

# Contents

Preface

v

## PART I: RELEVANCY OF THE FACTS

<b>1. Preliminary</b>	<b>1</b>
<b>Section 1:</b> Short Title—This Act may be Called the Indian Evidence Act, 1872	1
<b>Section 2:</b> Rep. by the Repealing Act, 1938	1
<b>Section 3:</b> Interpretation—Clause	1
<b>Section 4:</b> “May Presume”	3
<b>2. Relevancy of the Facts</b>	<b>4</b>
<b>Section 5:</b> Evidence may be Given of Facts in Issue and Relevant Facts	4
<b>Section 6:</b> Relevancy of Facts-forming Part of Same Transaction	4
<b>Section 7:</b> Facts Which are the Occasion, Cause or Effect of Facts in Issue	4
<b>Section 8:</b> Motive, Preparation and Previous or Subsequent Conduct	4
<b>Section 9:</b> Facts Necessary to Explain or Introduce Relevant Facts	5
<b>Section 10:</b> Things Said or Done by Conspirator in Reference to Common Design	5
<b>Section 11:</b> When Facts not Otherwise Relevant Become Relevant	5
<b>Section 12:</b> In Suits for Damages, Facts Tending to Enable Court to Determine Amount are Relevant	6
<b>Section 13:</b> Facts Relevant When Right or Custom is in Question	6
<b>Section 14:</b> Facts Showing Existence of State of Mind, or of Body or Bodily Feeling	6
<b>Section 15:</b> Facts Bearing on Question Whether Act was Accidental or Intentional	7
<b>Section 16:</b> Existence of Course of Business When Relevant	7
<b>Admissions</b>	<b>7</b>
<b>Section 17:</b> Admission Defined	7
<b>Section 18:</b> Admission by Party to Proceeding or His Agent	7
<b>Section 19:</b> Admissions by Persons Whose Position must be Proved as against Party to Suit	8
<b>Section 20:</b> Admissions by Persons Expressly Referred to by Party to Suit	8
<b>Section 21:</b> Proof of Admissions against Persons Making Them, and by or on their Behalf	8
<b>Section 22:</b> When Oral Admissions as to Contents of Documents are Relevant	8
<b>Section 22A:</b> When Oral Admission as to Contents of Electronic Records are Relevant	9

**Section 23:** Admissions in Civil Cases When Relevant 9

**Section 24:** Confession Caused by Inducement, Threat or Promise, When Irrelevant in Criminal Proceeding 9

**Section 25:** Confession to Police-officer not to be Proved 9

**Section 26:** Confession by Accused While in Custody of Police not to be Proved against Him 10

**Section 27:** How Much of Information Received from Accused may be Proved 10

**Section 28:** Confession Made after Removal of Impression Caused by Inducement, Threat or Promise, Relevant 10

**Section 29:** Confession Otherwise Relevant not to Become Irrelevant Because of Promise of Secrecy, etc. 10

**Section 30:** Consideration of Proved Confession Affecting Person Making it and Others Jointly under Trial for Same Offence 11

**Section 31:** Admissions not Conclusive Proof, but may Estop 11

**■ Statements by Persons Who cannot be Called as Witnesses 11**

**Section 32:** Cases in Which Statement of Relevant Fact by Person Who is Dead or cannot be Found, etc. is Relevant 11

**Section 33:** Relevancy of Certain Evidence for Proving, in Subsequent Proceeding, the Truth of Facts therein Stated 13

**■ Statements Made under Special Circumstances 13**

**Section 34:** Entries in Books of Account When Relevant 13

**Section 35:** Relevancy of Entry in Public Record Made in Performance of Duty 13

**Section 36:** Relevancy of Statements in Maps, Charts and Plans 14

**Section 37:** Relevancy of Statement as to Fact of Public Nature Contained in Certain Acts or Notifications 14

**Section 38:** Relevancy of Statements as to Any Law Contained in Law-books 14

**■ How Much of a Statement is to be Proved 14**

**Section 39:** What Evidence to be Given When Statement Forms Part of a Conversation, Document, Electronic Record, Book or Series of Letters or Papers 14

