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## Introduction

According to the [Due Process Model](#), the burden of proof lies on the parties to prove their case. The common method of discovering the truth plays an important role in the modernisation of evidence. If the allegations of one party are not disputed or contested by the other, then no proof is required. Therefore, the evidence is introduced to the judge to prove the required and important facts of the case.

As per the law, evidence helps in establishing the guilt or innocence of a person. [Section 3](#) of the [Indian Evidence Act, 1872](#) defines the "Evidence." The definition states that any statements through which the court sanctions or requires to be presented before it by witnesses, concerning matters of fact under inquiry, such statements or documents are oral evidence. Whereas any documents including any electronic evidence which the court permits or requires, concerning matters of fact under inquiry, such documents are documentary evidence. There is no exact distinction between admissibility and receivability under this Code. Evidence may be described as inadmissible irrelevant evidence or an immaterial fact as evidence.

## Definition of admission

According to [Section 17](#) of the Indian Evidence Act, 1872, admission is defined as any statement made by any of the persons, which suggests any inference as to any fact in issue or relevant fact, and under certain circumstances. Admissibility simply means the power to approach. Admission can be oral or documentary or contained in electronic form. Thus, the admissibility of evidence means any evidence or document used in the court of law to prove or disprove alleged matters of fact.

"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 [Bishwanath Prasad v. Dwarka Prasad](#), the court said "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."

## Principles of admission

In [Basant Singh v. Janki Singh](#), the High Court mentioned some principles regarding admissions:

- Any kind of statement in the plaint is admissible in evidence.
- No obligation on the Court to accept all the statements as correct and the court may accept some of the statements as relevant and reject the rest.
- There is no distinction between an admission made by a party in a pleading and other admissions.
- An admission made by a party in a plaint signed and verified by him may be used as evidence against him in other suits.
- Admissions are always examined as a whole, hence they cannot be divided into parts.

- Any admission cannot be regarded as conclusive and it is open to both parties to show whether it's true or not.
- Admissibility of a plea of guilt can be determined only if the plea is recorded by the accused in his own words.
- An admission to have a substantive evidence effect should be voluntary in nature.
- Admissions do not carry a conclusive value, it is only limited to being prima facie proof.
- Admissions that are clear in the words of the accused are considered as good evidence of the facts submitted.

## **The relevancy and admissibility of admission**

The admission is said to be relevant when the facts are so related as to render the existence or non-existence of other facts probable according to a common course of events or human conduct. Nothing which is not relevant may be adduced as evidence as per the law. In the common-law countries, the evidence is both ascertained and simultaneously restricted by the assertions of the parties.

The Supreme Court in [Ram Bihari Yadav vs. State of Bihar](#) observed that the terms 'Relevancy' and 'Admissibility' are not interchangeable though sometimes they may be taken as synonymous. However, all relevant evidence may not be admissible but all admissible evidence is relevant. The legal implications of the relevancy and admissibility are distinct. It is determined by the ruler of the Act that the relevancy is the test of admissibility.

As mentioned in [Amir Ali and Woodroffe's Commentaries](#) the word "relevant" as used in the Act, is equivalent to "having probative force" and the effect of the Section is to make the evidence admissible in the circumstances specified independently of the consent of the parties.

Relevancy has been stated in [Section 5](#) to [Section 55](#) of the Indian Evidence Act, 1872. The concept of relevancy is based on logic and human experience. Relevancy merely implies the relevant facts and signifies what facts are necessary to prove or disprove a fact in an issue.

Admissibility is the concept in the law of evidence that determines whether or not the evidence can be received by the court. Under the Indian Evidence Act, 1872, when any fact has been declared to be legally relevant then they become admissible. All admissible facts are relevant but, all relevant facts are not admissible. Admissibility is a decisive factor between relevance and proof and only legally relevant facts are admissible.

According to [Section 136](#) of the Indian Evidence Act, 1872, the final discretion on the admissibility of evidence lies with the judge. It states that when either party proposes to give evidence of any fact, the judge may ask the proposing party to give the evidence in what manner the facts were alleged, then the judge shall admit that, if he thinks that a relevant fact and if the facts were proved relevant, then it would be considered, otherwise not. The evidence is admissible only upon proof of some other fact until the party undertakes to give proof of such fact, and the court is satisfied with such an undertaking.

