
ANALYSIS OF ADMISSIONS UNDER INDIAN EVIDENCE ACT, 1872

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INTRODUCTION

Indian Evidence Act, 1872 is codified to “consolidate” the law of evidence in India. Consolidation refers to the collection of all statutory enactments or specified subjects under one statute's protection. The law of Evidence that was formulated on rules of English Law has been formulated and codified under Indian Evidence Act, 1872. In the case of *Norendranath Sircar v. Kamalabasini Dasi*¹ the Hon'ble Court stated that –“Th object of codifying a particular branch of the law is that on any point specifically dealt with, the law is that on any point specifically dealt with, the law should thenceforth be ascertained by interpreting the language used in that enactment, instead of, as before, searching in the authorities to discover what may be the law, as laid down in prior decisions”

In the case of *State Bank of India v. Om Narain Agrawal*², the Hon'ble Court stated that- “The main function of rule of law of evidence is to narrow down the scope of the dispute before the Hon'ble Court to the fact relating to the that matter which has logical probative value in determining a fact and to prevent giving judgements based on illogical conclusions or prejudices and as an aid to the administration of justice.”

A statement made by witnesses that indicates inference to any fact in question or significant fact in a case is described as an admission under Section 17 of the India Evidence Act, 1872. Admission can be in the form of a document, an oral statement, or an electronic file, according

¹ 1896, ILR 23 Cal 563.

² AIR 2011 All 169

to this section. Sections 17 through 31 of the Indian Evidence Act deal with admission. General admission is dealt with in Sections 17 to 23, while Confession is dealt with in Sections 24 to 31. In a criminal proceeding, a confession is the accused's admission of guilt. "Admissions are considered primary evidence and they are admissible to prove even the contents of written documents, without notice to produce, or accounting for the absence of, the originals." In the case of *Bishwanath Prasad And Others vs Dwarka Prasad*³, the Hon'ble Supreme Court stated that - "Admissibility is substantive evidence of the fact which is admitted when any previous statement made by the party used to contradict a witness does not become substantive evidence. The Admissibility of evidence serves the purpose of throwing doubt on the veracity of the witness."

ANALYSIS OF SECTIONS

"SECTION 18, INDIAN EVIDENCE ACT⁴, DEALS WITH WHO ARE ELIGIBLE TO MAKE ADMISSIONS"

"According to this section, there are five classes of persons whose statements will be considered as an admission in a suit. These five classes are:"

1. **PARTIES TO THE PROCEEDINGS:** A relevant admission is a statement made by one of the parties to an action against himself.
 - a. The term "party" is defined in this section to encompass not just those who appear on the record in that capacity, but also those who are parties to a suit without appearing.
 - b. Persons who have an interest in the case's subject matter but are not parties on the record are deemed parties in the proceedings, and their statements have the same weight as those of the parties on the record.

³ 1974 AIR 117

⁴ 1872.

- c. Similarly, if a person appears as a party on the record but has no real interest in the subject matter, his admission will have no influence on the person against whom he is appearing on behalf.

2. **ADMISSION BY THE AGENT:** In a lawsuit, an agent's words would be admissible against the person he is representing. As a result, after the agent's power to assist has expired, any statements he makes after that will have no effect on the principal. In the case of *Pawan Kumar v. State*⁵ the Hon'ble High Court held that- the question of whether a suggestion given by the counsel on behalf of the accused can be considered as admission and bind the accused under Section 18 of Evidence Act is to be answered in negative.

3. **STATEMENTS MADE IN REPRESENTATIVE NATURE:** When trustees, administrators, executors, and others sue or are sued in a representative capacity, any statement they make will only be admissible if it is made in that capacity. Any statements they make in their own capacity will not be considered an admission.

4. **PERSON WHOSE INTEREST LIE IN THE SUBJECT MATTER:**

Where more than one person is interested in the subject matter, jointly than admission by one will also be taken as admission against himself as well as the person jointly interested. This rule is to be applied prima facie to show that parties suing or sued together have a joint interest.

5. **PERSON FROM WHOM THE PARTIES DERIVE INTEREST:** Any statement made by the predecessor-in-title from whom the suit's party derives his title will be admissible. However, this will only be considered an admission if the declaration was made while the predecessor-in-title was still in possession of the title, not after it had been transferred.

