

LAW OF EVIDENCE - THE BHARATIYA SAKSHYA ADHINIYAM (BSA)

Outcome:

This paper aims to equip students with a comprehensive understanding of the law relating to various types of evidence and the procedural processes in courts. It prepares students for the practice of law by inculcating knowledge on the relevancy, admissibility, and appreciation of evidence, along with the examination and cross-examination of witnesses..

Module 1

Definitions & Relevancy of facts

Nature of evidence -Basic Principles of Law of Evidence- Adversarial System and Inquisitorial System of Justice-Comparative perspective-Definitions-Evidence-general classifications-Appreciation of evidence. Relevancy: Facts connected with facts in issue, - Motive-Preparation-Doctrine of Res-gestae; S.4 & hearsay evidence-Evidence of Common Intention S.8, Relevancy or otherwise irrelevant facts- Facts to prove right or customS.11 -Facts concerning state of mind/state of body or bodily feelings S.12-Accidental and intentional acts-inthe course of business.

Module 2

Admissions , Confession &Dying Declaration.

Relevancy and admissibility of admissions, privileged admissions- evidentiary value of admissions (SS. 15 to 21)- Distinction between admission and confession-confession to police officer when admissible -Retracted confession-extra judicial confession-.Relevancy and admissibility of confessionsS.22: Admissibility of information received from an accused personin custody, Confession of co-accused-Confession to Police Officer S.23- Statements by personswho cannot be called as witnesses-SS 26.27- Dying declaration: Justification for relevance- Statements made under special circumstances (Ss. 28-32)- What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers

Module 3

Relevancy of Judgments, Opinion & Character

Relevance of judgments: General principles, Fraud and Collusion (Ss 34-38)- Expert testimony: General principles (Sec. 39-45), who is an expert, types of expert



evidence, Problems of judicial defence to expert testimony- Character evidence: Meaning – Evidence in Civil & Criminal cases(SS.46-50)

Module 4

Introduction on Proof of facts & Oral, Documentary Evidences

Judicial notice (S.51)-admitted fact-oral evidence(SS 54.55) General principles concerning oral Evidence -documentary evidence (Ss 56-73)/primary & secondary - public documents and private documents-Importance of S.61-digital & electronic records- SS 74-77 -presumption as to documents (Ss 78-93)-last scene rule-latent and patent ambiguity-proof of electronic evidence. General principles regarding exclusion of oral evidence by documentary evidence (SS. 94-103).

Module 5

Burden of Proof & Examination of witnesses

The general concept of onus probandi (SS. 104), General and Special exception to onus probandi (SS. 104-120)- Presumption and burden of proof (S.115) -Reverse burden- Presumption as to legitimacy of child--S.116 and presumption as to dowry death SS 117,118- Doctrine of judicial notice and presumptions S.119– Estoppel (Ss 121-123)– Scope of Estoppel, Introduction as to its rationale , Estoppel distinguished from Res judicata, Waiver and Presumption, Kinds of Estoppel.

Who may testify(S.124) -Competency and compellability- Witness unable to communicate verbally–dumb witnessS.125 -voir dire-immunity of judges and magistrates -Privileged communications-communication during marriage S.128-official communicationS.130- professional communicationS.132-Confidential communication with legal advisers- accomplice S.138 and approver- Order of production and examination of witnesses S.140-Order of examinationsS.143- General principles of examination and cross examination -leadingquestion--S.146- - Nature of questions-Impeaching credit of witness.S.158- refreshing memoryS.162.-Judges power to ask questions-Improper admission of evidence.



Prescribed Readings (With Amendments):

1. The Bharatiya Sakshya Adhiniyam, 2023
2. V. P. Sarathi's Law of Evidence
3. Ratanlal and Dhirajlal, The Law of Evidence
4. Dr. Avatar Singh, Principles of Law of Evidence, Central Law Publications
5. K. D. Gaur, Textbook on The Indian Evidence Act
6. Justice M. Monir, Textbook on The Law of Evidence
7. P.S. Achuthan Pillai, Law of Evidence
8. Sarkar, Law of Evidence
9. Woodroff and Amir Ali, Law of Evidence

