

# Teaching of the Law of Evidence

## Objectives

1. To expose the students to the fundamental concepts and basic principles of the Law of Evidence.
2. To acquaint the students with the procedure related to and practice connected with the working of the Indian Evidence Act
3. To equip the students with such knowledge and skill as may be required for development of due competence in respect of application of the Indian Evidence Act to the real life situations, in the context of legal proceedings.
4. To foster in the students a sense of procedural justice intended to be administered through the process of evidence and to orient them to the philosophy of and rationale behind the Indian evidence Act.
5. To help the students develop a professional attitude and to impart practical training as to how the Indian Evidence Act may be operationalised effectively in advancement of Justice.
6. To inculcate in the students values the Indian Evidence Act seeks to achieve as an instrument for determination of facts, establishment of truth and adjudication of dispute involving rights and liabilities, Civil as well as Criminal

# Law of Evidence

## Teaching Plan

# WEEK – 1

## INTRODUCTION- GENERAL

- A) What is evidence?
- B) Development of Law of Evidence
- C) Classification of evidence
  - a) Oral evidence
  - b) Documentary evidence
  - c) Real evidence
  - d) Direct evidence
  - e) Hearsay evidence
  - f) Circumstantial evidence
- D) The Best Evidence Rule
- E) Facts & Facts in issue

### CASES:

1. **Joseph s/o Kooveli Poulu vs. State of Kerala, 2000 SCC (Cri) 926 - Circumstantial evidence.**

### ESSENTIAL READING

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 1 - 55
2. **S.V. Jogarao, Law of Evidence Wood Roof and Amir Ali, Universal Book Treaders, page 3 – 42, 59 - 75**

### ADDITIONAL READINGS

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 1 – 26.

# WEEK - 2

## Relevancy and Admissibility of Evidence

- A. Facts forming part of res gestae
- B. Facts which are the occasion, cause or effect of facts in issue.
- C. Motive, preparation and conduct.
- D. Facts necessary to explain or introduce relevant facts
- E. Facts in reference to common design
- F. Facts not relevant but becomes relevant.
- G. Facts enable court to determine amount.
- H. Facts relevant when right and custom are in question.
- I. Facts showing instance of state of mind, body, bodily feelings.
- J. Facts on question whether accidental or intentional.

### CASES:

1. **D. Gopalkrishnan v. Sadanand Naik and others, (2006) 1 SCC (Cr) 600 - Test identification parade – police role.**
2. Rameshwar Vs. State AIR 1972 SC 102 - Relevancy contradiction.
3. **State of Maharashtra v. Suresh, (2000) 1 SCC 471 – T.I.Parade – Purpose.**
4. **Sukhar v. State of U.P, (1999) 9 SCC 507 – Res Gestae**

### ESSENTIAL READING

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 161 - 316

### ADDITIONAL READINGS

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 27 – 128.

# WEEK - 3

## Admission - Confession

- A) What is admission
- B) What is confession
  - a) Judicial confession
  - b) Extra Judicial confession.
  - c) Confession before Police when admissible and inadmissible.
  - d) Retracted confession – value
  - e) Confession of co-accused probative value

### CASES:

1. **State of A.P v. Kanda Gopaludu, (2006) 2 SCC (Cr) 121 – Extrajudicial Confession – Value.**
2. State (NCT of Delhi) v. Navjot Sandhu, (2005) SCC (Cr) 1715 – Confession made in police custody under special statute. Confession to press & TV in presence of police – inadmissible.
3. State of M.P. V. Faddi, AIR 1964 SC 1850 - Confession – Admission.
4. Nishikant V. State of Bihar AIR 1969 SC 422 - Confession inculpatory - Exculpatory.
5. **Makhan Singh V. State of Punjab AIR 1988 SC 1705 – Extra judicial - confession - circumstantial evidence - motive confession leading to discovery**

### ESSENTIAL READING

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 321 – 513.