⁵ (2020) 205 AIC 547.

SECTION 19 DEALS WITH “ADMISSION BY PERSONS WHOSE POSITION MUST BE PROVED AS AGAINST PARTY TO SUIT”

Section 19 pertains to remarks made by a third party against himself where such statements influence his position or liability, and when such liability or position is relevant to be proven as against the party to the claim. In this scenario, the remarks made by the third party would only be relevant if the third party's liability or position still existed at the time of the litigation.

SECTION 20 DEALS WITH “ADMISSIONS BY PERSONS EXPRESSLY REFERRED TO BY PARTY TO SUIT”

When a party to a lawsuit refers to a third party about a dispute involving information, this clause applies. Any statement made by such a party would be construed as an admission against the person who referred the third party under Section 20. This section is another exception to the common rule that strangers' statements are not deemed admissions.

In the case of *K.M Singh v. Secretary Indian University Association*⁶, the Hon'ble Court held that-“ the statement of the nominees under Section 20 of the Evidence Act would be treated as an admission of the parties. The court said that a third person's opinion shall be taken into consideration when the third person is referred to by one party in reference to a matter of dispute.”

“SECTION 21 PROOF OF ADMISSION AGAINST PERSONS MAKING THEM AND BY OR ON THEIR BEHALF”

Admission may be used against the person who makes the admission, but it cannot be utilised by the party who makes the admission for his own benefit, according to Section 21. There are three exceptions to this rule in this section. These are the exceptions:

“ADMISSION FALLING UNDER SECTION 32”: If the person who made the Admission is deceased, the individual might use the Admission for his own purposes. In this scenario, such acknowledgment will be significant under Section 32 as between the third party. Section 32

⁶ 1992 AIR 1356

states that statements made by people who are dead or cannot be found can be proven if they were made within the conditions outlined in the section.

In the case of **Naresh Kumar v. Kalawati and others**⁷, the Hon'ble Supreme Court held **that-** "A dying declaration is admissible in evidence under section 32 of the Indian Evidence Act, 1872. It alone can also form the basis for conviction if it has been made voluntarily and inspires confidence,"

"If there are contradictions, variations, creating doubts about its truthfulness, affecting its veracity and credibility, or if the dying declaration is suspect, or the accused is able to create a doubt not only with regard to the dying declaration but also with regard to the nature and manner of death, the benefit of doubt shall have to be given to the accused," it said.

The bench further said, "Therefore, much shall depend on the facts of a case. There can be no rigid standard or yardstick for acceptance or rejection of a dying declaration." **STATE OF BODY AND MIND:** If a person makes an admission about the existence of a condition of body or mind, the person making the admission can use that admission to determine if that state of body or mind existed.

STATEMENT RELEVANT OTHERWISE THAN AS ADMISSION: A statement made by a person may be used by the person who made it if it is proven that the comment is relevant in some other way.

SECTION 22- "ORAL ADMISSIONS AS TO THE CONTENTS OF DOCUMENTS"

Section 22 states that if a document exists, no one is permitted to prove the substance of that document. There are, however, a few exceptions to this rule:-

- i. Oral Admission can be used if the party is permitted to provide secondary proof of the contents of the documents.

⁷ [CRIMINAL APPEAL NO. 35 OF 2013]

- ii. In the event that the original document is lost or in the custody of the opponent, the party may make an oral admission.

In the case of **Placido Francisco Pinto(D) By Lrs vs Jose Franciso Pinto⁸**, the Hon'ble Supreme Court held that- in case where no fraud on written documentary evidence is proved and such documentary evidence is only contradicted by oral evidence, documented evidence in written format shall prevail.

SECTION 22-A- "ORAL ADMISSION AS TO THE CONTENTS OF ELECTRONIC RECORDS"

According to Section 22-A when there is an electronic record then nobody can rely on the oral Admission unless there is a question to the genuineness of such record.

In the case of **State Vs. Mohd. Afzal and Ors.⁹**, the Hon'ble Court held that-"in the absence of evidence to the contrary the court will presume that mechanical instruments were in order at the relevant time and operates with full force and such electronic evidence to be admissible"
"Section 65A of the Evidence Act creates special law for electronic evidence:"

"Section 65A deals with Special provisions as to evidence relating to electronic record. – The contents of electronic records may be proved in accordance with the provisions of section 65B.

