

**Chapter 1 : Indian Evidence Act - Wikisource, the free online library**

*Full text containing the act, Indian Evidence Act, , with all the sections, schedules, short title, enactment date, and footnotes.*

Section 40 of the Indian Evidence Act, Article shared by Previous judgments relevant to bar a second suit or trial: The existence of any judgment, order or decree which by law prevents any Courts from taking cognizance of a suit or holding a trial is a relevant fact when the question is whether such Court ought to take cognizance of such suit, or to hold such trial. Section 40 incorporates the principle of res judicata. The plea of res judicate belongs to the province of procedure, but it does not say that the judgment, order or decree is conclusive. It simply says that the existence of such judgment, order or decree is relevant fact. If the decree-holder obtains possession otherwise than by execution of the decree it amounts to satisfaction of decree for possession and if the decree holder is disposed thereafter he gets a fresh cause of action for filing a second suit on the basis of his dispossession. A judgment which has the effect of res judicata is relevant in civil and criminal cases. The basic objective of incorporating this principle is to prevent multiplicity of suits and interminable disputes between the litigants. Once there has been judgment, order or decree about fact and laws no subsequent proceeding would be started. The doctrine of res judicata rests upon the maxim nemo debet bis vexari pro una et edem cause No man ought to be tried twice for the same cause of action. Res judicata means a suit is already adjudicated upon. In other words a thing upon which the court has exercised its judicial mind. Section 11 of the Civil Procedure Code lays down the rule of Res judicata. Section 40 is intended to refer to judgment inter parties and not to the judgment mentioned in Section It provides that the court should not try a suit in which there is judgment tried by the same court between the same parties and on same cause of action. Res judicata in civil suit provides that facts actually decided in a previous suit by a competent court cannot be again agitated by the same parties. A judgment of the previous suit is conclusive proof in the subsequent suit. The judgment, order or decree passed in a previous proceedings, if relevant, as provided under sections 40 and 42 or other provisions of the Evidence Act, then in each case the court has to decide to what extent it is binding or conclusive with regard to the matters decided therein. The principle does not apply when they contravene any statutory direction or prohibition. There is something which cannot be overridden or defeated by the previous judgment between the parties. The doctrine of res judicata applies to law of procedure and its binding force of judgment is also applicable to the parties. A judgment which is relied on by a party in a subsequent suit in support of the plea of res judicatas, becomes relevant and can be read in evidence. To give effect to the plea of res judicata the court has to be satisfied that the legal rights on which plaintiff sued was finally determined by the judgment and decree therein. In a suit for title, recitals made in judgment between the predecessor of plaintiff and predecessor of defendant regarding rights to the suit property would be admissible for deciding title to the property between plaintiff and the defendant. Res Judicata and Estoppel-Distinction: The rule of estoppel is not a rule of substantive law. It is a rule of evidence. Res judicata belongs to law of procedure regulated by Section 11 of the C. Res judicata ousts the jurisdiction of the court, while estoppel shorts the mouth of a party. Application of the principle in Criminal cases: The principle of the section applies also in criminal proceedings, but judgment of criminal court is not admissible in the civil court in civil suit for which declaration of the title filed by the plaintiff. Any finding in a criminal proceeding by no stretch of investigation would be binding in a civil proceeding. If a person has been tried for an offence and either convicted or acquitted of it, he cannot be tried again for the same offence. The plea of autre fois convict who is convicted or autre fois acquit who is acquitted in the previous case has been held to be good defense. Section of Cr. PC has incorporated this principle. On the other hand. Premshanker v Inspector of Police the Supreme Court has laid down the following principles when judgments of courts of justice are relevant: The previous judgment which is final can be relied upon as provided in Sections 40 to 43 of the Evidence Act; 2. In civil suits between the same parties, principle of res judicata may apply; 3. In a criminal case, Section , Cr. PC makes provision that once a person is convicted or acquitted, he may not be tried again for the same offence if the conditions mentioned therein are satisfied; and 4.

