-mortem report and it is clear that the bullet fired from revolver by accused had damaged the spinal cord of the victim leading to paralysis of both lower limbs of victim and consequent death, the absence of ballistic expert's evidence is not fatal to the case of prosecution, notwithstanding the fact that the Forensic Science Laboratory, in its report had not expressed a definite opinion about the bullet recovered from the place of occurrence.[26]
- Where the eye-witnesses' account is found credible and trustworthy, medical opinion pointing to alternative possibilities is not accepted as conclusive. As per Bentham, “Witnesses are the eyes and ears of justice”. Eye-witnesses' account would require a careful independent assessment and evaluation for their credibility which should not be adversely prejudged, making any other evidence, including the medical evidence, as the sole touchstone for the test of such credibility. The evidence must be tested for its inherent consistency and the inherent probability of the story; consistency with the account of other witnesses held to be creditworthy; consistency with the undisputed facts; the 'credit' of the witnesses; their performance in the witness-box; their power of

[23] Mahmood and Anr v. State of U.P, 2008 Cr.L.J 696 SC
[24] D. Sailu v. State of A.P, 2008 Cr.L.J 686 SC
[25] Hari Narayan Singh (in Jail) v. State of W. B, 2009 Cr.L.J 4001 Calcutta
[26] Vineet Kumar Chauhan v. State of U. P, 2008 Cr.L.J 1367 SC

observation etc. Then the probative value of such evidence becomes eligible to be put into the scales for accumulative evaluation.[27]

- Ordinarily, the value of medical evidence is only corroborative. It proves that the injuries could have been caused in the manner alleged and nothing more. The use which the defence can make of the medical evidence is to prove that the injuries could not possibly have been caused in the manner alleged and thereby discredit the eyewitnesses. Unless, however, the medical evidence in its turn goes so far that it completely rules out all possibilities whatsoever of injuries taking place in the manner alleged by eyewitnesses, the testimony of the eyewitnesses cannot be thrown out on the ground of alleged inconsistency between it and the medical evidence.[28]

CONCLUSION

A most important aspect of expert evidence is that it must be correctly interpreted by the Court. The lawyers must understand the logic of inference laid down by the expert or scientist, which may involve a specific science. However, the inference drawn by the result is not always confined to a science. The inference drawn is a matter of logic and can be deduced by everyone involved in the legal process. Evidence must be given by an expert in such a way that it must clearly express its value and the court can corroborate or connect it with other evidence involved in the case.[29]

It is a general view that there is a failure of communication between the expert and the lawyers (prosecutor and defence). Experts contend that lawyer prevents them from giving the evidence the way it is and the lawyers complain that the experts or scientists do not understand the legal process and testify whatever they feel is right.

In order to solve this problem, it is necessary that the lawyers must have a good understanding of science and the experts must realise how much of his testimony will be important to be put up in the case. Also, there are certain aspects such as probability on which the two must communicate with each other.

[27] State of U. P v. Hari Chand, 2009 Cr.L.J 3039 SC
[28] Solanki Chimanbhai Ukabhai v. State of Gujarat, AIR 1983 SC 484
[29] Bernard Robertson, G.A. Vignaux, et al., *Interpreting Evidence: Evaluating Forensic Science in the Courtroom*, 2nd *Ed*., 2016, Wiley

185th Law Commission Report

A comprehensive report on the Indian Evidence Act, 1872 was submitted by the Law Commission of India in its 185th report. The 69th report by the commission was submitted in 1977 but a due lapse of time, it could not be implemented. It was produced before the commission in 1995 to bring necessary changes in the Act. The commission worked on the recommendations. Some were amended, some were removed and some new recommendations were made for the effective implementation of Indian Evidence Act, 1872.

The law commission in its report in 2003 made the following recommendations -

a. Addition of 'foot prints, palm impressions or typewriting' in S. 45 of the Act;

b. Addition of S. 45A which deals with the duty of the expert witness -

    i. to give a detailed report of its opinion in writing to all parties of the case along with the grounds of the opinion formed;
    ii. give details of his qualification; materials he has relied on in making the report; people who assisted him in his work along with their qualifications; the summary of conclusion; understanding his duty as an expert; etc.

c. addition of S. 45 B which deals with the procedure to prove foreign law and courts power regarding accepting it as evidence;

d. S.45 is to be read with S. 11 (when facts not otherwise relevant become relevant), S. 38 (relevancy of statements as to any law contained in law books), and proviso to S. 60 which deals with a situation where because of no expert witness treatises may be quoted as evidence.[30]

The above recommendations were made by the Law Commission in order to make the law relating to the acceptability of expert's opinion more concrete. However, even after fifteen years of submitting the recommendations by the Commission, the Evidence Act of 1872 has not yet been amended. It is time that the recommendations be implemented so that any doubt on the relevancy of expert evidence be clarified and eliminated and its credibility be enhanced.

[30] Law Commission of India, *185th Report on Review of the Indian Evidence Act, 1872*, March, 2003