Section 65B of the Evidence Act details this special procedure for adducing electronic records in evidence."

In the case of **S. R. Chavan Vs. Dattatray Gulabrao Phalke¹⁰**, the Hon'ble Court held that-
"the admissibility of transcription of recorded conversation in a case where the recording has been translated, the Supreme Court held that as the voice recorder had itself not subjected to analysis, there is no point in placing reliance on the translated version. Without source, there is

⁸ 2021

⁹ (2014) 10 SCC 473

¹⁰ 2015

no authenticity for the translation. Source and authenticity are the two key factors for electronic evidence.”

In the case of **Jagdeo Singh Vs. The State and Ors**¹¹, the Hon’ble High Court of Delhi, stated- “while dealing with the admissibility of intercepted telephone call in a CD and CDR which were without a certificate u/s 65B Evidence Act, the court observed that the secondary electronic evidence without certificate u/s 65B Evidence Act is inadmissible and cannot be looked into by the court for any purpose whatsoever”

SECTION 23 DEALS ADMISSION IN CIVIL CASES”

Only civil cases are covered by Section 23, which does not apply to criminal trials. According to this Section, an Admission in a civil case will be irrelevant if it is declared that the Admission should not be given based on the express condition made by the parties to the suit, or if the court infers that the parties have made an agreement that Admissions will not be given based on certain circumstances

In the case of “**Smt. A. Kalyani vs Vale Exports (P.) Ltd.**”¹², the learned counsel for the petitioner contented and referred to AIR's Commentary on Section 23 of the Indian Evidence Act¹³, Section 23 ensures that letters sent without prejudice cannot be relied on as evidence in all proceedings and not just the proceedings in which the letters were exchanged.- The Hon’ble Court upheld this contention.”

“DISTINCTION BETWEEN RELEVANCY AND ADMISSIBILITY UNDER INDIAN EVIDENCE ACT,1876.”

Sec 5- 55 deals with relevance of a fact, Evidence that makes a fact more or less likely to be true than it would be without the evidence is referred to as relevant evidence (looking for probative value). For reasons of unfair prejudice, confusion, or time waste, relevant evidence

¹¹ AIR 1981 SC 648

¹² 5 July 2002.

¹³ 1872.

may be removed. Evidence that is relevant is generally admissible, but evidence that is irrelevant is never acceptable.

Two leading principles on relevance is that 1) Nothing will be accepted unless it is logically probative of some topic that must be proven; and 2) everything that is thus probative will be accepted unless a clear foundation of policy or law prohibits it. Relevancy is defined as "the relationship between a piece of evidence and a premise that has to be proven.

“In an American case of *Knapp v. State*¹⁴, the rule of law stated by the court was that the determination of the relevancy of a particular item of evidence rests on whether proof of that evidence would reasonably tend to help resolve the primary issue at trial.”

Sec 136 confers the finality of admission and discretion of admissibility on the judge, it states that: *“When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise. If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last- mentioned fact must be proved before evidence is given of the fact first- mentioned, unless the party undertakes to give proof of such fact, and the Court is satisfied with such undertaking. If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.”*

“The essential ingredients of the section are:”

- i. The question of relevancy and admissibility is thus decided by the judge,
- ii. Any party that comes forward to adduce evidence the judge has the authority to point out in which manner such evidence is relevant

¹⁴ 1907 522 US 1069

- iii. If the reasoning provided by the parties is appropriate and satisfies the judge under sec 6-55 of the evidence act, than only a judge would “admit a particular adduced fact”. Hence it is clear that relevancy of a fact would be primary concern and admissibility later and a judge shall admit the fact only if such adduced evidence is relevant.

In the case of *Ram Bihari Yadav v. State of Bihar*¹⁵, the Supreme Court cemented the distinction between admissibility and relevancy, it was laid down that- “More often the expressions ‘relevancy and admissibility’ are used as synonyms but their legal implications are distinct and different from for more often than not facts which are relevant are not admissible; so also facts which are admissible may not be relevant, for example questions permitted to put in cross examination to test the veracity or impeach the credit of witnesses, though not relevant are admissible. The probative value of the evidence is the weight to be given to it which has to be judged having regards to the fact and circumstances of each case.”

Sec 11 of the Indian Evidence Act¹⁶, deals with facts that are relevant which would otherwise not be relevant.