**Chapter 2 : Burden Of Proof Under The Indian Evidence Act, - Litigation, Mediation & Arbitration - India**

*Evidence as to application of language which can apply to one only of several persons Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.*

What we see today, is the brainchild of Sir James Fitzjames Stephen whose relentless efforts gave birth to the Evidence Act on 1st September. The Evidence Act is divided into three parts, 11 chapters and constitutes of sections. It is a procedural law which plays an important role in deciding civil and criminal cases in the present day Bangladesh. Much of the Act talks about that evidence which are relevant and those which are not. Irrelevant Facts are Relevant! Section 11 According to this section, any irrelevant fact may become relevant if they are inconsistent with any fact in issue or relevant fact; or if by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable. A police officer cannot prove it against you if you confess in front of him. But you also cannot confess in front of a police officer while in custody! Section 25 and 26 According to s. Truth sits upon the lips of a dying man. Section 32 Although s. If the oral evidence refers to a fact which could be seen, it must be the evidence of a witness who says he saw it; or if it is something that could be heard, it must be of a witness who heard it. The oral account of a dead person interpreted by another person clearly does not comply with the rules laid down in s. Both of these Acts suggests Person once convicted or acquitted not to be tried for same offence. Here the present of a past decision is a relevant evidence to prevent a new case to be tried. Good Boy, Bad Boy Section 53 and 54 Section 53 states that in criminal cases, the previous good character of the accused is relevant evidence. Section 74 states that a private document can become a public one if it is recorded by a public officer by the ordinary course of his duty. Therefore even a sales contract or a plaint and written statement can become a public document if it has been submitted to the court and kept in government records. According to this section, even Khatians, statements made under s. Dad, I am your Son. Section The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten. When Witness becomes Speechless! Section A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court. Evidence so given shall be deemed to be oral evidence. Section No person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married: In Media, we believe! Omitted Section 81 This section which still in action in the Indian Evidence Act used to presume the genuineness of Newspapers. Nowadays newspaper articles can be written by anyone and its contents are not necessarily accurate. If it was still in force, much injustice would have arisen. Evidence Act is one of the major laws of Bangladesh. It is almost unaltered and still remains in use in all cases. Although many of its provisions were written to suit the colonial era, not much is needed to be changed. The Evidence Act works as an aid to the other important acts and ensures equal opportunities for both parties to a case. The sub headings in this article are in no way actual titles of the sections of the Evidence Act. They are a humorous interpretation of the provisions written in a casual and playful manner for a wide range of readers.

**Chapter 3 : 10 Interesting Sections of the Evidence Act | Law Help BD**

*2 SECTIONS Facts showing existence of state of mind, or of body, of bodily feeling. Facts bearing on question whether act was accidental or intentional.*

Importance[ edit ] This section possibly contains original research. Please improve it by verifying the claims made and adding inline citations. Statements consisting only of original research should be removed. October Learn how and when to remove this template message The enactment and adoption of the Indian Evidence Act was a path-breaking judicial measure introduced in India, which changed the entire system of concepts pertaining to admissibility of evidences in the Indian courts of law. Until then, the rules of evidences were based on the traditional legal systems of different social groups and communities of India and were different for different people depending on caste, community, faith and social position. The Indian Evidence Act introduced a standard set of law applicable to all Indians. The law is mainly based upon the firm work by Sir James Fitzjames Stephen , who could be called the founding father of this comprehensive piece of legislation. At that time, India was a part of the British Empire. Over a period of more than years since its enactment, the Indian Evidence Act has basically retained its original form except certain amendments from time to time. Applicability[ edit ] When India gained independence on 15 August , the Act continued to be in force throughout the Republic of India and Pakistan , except the state of Jammu and Kashmir. It also applies to all judicial proceedings in the court, including the court martial. However, it does not apply on affidavits and arbitration. Contents[ edit ] This Act is divided into three parts and there are 11 chapters in total under this Act. There are two chapters under this part: Part 2 Part 2 consists of chapters from 3 to 6. Chapter 3 deals with facts which need not be proved, chapter 4 deals with oral evidence, chapter 5 deals with documentary evidence and chapter 6 deals with circumstances when documentary evidence has been given preference over the oral evidence. Part 3 The last part, that is part 3, consists of chapter 7 to chapter Chapter 7 talks about the burden of proof. Chapter 8 talks about estoppel, chapter 9 talks about witnesses, chapter 10 talks about examination of witnesses, and last chapter which is chapter 11 talks about improper admission and rejection of evidence. Please help improve this section by adding citations to reliable sources. Unsourced material may be challenged and removed. For those Facts Evidence is Given to the Court by two ways, One is Orally and Second is Documentary includes Electronic Documents , Oral Evidence mostly suggest the Verbal deposition before the Court and not other wise , and Which includes oral statement regarding materials too, Documentary Evidence suggest the Documents. So The Evidence Regarding Matter which have number of Facts, for which Evidence by way of oral or Documentary produced before the court for its Evaluation for either one fact or facts. Court by going through those Documentary Evidence and Oral Evidence decide that particular fact and all facts are proved or not, or whether the fact or facts can be presumed to be proved? In Evaluation as above said by looking into the Oral and Documentary Evidence Court decide whether particular fact is proved or not, or facts are proved or not, In Evaluation there are two concepts to prove facts; One is Prove Prove, Disprove or Not prove and Other is Presumption that fact is proved may Presume, Shall presume and Conclusive proof After going to Oral and Documentary Evidence Court see that whether any fact or facts are proved by looking to such evidence or not? Question 1 What is the Evidence given of? Answer 3 "Burden of Proof" of particular fact or "Onus of proof" to prove whole case lies on the Prosecution incharge Question 4 What are the Evaluation of the Facts.