## **Conditions required for the admissibility of evidence in Court**

[Section 20](#) of the Indian Evidence Act, 1872 states the admissions made by any person expressly referred to by party to suit. The section states, any statements made by a person to whom a party to the suit has expressly referred for facts in respect to a matter in dispute are referred to as admissions. This section also brings an exception to the general principle of admissions which are made by strangers.

The admissibility of evidence depends upon the relevance and reliability of the fact. The evidence is not related to the particular case, it is considered

irrelevant and is inadmissible in the court. Whereas, reliability refers to the credibility of a source that is being used as evidence.

In [\*K.M Singh v. Secretary Indian University Association\*](#), the 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.

## **Admissibility of evidence in the Courts**

### **Admissibility of evidence in the criminal proceeding**

In criminal proceedings, evidence can only be produced when it is considered admissible and relevant to the facts or issues. Here, the evidence is used to prove whether the defendant in a disputed matter is guilty or not beyond a reasonable doubt. The general rule is that the burden of proof always lies with the prosecution to prove the guilt of the defendant. The substantive law in the criminal proceedings defines what the appellant has to prove to convict the defendant. In criminal proceedings, the prosecution must prove all the necessary elements of the offence laid out in the Criminal Code against the defendant.

### **Admissibility of evidence in the civil proceeding**

In civil proceedings, the evidence is generally produced in the form of government documents such as leases, sale deeds, rent agreements, gift deeds, etc. The general rule in a civil proceeding is that the burden of proof lies on "the person who claims must prove". In a civil trial, the legal burden of

proving a fact lies on the party who claims that fact. If the defendant denies the allegations and finds a positive default such as "counterclaim", then in that case the burden of proof shifts towards the defendant. However, at first, the burden of proof lies on the plaintiff in civil proceedings, after that it will shift to the defendant.

## **Case laws**

### **Lakshmandas Chaganlal Bhatia v. State**

*In this [case](#)*, the court laid down some "relevant facts" under [Section 9](#) of the Indian Evidence Act, 1876. The Court held that a fact in an issue became relevant if it is necessary to explain or introduce, or facts which support or rebut an inference, facts which establish the identity of anything or person, facts which fix the time and place at which any fact in issue has happened and any facts which show the relation of parties by whom any fact in issue was transacted.

### **Ambica Charan Kundu And Ors. v. Kumud Mohun Chaudhury And Ors.**

In the case of [Ambica Charan v. Kumud Mohun](#), a general rule of [Section 11](#) is controlled by [Section 32](#), "when evidence consists of a statement of persons who are dead and further tests the relevance of such a statement under Section 11. Though it is not relevant and admissible under Section 32, it is admissible or relevant under Section 11. It states that it is admissible even if it is altogether immaterial, but it is highly material that it was said whether it was true or false."

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The Court *held* that the expression means "admissible and relevant", there is no implied or explicit provision set out in this Act, which laid down the evidence "admissible and relevant", in respect to the consideration of the judge to pronounce the judgment. However, it cannot be determined that any statements or documents which are not admissible or relevant can be put on record or not. Hence, the Act does not guarantee that the information which is insignificant or inadmissible cannot be recorded and put on a record of facts if the judge's found it unfit. Any Evidence or information that may be inappropriate or admissible cannot be avoided or precluded from the record.

## Conclusion

Hence, evidence is significant and crucial in both civil and criminal proceedings. It is the most integral and indispensable element of any proceedings. The evidence should always be admissible in court if the facts are relevant and reliable. The evidence shall satisfy all the specific provisions under the code. Both logical and legal relevance should be considered during admission. Hence, the courts should let in only those facts which have a high degree of probative value that would help the courts.

The law relating to evidence is not suitable for the present age and it must be amended for better functioning. The law is supreme and no man should be given the discretionary power to bend it. There must be a distinction between the law and the discretionary power of the judge. However, a new mechanism must be developed to admit or not admit a particular evidence.

## References

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