**■ Judgments of Courts of Justice When Relevant 15**

**Section 40:** Previous Judgments Relevant to Bar a Second Suit or Trial 15

**Section 41:** Relevancy of Certain Judgments in Probate, etc. Jurisdiction 15

**Section 42:** Relevancy and Effect of Judgments, Orders or Decrees, Other Than Those Mentioned in Section 41 16

**Section 43:** Judgments, etc. Other Than Those Mentioned in Sections 40, 41 and 42, When Relevant 16

**■ Opinions of Third Persons When Relevant 16**

**Section 45:** Opinions of Experts 16

**Section 45A:** Opinion of Examiner of Electronic Evidence 16

- Section 46:** Facts Bearing upon Opinions of Experts 16
- Section 47:** Opinion as to Hand-writing, When Relevant 17
- Section 47A:** Opinion as to Digital Signature, When Relevant 17
- Section 48:** Opinion as to Existence of Right or Custom, When Relevant 17
- Section 49:** Opinion as to Usages, Tenets, etc. When Relevant 17
- Section 50:** Opinion on Relationship, When Relevant 18
- Section 51:** Grounds of Opinion, When Relevant 18
- Character When Relevant 18**
- Section 52:** In Civil Cases Character to Prove Conduct Imputed, Irrelevant 18
- Section 53:** In Criminal Cases Previous Good Character Relevant 18
- Section 53A:** Evidence of Character or Previous Sexual Experience not Relevant in Certain Cases 18
- Section 54:** Previous Bad Character not Relevant, Except in Reply 19
- Section 55:** Character as Affecting Damages 19

## PART II: ON PROOF

- 3. Facts Which Need not be Proved 20**
- Section 56:** Fact Judicially Noticeable Need not be Proved 20
- Section 57:** Facts of Which Court must Take Judicial Notice 20
- Section 58:** Facts Admitted Need not be Proved 21
- 4. Oral Evidence 22**
- Section 59:** Proof of Facts by Oral Evidence 22
- Section 60:** Oral Evidence must be Direct 22
- 5. Documentary Evidence 23**
- Section 61:** Proof of Contents of Documents 23
- Section 62:** Primary Evidence 23
- Section 63:** Secondary Evidence 23
- Section 64:** Proof of Documents by Primary Evidence 24
- Section 65:** Cases in Which Secondary Evidence Relating to Documents may be Given 24
- Section 65A:** Special Provisions as to Evidence Relating to Electronic Record 25
- Section 65B:** Admissibility of Electronic Records 25
- Section 66:** Rules as to Notice to Produce 27
- Section 67:** Proof of Signature and Handwriting of Person Alleged to have Signed or Written Document Produced 28
- Section 67A:** Proof as to Electronic Signature 28
- Section 68:** Proof of Execution of Document Required by Law to be Attested 28

- Section 69:** Proof Where No Attesting Witness Found 28
- Section 70:** Admission of Execution by Party to Attested Document 29
- Section 71:** Proof When Attesting Witness Denies the Execution 29
- Section 72:** Proof of Document not Required by Law to be Attested 29
- Section 73:** Comparison of Signature, Writing or Seal with Others Admitted or Proved 29
- Section 73A:** Proof as to Verification of Digital Signature 29

#### ■ **Public Documents 30**

- Section 74:** Public Documents 30
- Section 75:** Private Documents 30
- Section 76:** Certified Copies of Public Documents 30
- Section 77:** Proof of Documents by Production of Certified Copies 30
- Section 78:** Proof of Other Official Documents 31