*The Indian Evidence Act, identified as Act no. 1 of , and called the Indian Evidence Act, , has eleven chapters and sections, and came into force 1 September At that time, India was a part of the British Empire.*

Act of Short title, extent and commencement. Repeal of enactments 2. Prior to repeal it read as: But nothing herein contained shall be deemed to affect any provision of any Statute, Act or Regulation in force in any part of British India and not hereby expressly repealed. Illustrations a That there are certain objects arranged in a certain order in a certain place, is a fact. Illustrations A is accused of the murder of B. At his trial the following facts may be in issue: Illustrations A writing 5 is a document; 5 Words printed, lithographed or photographed are documents; A map or plan is a document; An inscription on a metal plate or stone is a document; A caricature is a document. Evidence may be given of facts in issue and relevant facts. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure 1. Relevancy of facts forming part of same transaction 6. Relevancy of facts forming part of same transaction. Illustrations a A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact. Facts which are the occasion, cause or effect of facts in issue 7. Facts which are the occasion, cause or effect of facts in issue. Illustrations a The question is, whether A robbed B. The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it, or mentioned the fact that he had it, to third persons, are relevant. Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts. Motive, preparation and previous or subsequent conduct 8. Motive, preparation and previous or subsequent conduct. The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto. Illustrations a A is tried for the murder of B. The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant. B denies the making of the bond. The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant. The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant. The facts that, not long before the date of the alleged will, A made inquiry into matters to which the provisions of the alleged will relate, that he consulted vakils in reference to making the will, and that he caused drafts of other wills to be prepared, of which he did not approve, are relevant. The facts that, either before, or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant. The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter, are relevant. The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant. The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made, are relevant. The fact that, without making a complaint, she said that she had been ravished is, not relevant, as conduct under this section, though it may be relevant as a dying declaration under Section 32, clause 1 , or as corroborative evidence under Section The fact that, soon after the alleged

robbery, he made a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant. The fact that he said he had been robbed without making any complaint, is not relevant, as conduct under this section, though it may be relevant as a dying declaration under Section 32, clause 1, or as corroborative evidence under Section 9. Facts necessary to explain or introduce relevant facts. Illustrations a The question is, whether a given document is the will of A. The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue. The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B. The fact that, soon after the commission of the crime, A absconded from his house, is relevant under Section 8, as conduct subsequent to and affected by facts in issue. The fact that, at the time when he left home, he had sudden and urgent business at the place to which he went, is relevant, as tending to explain the fact that he left home suddenly. The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent. B says as he delivers it-"A says you are to hide this". The cries of the mob are relevant as explanatory of the nature of the transaction. Things said or done by conspirator in reference to common design Things said or done by conspirator in reference to common design. Illustration Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the 1 [Government of India]. When facts not otherwise relevant become relevant When facts not otherwise relevant become relevant. Illustrations a The question is whether A committed a crime at Calcutta on a certain day. The fact that, on that day, A was at Lahore is relevant. The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant. The circumstances are such that the crime must have been committed either by A, B, C or D. Every fact which shows that the crime could have been committed by no one else, and that it was not committed by either B, C or D, is relevant. In suits for damages, facts tending to enable Court to determine amount are relevant In suits for damages, facts tending to enable Court to determine amount are relevant. Facts relevant when right or custom is in question Facts relevant when right or custom is in question. Illustration The question is whether A has a right to a fishery. Facts showing existence of state of mind, or of body, or bodily feeling Facts showing existence of state of mind, or of body, or bodily feeling. It is proved that he was in possession of a particular stolen article. The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show he knew each and all of the articles of which he was in possession to be stolen. The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant. The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant. The facts that the dog had previously bitten X, Y and Z, and that they had made complaints to B, are relevant. The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant, as showing that A knew that the payee was a fictitious person. The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B. The fact that at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith. The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters. Expressions of their feeling towards each other shortly before or after the alleged cruelty, are relevant facts. Statements made by A during his illness as to his symptoms, are relevant facts. Statements made by A as to the state of his health at or near the time in question, are relevant facts. The fact that B was habitually negligent about the carriages which he let to hire, is irrelevant. The fact that A, on other occasions, shot at B is relevant, as showing his intention to shoot B. The fact that A was in the habit of shooting at people with intent to murder them, is irrelevant. The fact that he said something indicating an intention to commit that particular crime, is relevant. The fact that he said something indicating a general