### ADDITIONAL READINGS

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 129 – 171.
2. **Justice K. N. Goyal, *Admission of Fact by Counsel: Is it admissible?* (2002) 4 SCC (Jour.) 9.**

## **WEEK - 4**

### **Statement of persons who can not be called as witnesses – particularly with reference to dying declaration**

- A) What is dying declaration /statement
- B) Probative value of dying declaration
- C) Corroboration – if necessary
- D) Scrutiny – court’s duty
- E) Value if declarant survives

#### **CASES:**

- 2. Ganpat Mahadeo Mane vs. State of Maharashtra, A.I.R. 1993 SC 1180 - Three dying declarations - before three Different Authorities - evidentiary value.**
- 3. State of Maharashtra v. Mehtabi 1998 SCC (Cri) 1614 - Dying declaration - probative value.**

#### **ESSENTIAL READING**

- 1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 513 - 589.

#### **ADDITIONAL READINGS**

- 1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 258 – 313.

## WEEK -5

### Relevancy of statements made under special circumstances and judgments of courts of justice.

- a) Existence of course of business when relevant.
- b) Entries in Book of Account.
- c) Entry in public record.
- d) Statements in maps, charts.
- e) Judgment.
- f) Previous Judgment.

#### CASES:

1. **C.B.I. v. V.C. Shukla, 1998 SCC (Cr) 761 – Entries in course of Business**
2. L. K. Advani v. C.B.I., 1997 Cr.L.J. 2559 – Entries in course of Business
3. **Chandra Bhai v. State of Uttar Pradesh, (1971) 3 SCC 983 – previous judgment – Stoppel**
4. State of Bihar v. Radha Krishna, AIR 1983 SC 684 – Court Judgment - Relevancy

#### ESSENTIAL READING

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 316 – 320, 589 - 680

#### ADDITIONAL READINGS

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 314 – 339.

# WEEK - 6

## Relevancy of opinion evidence.

- a) Opinion – Meaning
- b) Opinion of experts.
- c) Opinion as to handwriting and digital signature.
- d) Opinion as to right, custom, usage, tenets, relationship etc.
- e) Ground on which such opinion is based

### CASES:

1. **Ravi Kumar v. State of Punjab, (2006) 1 SCC (Cr) 738 – Contradiction between oral evidence and expert opinion.**

### ESSENTIAL READING

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 681 – 757.

### ADDITIONAL READINGS

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 340 – 364.
2. **K. Kumar, *The Expert and the law court*, (1987) 4 SCC (Jour.) 7.**

# **WEEK -7**

## **Character – Its relevancy and admissibility**

- a) In civil cases.
- b) In criminal cases.
- c) Previous bad character.
- d) Character as affecting damages.

### **CASES:**

1. **Ram Lakhan Singh v. State, AIR 1977 SC 1936 – Character – previous judgment**
2. **Bhagaban v. State, AIR 1965 SC 682 – Character – relevancy**
3. **Habeeb Md. v. State of Hyderabad, AIR 1954 SC 51 - Character**
4. **Mangal Singh v. State, AIR 1957 SC 199 – Evidence of bad character.**

### **ESSENTIAL READING**

6. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 757 - 767.

### **ADDITIONAL READINGS**

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 365 – 372.

## WEEK – 8

### Proof otherwise than through evidence

- A) Admissions
- B) Judicial notice
- C) Presumption.
  - i) May presume
  - ii) Shall presume
  - iii) Conclusive proof
- D) Presumption as to existence of certain facts.
- E) Presumption of regularity.
- F) Presumption of certain offences
- G) Presumption of marriage, birth, legitimacy and death.