#### ■ **Presumptions as to Documents 32**

- Section 79:** Presumption as to Genuineness of Certified Copies 32
- Section 80:** Presumption as to Documents Produced as Record of Evidence 32
- Section 81:** Presumption as to Gazettes, Newspapers, Private Acts of Parliament and Other Documents 32
- Section 81A:** Presumption as to Gazettes in Electronic Forms 33
- Section 82:** Presumption as to Document Admissible in England without Proof of Seal or Signature 33
- Section 83:** Presumption as to Maps or Plans Made by Authority of Government 33
- Section 84:** Presumption as to Collections of Laws and Reports of Decisions 33
- Section 85:** Presumption as to Powers-of-Attorney 34
- Section 85A:** Presumption as to Electronic Agreements 34
- Section 85B:** Presumption as to Electronic Records and Electronic Signatures 34
- Section 85C:** Presumption as to Electronic Signature Certificates 34
- Section 86:** Presumption as to Certified Copies of Foreign Judicial Records 35
- Section 87:** Presumption as to Books, Maps and Charts 35
- Section 88:** Presumption as to Telegraphic Messages 35
- Section 88A:** Presumption as to Electronic Messages 35
- Section 89:** Presumption as to Due Execution, etc. of Documents not Produced 36
- Section 90:** Presumption as to Documents Thirty-years-old 36
- Section 90A:** Presumption as to Electronic Records Five-years-old 36

### 6. **Exclusion of Oral by Documentary Evidence**

37

- Section 91:** Evidence of Terms of Contracts, Grants and Other Dispositions of Property Reduced to Form of Document 37

- Section 92:** Exclusion of Evidence of Oral Agreement 37
- Section 93:** Exclusion of Evidence to Explain or Amend Ambiguous Document 38
- Section 94:** Exclusion of Evidence against Application of Document to Existing Facts 39
- Section 95:** Evidence as to Document Unmeaning in Reference to Existing Facts 39
- Section 96:** Evidence as to Application of Language Which Can Apply to One Only of Several Persons 39
- Section 97:** Evidence as to Application of Language to One of Two Sets of Facts 39
- Section 98:** Evidence as to Meaning of Illegible Characters, etc. 39
- Section 99:** Who may Give Evidence of Agreement Varying Terms of Document 40
- Section 100:** Saving of Provisions of Indian Succession Act Relating to Wills 40

### PART III: PRODUCTION AND EFFECT OF EVIDENCE

- 7. Burden of Proof 41**
- Section 101:** Burden of Proof 41
- Section 102:** On Whom Burden of Proof Lies 41
- Section 103:** Burden of Proof as to Particular Fact 41
- Section 104:** Burden of Proving Fact to be Proved to Make Evidence Admissible 41
- Section 105:** Burden of Proving That Case of Accused Comes within Exceptions 41
- Section 106:** Burden of Proving Fact Especially within Knowledge 42
- Section 107:** Burden of Proving Death of Person Known to have been Alive within Thirty Years 42
- Section 108:** Burden of Proving That Person is Alive Who has not been Heard of for Seven Years 42
- Section 109:** Burden of Proof as to Relationship in the Cases of Partners, Landlord and Tenant, Principal and Agent 42
- Section 110:** Burden of Proof as to Ownership 42
- Section 111:** Proof of Good Faith in Transactions Where One Party is in Relation of Active Confidence 43
- Section 111A:** Presumption as to Certain Offences 43
- Section 112:** Birth During Marriage, Conclusive Proof of Legitimacy 43
- Section 113:** Proof of Cession of Territory 44
- Section 113A:** Presumption as to Abetment of Suicide by a Married Woman 44
- Section 113B:** Presumption as to Dowry Death 44