disposition to commit crimes of that class, is irrelevant. Prior to substitution it read as: Facts bearing on question whether act was accidental or intentional Facts bearing on question whether act was accidental or intentional. Illustrations a A is accused of burning down his house in order to obtain money for which it is insured. The facts that A lived in several houses successively, each of which he insured, in each of which fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that fires were not accidental. He makes an entry showing that on a particular occasion he received less than he really did receive. The question is, whether this false entry was accidental or intentional. The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant. The question is, whether the delivery of the rupee was accidental. The fact that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E are relevant, as showing that the delivery to B was not accidental. Existence of course of business when relevant Existence of course of business when relevant. Illustrations a The question is, whether a particular letter was despatched. The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that that particular letter was put in that place, are relevant.

## Chapter 5 : The Indian Evidence Act

1. *Short title, extent and commencement.*—“This Act may be called the Indian Evidence Act, It extends to the whole of India 1[except the State of Jammu and Kashmir] and applies to all judicial proceedings in or before any Court, including Courts-martial, 2[other than Courts-martial convened under the Army Act] (44 & 45 Vict., c. 58) 3[the Naval Discipline Act (29 & 30 Vict., c. ) or 4.

It is not uncommon for Courts to peek into English Evidence Law in case of doubt. The Act is Lex Fori. The Act is not applicable for domestic tribunals such as Industrial Tribunal , Administrative Tribunal etc. However, some sections are applicable only to Civil, some only to Criminal and some to both. The Act has put more burden of proof on the prosecution to provide the guilt of the accused. The degree of proof required is stricter in criminal proceeding than in a civil proceeding. In a criminal proceeding, the accused must be proved beyond all reasonable doubts. Object of the Act is to get the truth of the several disputed facts or points in issue. Burden of proof is on the party claiming to prove the substance of the issue to the satisfaction of the court. Direct and circumstantial evidence is given importance over Hearsay Evidence. No person is bound to incriminate himself. Some categories of witnesses are given protection and privilege. General structure of the Act The Indian Evidence Act, is divided into three parts, each with chapters and sections: From Section 1 to 4 contains the preliminary provisions Section 1: Short title, extent and commencement Section 2: Repeal of enactments Section 3: Defines various terms including Court, Evidence, Fact, Relevant etc. Things said or done by conspirator in reference to common design Section When facts not otherwise relevant become relevant Section In suits for damages, facts tending to enable court to determine amount are relevant Section Facts relevant when right or custom is in question Section Facts showing existence of state of mind, or of body or bodily feeling Section Facts bearing on question whether act was accidental or intentional Section Existence of course of business when relevant Admissions Section Admission defined Section Admission by party to proceeding or his agent by suit or in representative character by party interested in subject-matter by person from whom interest derived Section Admission by persons whose position must be proved as against party to suit Section Admissions by person expressly referred to by party to suit Section Proof of admissions against persons making them and by or on their behalf Section When oral admissions as to contents of documents are relevant Section Admissions in civil cases, when relevant Section Confession caused by inducement, threat or promise when irrelevant in criminal proceeding Section Confession to police officer not to be proved Section Confession by accused while in custody of police not to be proved against him Section How much of information received from accused may be proved Section Confession made after removal of impression caused by inducement, threat or promise relevant Section Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc. Consideration of proved confession affecting person making it and others jointly under trial for same offence Section Admissions not conclusive proof, but may estop Section Cases in which statement of relevant fact by person who is dead or cannot be found, etc. Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated. Statements made under special circumstances Section Entries in books of account when relevant Section Relevancy of entry in public record, made in performance of duty Section Relevancy of statements in maps, charts and plans Section Relevancy of statement as to fact of public nature, contained in certain Acts or notifications Section Relevancy of statements as to any law contained in law books Section What evidence to be given when statement forms part of a conversation, document, book, or series of letters or papers. Judgments of courts of justice, when relevant Section Previous judgments relevant to bar a second suit or trial Section Relevancy of certain judgments in probate, etc. Relevancy and effect of judgments, orders or decrees, other than those mentioned in Section 41 Section Fraud or collusion in obtaining judgment, or incompetence of Court, may be proved. Opinion of third persons, when relevant Section Opinions of experts Section Facts bearing upon opinions of experts Section Opinion as to handwriting, when relevant Section Opinion as to existence of right or custom, when relevant Section Opinion on relationship, when relevant Section Grounds of opinion, when relevant. Character when relevant Section In civil cases, character to prove conduct imputed