#### CASES:

1. **Jagdish Narain v. Krishna & other, (2006) 2 SCC (Cr) 168, Presumption of fact/ Natural presumption.**
2. Sheikh Mehboob v. State of Maharashtra, 2005 SCC (Cr.) 1544 – Presumption of fact.
3. N. Jayalakshymi Ammal V. R. Gopal Pathar, AIR 1995 SC 995 – presumption of death.
4. Demu Ganu Bendale V. Arvinda Ohondu Talekar AIR 1994 SC 1304 – Inference
5. Kamti Devi (Smt) and other V. Poshi Ram (2001) 5 SCC 311- Presumption of Legitimacy
6. **State of A.P. V. Raj Gopal Asawa and another (2004) 4 SCC 470 – Presumption – Dowry Death.**
7. **L.I.C. of India V. Anuradha, Respondent, AIR 2004 SC 2070 – Presumption of life – Death – Burden of Proof**

#### ESSENTIAL READING

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 149 – 159, 769 - 798

#### ADDITIONAL READINGS

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 539 – 548.

# WEEK - 9

## Documentary Evidence

- A) Public documents
- B) Private documents
- C) Primary evidence
- D) Secondary evidence
- E) Proof of documents
- F) Presumption as to documents.
- G) Exclusion of oral evidence.

### CASES:

- 7. **R.V.E. Venkatachala Gouder V. Arulmigu Viswesaraswami & V.P. Temple and another (2003) 8 SCC 752 – Documentary Evidence.**
- 8. **Marwari Kumhar and other V. Bhagwanpuri Guru Ganeshpuri and another, (2000) 6 SCC 735 – Secondary Evidence**

### ESSENTIAL READING

- 1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 809 – 1061.

### ADDITIONAL READINGS

- 1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 373 – 422.

# **WEEK - 10**

## **Estoppel**

- A) What is estoppel – meaning
- B) Estoppel against statute
- C) Promissory estoppel
- D) Estoppel of Tenant and licensee of person in possession
- E) Various kinds of estoppel (estoppel by conduct, estoppel by document etc.)

### **CASES:**

1. **A.P. State Electricity Board and others vs. M/s Saroda Ferro Alloys Ltd., A.I.R. 1993 SC 1521 - Promissory Estoppel.**
2. **Akhara Braham Buta vs. state of Punjab and Another, A.I.R. 1993 SC 366 - Estoppel against state – Document**
3. **IFC v. Official Liquidator, High Court, Calcutta, AIR 1993 SC 1524**

### **ESSENTIAL READING**

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 1291 – 1420.

### **ADDITIONAL READINGS**

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 549 – 559.

# WEEK - 11

## Proof-Burden of Proof

- A) Burden of proof in criminal cases - Legal burden
- B) Burden of proof in civil cases - Legal burden
- C) Standard of proof in civil cases and criminal cases
- D) Standard of proof in matrimonial cases
- E) Standard of proof for the accused - in case of general exceptions

### CASES:

1. **P. Mani v. State of Tamil Nadu, (2006) 2 SCC (Cr) 36 – Burden of Proof – Applicability of Sec. 113 A.**
2. State of M.P v. Ramesh, 2005 SCC (Cr.) 1443 – Right to private defence – burden – standard.
3. Bhupendra Singh Achudasama v. State of Gujarat, 1998 SCC (Cri) 668 - Burden of proof in general exception cases.
4. **State of West Bengal v. Mir Mohammad Omar, (2000) 8 SCC 382 – Burden of proof – Within special knowledge.**
5. **Shahila Abdul Gafar Khan v. Vasant Raghunath Dhoble & Another, (2003) 7 SCC 749, AIR 2003 SC 4567 – Torture in police custody.**

### ESSENTIAL READING

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 1063 - 1290

### ADDITIONAL READINGS

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 423 – 538.
2. **Dr. K. N. Chandrasekhar Pillai, *Burden of Proff in Criminal Cases and the Supreme Court – New Trends*, (2003) 8 SCC 49**
3. **Law Commission of India, *Injuries in police custody*, 113<sup>th</sup> report (1985).**
4. Law Commission of India, *Rape and allied offences; some questions of substantive law, procedure and evidence*, (1980)

**WEEK - 12**  
**Public interest - Immunity - Privileged**  
**Communication**

- A) Right against self incrimination
- B) Incrimination of spouses and others
- C) Legal professional privilege
- D) Affairs of the state

**CASES:**

1. **State of Punjab vs. Sukdev Singh, A.I.R, 1961 SC 493 - Privileged Communication - state**

**ESSENTIAL READING**

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 1445 – 1487, .