	<b>Section 114:</b> Court may Presume Existence of Certain Facts 44	
	<b>Section 114A:</b> Presumption as to Absence of Consent in Certain Prosecution for Rape 45	
<b>8.</b>	<b>Estoppel</b>	<b>46</b>
	<b>Section 115:</b> Estoppel 46	
	<b>Section 116:</b> Estoppel of Tenants and of Licensee of Person in Possession 46	
	<b>Section 117:</b> Estoppel of Acceptor of Bill of Exchange, Bailee or Licensee 46	
<b>9.</b>	<b>Witnesses</b>	<b>48</b>
	<b>Section 118:</b> Who may Testify 48	
	<b>Section 119:</b> Witness Unable to Communicate Verbally 48	
	<b>Section 120:</b> Parties to Civil Suit and their Wives or Husbands, Husband or Wife or Person under Criminal Trial 48	
	<b>Section 121:</b> Judges and Magistrates 49	
	<b>Section 122:</b> Communications during Marriage 49	
	<b>Section 123:</b> Evidence as to Affairs of State 49	
	<b>Section 124:</b> Official Communications 49	
	<b>Section 125:</b> Information as to Commission of Offences 49	
	<b>Section 126:</b> Professional Communications 50	
	<b>Section 127:</b> Section 126 to Apply to Interpreters, etc. 50	
	<b>Section 128:</b> Privilege not Waived by Volunteering Evidence 50	
	<b>Section 129:</b> Confidential Communications with Legal Advisers 51	
	<b>Section 130:</b> Production of Title-deeds of Witness not a Party 51	
	<b>Section 131:</b> Production of Documents or Electronic Records Which Another Person, Having Possession, could Refuse to Produce 51	
	<b>Section 132:</b> Witness not Excused from Answering on Ground That Answer will Criminate 51	
	<b>Section 133:</b> Accomplice 52	
	<b>Section 134:</b> Number of Witnesses 52	
<b>10.</b>	<b>Examination of Witnesses</b>	<b>53</b>
	<b>Section 135:</b> Order of Production and Examination of Witnesses 53	
	<b>Section 136:</b> Judge to Decide as to Admissibility of Evidence 53	
	<b>Section 137:</b> Examination-in-chief 53	
	<b>Section 138:</b> Order of Examinations 54	
	<b>Section 139:</b> Cross-examination of Person Called to Produce a Document 54	
	<b>Section 140:</b> Witnesses to Character 54	
	<b>Section 141:</b> Leading Questions 54	
	<b>Section 142:</b> When They must not be Asked 54	
	<b>Section 143:</b> When They may be Asked 55	

<b>Section 144:</b> Evidence as to Matters in Writing	55
<b>Section 145:</b> Cross-examination as to Previous Statements in Writing	55
<b>Section 146:</b> Questions Lawful in Cross-examination	55
<b>Section 147:</b> When Witness to be Compelled to Answer	56
<b>Section 148:</b> Court to Decide When Question shall be Asked and When Witness Compelled to Answer	56
<b>Section 149:</b> Question not to be Asked without Reasonable Grounds	57
<b>Section 150:</b> Procedure of Court in Case of Question being Asked without Reasonable Grounds	57
<b>Section 151:</b> Indecent and Scandalous Questions	57
<b>Section 152:</b> Questions Intended to Insult or Annoy	57
<b>Section 153:</b> Exclusion of Evidence to Contradict Answers to Questions Testing Veracity	57
<b>Section 154:</b> Question by Party to His Own Witness	58
<b>Section 155:</b> Impeaching Credit of Witness	58
<b>Section 156:</b> Questions Tending to Corroborate Evidence of Relevant Fact, Admissible	58
<b>Section 157:</b> Former Statements of Witness may be Proved to Corroborate Later Testimony as to Same Fact	59
<b>Section 158:</b> What Matters may be Proved in Connection with Proved Statement Relevant under Section 32 or 33	59
<b>Section 159:</b> Refreshing Memory	59
<b>Section 160:</b> Testimony to Facts Stated in Document Mentioned in Section 159	60
<b>Section 161:</b> Right of Adverse Party as to Writing Used to Refresh Memory	60
<b>Section 162:</b> Production of Documents	60
<b>Section 163:</b> Giving, as Evidence, of Document Called for and Produced on Notice	60
<b>Section 164:</b> Using, as Evidence, of Document Production of Which was Refused on Notice	61
<b>Section 165:</b> Judge's Power to Put Questions or Order Production	61
<b>Section 166:</b> Power of Jury or Assessors to Put Questions	61

## 11. **Improper Admission and Rejection of Evidence** **62**

<b>Section 167:</b> No New Trial for Improper Admission or Rejection of Evidence	62
--	----