irrelevant Section In criminal cases, previous good character relevant Section Previous bad character not relevant, except in reply Section From Section 56 to 58 deals with facts that need not be proved Contains Section 56 to housed in 4 Chapters and deals with Proof. Facts judicially noticeable need not be proved Section Facts of which Court must take judicial notice Section Proof of facts by oral evidence Section Proof of contents of documents Section Primary evidence Section Proof of documents by primary evidence Section Cases in which secondary evidence relating to documents may be given Section Rules as to notice to produce Section Proof of signature and handwriting of person alleged to have signed or written document produced Section Proof of execution of document required by law to be attested Section Proof where not attesting witness found Section Admission of execution by party to attested document Section Proof when attesting witness denies the execution Section Proof of document not required by law to be attested Section Comparison of signature, writing or seal with others admitted or proved.

**Chapter 6 : The Indian Evidence Act,**

*The Indian Evidence Act of has 3 parts, 11 chapters and sections. The main motto of this act was to SET A FIXED RULE FOR ALL, REGARDING THE ADMISSIBILITY OF EVIDENCE IN INDIAN COURTS.*

By the Repealing Act, 1 of , S. Interpretation clause[ edit ] In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context: Illustrations A is accused of the murder of B. At his trial the following facts may be in issue: Illustrations Words printed, lithographed or photographed are documents; A map or plan is a document; An inscription on a metal plate or stone is a document; A caricature is a document. Evidence may be given of facts in issue and relevant facts[ edit ] Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others. Explanation - This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure. Illustrations a A is tried for the murder of B by beating him with a club with the intention of causing his death. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure. Relevancy of facts forming part of same transaction[ edit ] Facts which, though not in issue are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places. Illustrations a A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after is as to form part of the transaction, is a relevant fact. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself. Each delivery is a relevant fact. Facts which are occasion, cause or effect of facts in issue[ edit ] Facts Which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant. Illustrations a The question is, whether A robbed B. The facts that, shortly before the robbery B went to a fair with money in his possession, and that he showed it or mentioned the fact that he had it, to third persons, are relevant. Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts. Motive preparation and previous or subsequent conduct[ edit ] Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact. The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto. Illustrations a A is tried for the murder of B. The facts that, A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant. B denies the making of the bond. The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant. The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant. The facts that not long before the date of the alleged will A made inquiry into matters to which the provisions of the alleged will relate that he consulted vakils in reference to making the will, and that he caused drafts or other wills to be prepared of which he did not approve, are relevant. The facts, either before or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favorable to himself, on that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant. The facts that, A absconded after receiving a litter warning him that inquiry was being made for the criminal, and the contents of the letter, are relevant. The facts that, after the commission of the alleged crime, he absconded or was in possession of property or the proceeds

of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant. The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which the complaint was made, are relevant. The facts that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though it may be relevant as a dying declaration under section 32, clause 1, or as corroborative evidence under section 32, clause 1, or as corroborative evidence under section 32, clause 1, or as corroborative evidence under section 32, clause 1.

The fact that, soon after the alleged robbery, he made a complaint, relating to the offence, the circumstances under which, and the terms in which the complaint was made, are relevant. The fact that he said he had been robbed without making any complaint, is not relevant, as conduct under this section, though it may be relevant as a dying declaration under section 32, clause 1, or as corroborative evidence under section 32, clause 1, or as corroborative evidence under section 32, clause 1.