In the case of *R. v. Prabhudas*¹⁷, it was held that-

- i. “ the court must use exercise a sound discretion and see that the connection between the fact to be proved and the fact sought to be given under S.11 to prove it, must be so immediate as to render the co-existence of the two highly probable.”
- ii. “The section makes admissible only those facts which are of great weight in bringing the court to a conclusion one way or the other as regards the existence or the non-existence of the fact in question.”
- iii. “The admissibility under this section must, in each case, depend on how near is the connection of the facts sought to be proved with facts in issue and to what degree do

¹⁵ 1998 AIR 1859 (SC)

¹⁶ 1872

¹⁷ 1874 11 AIR 90

they render facts in issue probable or improbable when taken with the other facts in case.”

- iv. “There must always be room for the exercise of discretion when the relevancy of the testimony rests upon its effect towards making the affirmative or negative of a proposition ‘highly probable’, and, with any reasonable use of the directions, the court ought not to interfere.”

In the case of ***Bela Rani v. Mahabir***¹⁸, the Hon’ble Allahbad High Court held “s.11 is also controlled by ss.17 to 39. And as to the admissibility of depositions made by a person since deceased, it has been held that unless they are admissible under ss.32 and 33, s.11 will not avail to make them evidence.”

CONCLUSION

“Indian Evidence Act, 1872 is codified to “consolidate” the law of evidence in India as oppose to the ancient English law that governed the law of evidence. In both civil and criminal processes, evidence is important and necessary. Indian Evidence Act It is the most important and necessary component of any action. If the facts are important and reliable, the evidence should always be admitted in court. The proof must meet all of the code's specified requirements. During admission, both logical and legal relevance should be examined. As a result, the courts should only admit facts that have a high degree of probative value and will aid the courts... Section 18-23 have been analysed in a brief but concise format to have a theoretical overlook at the subject relating to admission under evidence, the paper in connection to admissible evidence has also looked briefly at sec 136 of the Indian Evidence Act dying declaration in relation to being an exception to sec 21 which deals with the law that Admission may be used against the person who makes the admission, but it cannot be utilised by the party who makes the admission for his own benefit, , sec 65 of the Indian Evidence Act which deals with electronic evidence adduced, Relevant case laws of both Sec 65 A & Section 65-B where Section 65A deals with Special provisions as to evidence relating to electronic record. – The contents of electronic records may be proved in accordance with the provisions of section 65B.

¹⁸ 1912 34 AIR 341 (SC).

Section 65B of the Evidence Act details this special procedure for adducing electronic records in evidence. The paper aims to provide clear distinction between relevancy and admission of the evidence adduced, to have a brief look at how evidence can be rendered inadmissible on the distinction of the judge on basis of the fact being relevant or irrelevant. The law is ultimate, and no one should be given the authority to change it. There must be a distinction made between the law and the judge's discretionary power. Hence in relation to judges discretionary power a new process for admitting or rejecting evidence must be devised.

BIBLIOGRAPHY

- Bela Rani v. Mahabir, 1912 34 AIR 341 (SC).
- R. v. Prabhudas 1874 11 AIR 90
- Ram Bihari Yadav v. State of Bihar, 1998 AIR 1859 (SC)
- Knapp v. State, 1907 522 US 1069
- Smt. A. Kalyani vs Vale Exports (P.) Ltd. 5 July 2002.
- Jagdeo Singh Vs. The State and Ors, AIR 1981 SC 648
- Placido Francisco Pinto(D) By Lrs vs Jose Franciso Pinto,2021
- Naresh Kumar v. Kalawati and others, [CRIMINAL APPEAL NO. 35 OF 2013]
- K.M Singh v. Secretary Indian University Association,1992 AIR 1356 □ Pawan Kumar v. State (2020) 205 AIC 547.
- Bishwanath Prasad And Others vs Dwarka Prasad, 1974 AIR 117
- State Bank of India v. Om Narain Agrawal, AIR 2011 All 169 Case.
- Norendranath Sircar v. Kamalabasini Dasi 1896, ILR 23 Cal 563.
- State Vs. Mohd. Afzal and Ors, (2014) 10 SCC 473.
- S. R. Chavan Vs. Dattatray Gulabrao Phalke, 2015.
- Indian Evidence Act, 1872.