**ADDITIONAL READINGS**

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 561 – 576.

# **WEEK - 13**

## **Witness and Examination**

- A) Examination in Chief
- B) Re-examination
- C) Cross examination
- D) Further examination - permissibility - scope of cross examination
- E) Leading questions
- F) Refreshing the memory

### **CASES:**

1. **Varkey Joseph Vs. State of Kerala Represent by Circle Inspector of Police, A.I.R. 1993 SC 1892 - leading question - Proof - Suspicion if proof.**

### **ESSENTIAL READING**

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 798 – 808, 1421 – 1445, 1487 - 1637

### **ADDITIONAL READINGS**

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 583 – 614.

# WEEK - 14

## Appreciation of evidence

- A) Corroboration
- B) Contradiction
- C) Evidence of
  - i) interested witness
  - ii) approver as a witness
  - iii) accomplice as a witness
  - iv) partisan witness
  - v) biased witness
  - vi) hostile witness
  - vii) child witness
  - viii) chance witness
  - ix) person of defective
  - x) intellect police as a witness
  - xi) stock witness

### CASES:

1. **Bishnu v. State of West Bengal, (2006) 1 SCC (Cr.) 696 – Contradiction, inconsistencies, exaggeration or embellishments – few discrepancies or improvement do not demolish the testimony.**
2. Ram Kishan & other v. State of U.P, (2006) 1 SCC (Cr.) 603 – Interested witness – value.
3. Israr v. State of U.P, 2005 SCC (Cr.) 1260 – Falsus in uno falsus in omnibus.
4. Sabaskhan Narkhan Pathan v. State of Gujarat, A.I.R. 1993 SC 1544 - Partisan/ interested witness - delay in lodging F.I.R. - evidentiary value
5. **Baby Kandayanathil vs. state of Kerala, A.I.R. 1993 SC 2275 - Competency - child witness – value.**
6. Anil Phukan vs. State of Assam, A.I.R. 1993 SC 1462 - Direct evidence - Medical evidence - Contradiction – value.
7. Raja Krishna v. State of Saurashtra, A.I.R. 1956 SC 217 – Evidence of Police Officer – appreciation
8. State of Uttar Pradesh v. Chet Ram and others, A.I.R. 1989 S.C. 1543 - Hostile witness - credibility - Evidentiary value - Motive - Two views, which shall prevail principle.
9. **State of Punjab v. Harbans Singh, AIR 2003 SC 2268 – Evidentiary value of stock witness.**
10. Suryanarayana, Appellant v. State of Karnataka, Respondent, AIR 2001 SC 482, - Evidentiary value of child witness.
11. Yaqub Ismailbhai Patel v. State of Gujarat, AIR 2004 SC 4209 – Evidence – Sole eye witness.

### ESSENTIAL READING

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 55-149.

## **WEEK - 15**

# **Role - function and powers of the court in the context of law of evidence and effect of improper admission.**

- a) Court management.
- b) Power of the court.
- c) Improper admission
- d) Rejection of evidence.

### **CASES:**

1. **Zahira Habibullah Sheikh v. State of Gujarat, (2006) 2 SCC (Cr.) 8 – Role of the judge during trial – power.**

### **ESSENTIAL READING**

1. Justice Y. V. Chandrachud, V. R. Manohar, Dr. Avtar Singh and Dr. Shakil Ahmed Khan, *Ratan Lal and Dhirajlal's The Law of Evidence*, Twenty second edition (2006), Page No. 1637 - 11653.

### **ADDITIONAL READINGS**

1. S. V. Joga Rao, *Evidence: Cases and Materials*, (2003), Lexis Nexis, page no 615 – 617.
2. Law Commission of India, *Evidence obtained illegally and improperly, proposed section 166A, Indian Evidence Act, 1872*, (1983)
3. **S.V. Jogarao, Law of Evidence Wood Roof and Amir Ali, Universal Book Treaders, page 42 –5.8**