Facts necessary to explain or introduce relevant facts[ edit ] Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of any thing or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose. Illustrations a The question is, whether a given document is the will of A. The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue. The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B. The fact that, soon after the commission of the crime, A absconded from his house, is relevant under section 8, as a conduct subsequent to and affected by facts in issue. The fact that, at the time when he left home he had sudden and urgent business at the place to which he went is relevant, as tending to explain the fact that he left home suddenly. The details of the business on which he left are not relevant except in so far as they are necessary to show that the business was sudden and urgent. B says as he delivers it "A says you are to hide this. The cries of the mob are relevant as explanatory of the nature of the transaction. Things said or done by conspirator in reference to common design[ edit ] Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them is a relevant fact as against each of the persons believed to be so conspiring, as well as for the purpose of proving the existence of the conspiracy as for the purpose showing that any such persons was a party to it. Illustration Reasonable grounds exists for believing that A has joined in a conspiracy to wage war against the Government of India. The facts that, B procured arms in Europe for the purpose of the conspiracy, C collected money in Calcutta for a like object, D Persuaded persons to join the conspiracy in Bombay. When Facts not otherwise relevant become relevant[ edit ] Facts not otherwise relevant, are relevant. Illustrations a The question is, whether A committed a crime at Calcutta on a certain day. The fact that, on that day, A was at Lahore, is relevant. The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant. The circumstances are such that the crime must have been committed either by A, B, C or D. Every fact which shows that the crime could have been committed by no one else and that it was not committed by either B, C or D is relevant. In suits for damages, facts tending to enable Court to determine amount are relevant[ edit ] In suits in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded, is relevant. Facts relevant when right or custom is in question[ edit ] Where the question is as to existence of any right or custom, the following facts are relevant: Illustrations The question is whether A has a right to a fishery. Facts showing existence of state of mind or of body or bodily feeling[ edit ] Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will or goodwill towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling is in issue or relevant. Explanation 1 - A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally but in reference to the particular matter in question. Illustration a A is accused of receiving stolen goods knowing them to be stolen. It is proved

that he was in possession of a particular stolen article. The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen. The fact that, at the time of delivery A was possessed of a number of other pieces of counterfeit coin, is relevant. The fact that, A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant. The facts that, the dog had previously bitten X, Y and Z and that they had made complaints to B are relevant. The fact that, A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant as showing that A knew that the payee was a fictitious person. The facts that, there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B. The fact that, at the time when A represented C to be solvent, C was supposed to be solvent by his neighbors and by persons dealing with him, is relevant, as showing that A made the representation in good faith. The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found. The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters. Expressions of their feeling towards each other shortly before or after the alleged cruelty, are relevant facts. Statement made by A during his illness as to his symptoms, are relevant facts. Statements made by A as to the state of his health at or near the time in question, are relevant facts. The fact that, B was habitually negligent about the carriage which he let to hire is relevant. The fact that, A on other occasions shot a B is relevant as showing his intention to shoot B. The fact that, A was in the habit of shooting at people with intent to murder them, is irrelevant. The fact that, he said something indicating an intention to commit that particular crime is relevant. The fact that, he said something indicating a general disposition to commit crimes of that class, is irrelevant. Illustrations a A is accused of burning down his house in order to obtain money for which it is insured. The fact that, A lived in several houses successively each of which he insured, in each of which he insured, in each of which a fire occurred, and after each of which fires A received, payment from a different insurance office, are relevant, as tending to show that the fires were not accidental. He makes an entry showing that on a particular occasion he received less than he really did receive. The question is, whether his false entry was accidental or intentional. The facts that, other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant. The question is, whether the delivery of the rupee was accidental. The facts that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E are relevant, as showing that the delivery to B was not accidental. Existence of course of business when relevant[ edit ] When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact. Illustrations a The question is, whether a particular letter was dispatched. The facts that, it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that particular letter was put in that place, are relevant. The fact that, it was posted in due course, and was not returned through the Dead Letter Office, are relevant. Admission defined[ edit ] An admission is a statement, oral or documentary which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons and under the circumstances hereinafter mentioned. Comment Admissibility is substantive evidence of the fact Admissibility is substantive evidence of the fact admitted while a previous statement used to contradict a witness does not become substantive evidence and merely serves the purpose of throwing doubt on the veracity of the witness; Bishwanath Prasad v. Admission by party to proceeding or his agent[ edit ] Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions. By suitor in representative character - Statements made by parties to suits suing or sued in a representative character, are not admissions, unless they were made while the party making them held that character. Statements made by - 1 by party interested in subject matter; persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding and who make the statement in their

character of persons so interested; or 2 by person from whom interest derived; persons from whom the parties to the suit have derived their interest in the subject-matter of the suit, are admissions, if they are made during the continuance of the interest of the persons making the statements. Admissions by persons whose position must be proved as against party to suit-[ edit ] Statements made by persons whose position or liability it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against the made if they are made whilst the person making them occupies such position or is subject of such liability. Illustration A undertakes to collect rent for B. B sues A for not collecting rent due from C to B. A denies that rent was due from C to B. A statement by C that he owned B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B. Admission by persons expressly referred to by party to suit[ edit ] Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.

**Chapter 7 : Indian Evidence Act - Wikipedia**

*THE INDIAN EVIDENCE ACT (MODIFIED) THE MOST IMPORTANT FEATURES OF THE INDIAN EVIDENCE ACT TO BE KNOWN BY A LAW STUDENT-The Indian Evidence Act is a subject which cannot be understood without understanding these important features which forms the basis of the Law of Evidence.*

Try out our Premium Member services: Free for one month and pay only if you like it. Short title, extent and commencement. Illustrations a That there are certain objects arranged in a certain order in a certain place, is a fact. Illustrations A is accused of the murder of B. At his trial the following facts may be in issue: Illustrations A writing 5 is a document; Words printed, lithographed or photographed are documents; A map or plan is a document; An inscription on a metal plate or stone is a document; A caricature is a document. Evidence may be given of facts in issue and relevant facts. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure. Relevancy of facts forming part of same transaction. Illustrations a A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact. Facts which are the occasion, cause or effect of facts in issue. Illustrations a The question is, whether A robbed B. The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it, or mentioned the fact that he had it, to third persons, are relevant. Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts. Motive, preparation and previous or subsequent conduct. The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto. Illustrations a A is tried for the murder of B. The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant. B denies the making of the bond. The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose is relevant. The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant. The facts that, not long before the date of the alleged Will, A made inquiry into matters to which the provisions of the alleged Will relate, that he consulted vakils in reference to making the Will, and that he caused drafts or other Wills to be prepared of which he did not approve, are relevant. The facts that, either before or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant. The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal and the contents of the letter, are relevant. The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant. The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made, are relevant. The fact that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though it may be relevant as a dying declaration under section 32, clause 1, or as corroborative evidence under section The fact that, soon after the alleged robbery, he made a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant. The fact that he said he had been robbed, without making any complaint, is not relevant, as

conduct under this section, though it may be relevant as a dying declaration under section 32, clause 1, or as corroborative evidence under section 33.

**COMMENTS** Ground for rejection of testimony of eye witness The conduct of an eye witness in non-disclosing the incident to anybody for a number of days, is highly unnatural one and is sufficient to reject his testimony; *Ganpat Kondiba Chavan v. State of Maharashtra*, 2 Crimes 38 Bom. It is well settled that the conduct of a witness in not disclosing the incident to persons whom he must have met after the incident is indicative of the fact that he had not seen the accident; *Ganpat Kondiba Chavan v. State of Maharashtra*. Role of motive in an offence If motive is proved, the case of prosecution becomes more easier to connect accused to the alleged incident; *P. Normally there is a motive behind every criminal act; Barikanoo v. State of Uttar Pradesh*, 1 Crimes All. When motive is not sine qua non Where the ocular evidence is very clear and convincing and the role of the accused person in the crime stands clearly established, establishment of motive is not a sine qua non for proving the prosecution case; *Yunis alias Kariya v. State of Uttar Pradesh*. It is well settled that where the direct evidence regarding the assault is worthy of the credence and can be believed, the question of motive becomes more or less academic. Sometimes the motive is clear and can be proved and sometimes the motive is shrouded in the mystery and it is very difficult to locate the same. If, however, the evidence of eye witnesses is credit-worthy and is believed by the court which has placed implicit reliance on them, the question whether there is any motive or not becomes wholly irrelevant; *Raja v. State of Uttar Pradesh*, 2 Crimes All. Motive is a thing primarily known to the accused himself and it may not be possible for the prosecution in each and every case to find out the real motive behind the crime; *Barikanoo v. State of Uttar Pradesh*. It is well established that where there is an eyewitness account regarding the incident, the motive loses all its importance; *Barikanoo v. State of Uttar Pradesh*.

**Illustrations** a The question is, whether a given document is the Will of A. The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue. The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B. The fact that, soon after the commission of the crime, A absconded from his house, is relevant, under section 8, as conduct subsequent to and affected by facts in issue. The fact that, at the time when he left home, he had sudden and urgent business at the place to which he went, is relevant, as tending to explain the fact that he left home suddenly. The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent. The cries of the mob are relevant as explanatory of the nature of the transaction. Things said or done by conspirator in reference to common design. Illustration Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the Government of India. Comments Existence of conspiracy If prima facie evidence of existence of a conspiracy is given and accepted, the evidence of acts and statements made by anyone of the conspirators in furtherance of the common object is admissible against all; *Jayendra Saraswati Swamigal v. State of Uttar Pradesh*. Object Section 10 has been deliberately enacted in order to make acts and statements of a co-conspirator admissible against the whole body of conspirators, because of the nature of crime; *Badri Rai v. State of Uttar Pradesh*. It had nothing to do with carrying the conspiracy into effect; *Mirza Akbar v. State of Uttar Pradesh*. When facts not otherwise relevant become relevant. Illustrations a The question is, whether A committed a crime at Calcutta on a certain day. The fact that, on that day, A was at Lahore is relevant. The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant. The circumstances are such that the crime must have been committed either by A, B, C or D, every fact which shows that the crime could have been committed by no one else and that it was not committed by either B, C or D, is relevant. In suits for damages, facts tending to enable Court to determine amount are relevant. Facts relevant when right or custom is in question. Illustration The question is, whether A has a right to a fishery. Facts showing existence of state of mind, or of body or bodily feeling. It is proved that he was in possession of a particular stolen article. The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession, to be stolen. The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant. The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant. The facts that the dog had previously bitten X, Y, and Z, and that they had made

complaints to B, are relevant. The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant, as showing that A knew that the payee was a fictitious person. The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B. The fact that, at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith. The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found. Threatening letters previously sent by A to B may be proved, as showing intention of the letters. Expressions of their feeling towards each other shortly before or after the alleged cruelty, are relevant facts. Statements made by A during his illness as to his symptoms, are relevant facts. Statements made by A as to the state of his health at or near the time in question are relevant facts. The fact that B was habitually negligent about the carriages which he let to hire, is irrelevant. The fact that A, on other occasions shot at B is relevant, as showing his intention to shoot B. The fact that A was in the habit of shooting at people with intent to murder them, is irrelevant. The fact that he said something indicating an intention to commit that particular crime is relevant. The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant. Facts bearing on question whether act was accidental or intentional. The facts that A lived in several houses successively, each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that the fires were not accidental. He makes an entry showing that on a particular occasion he received less than he really did receive. The question is, whether this false entry was accidental or intentional. The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant. The question is, whether the delivery of the rupee was accidental. The facts that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E are relevant, as showing that the delivery to B, was not accidental. Existence of course of business when relevant. Illustrations a The question is, whether a particular letter was despatched. The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that particular letter was put in that place, are relevant. The facts that it was posted in due course, and was not returned through the Dead Letter Office, are relevant. Comment s Admissibility is substantive evidence of the fact Admissibility is substantive evidence of the fact admitted while a previous statement used to contradict a witness does not become substantive evidence and merely serves the purpose of throwing doubt on the veracity of the witness; Bishwanath Prasad v.

#### Chapter 8 : Section 4 of the Indian Evidence Act,

*This act may be called the Evidence Act, Extent It extends to the whole of Bangladesh and applies to all judicial proceedings in or before any Court, including Courts-martial, other than Courts-martial convened under the 3 [ Army Act, , the Naval Discipline Ordinance, or the Air Force Act, ] but not to affidavits presented.*

#### Chapter 9 : Get Indian Evidence Act - Microsoft Store

*Types of Evidences under Indian Evidence Act, - Legal News India, Legal News World, Supreme Court, Supreme Court of India, Delhi high court Types of Evidences under Indian Evidence Act, TYPES OF EVIDENCES There are different types of evidences under the Indian Evidence Act,*