
CONCEPT OF ADMISSIBILITY AND RELEVANCY VIS-A-VIS SECTION 5, 136 AND 165, INDIAN EVIDENCE ACT OF 1872

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ABSTRACT

The Indian Evidence Act of 1872 has two popular concepts: ‘Relevancy’ and ‘Admissibility’. However, they are frequently used interchangeably. They are not, however, the same. Their legal implications are not the same. All relevant evidence are not admissible, but not all admissible evidence are relevant. Relevancy is the genus of which admissibility is the species. Principles of evidence, on the other hand, give distinct meanings to concepts and have different objectives. This paper tries to elaborate these concepts with case laws and mark the distinction between both.

Key words: Admissibility, Evidence, Relevancy.

INTRODUCTION

It is essential to have a guideline for admissibility of evidence. The Indian Evidence Act of 1872 not only outlines which evidence is relevant and which is not, but it also lays out the method for admissibility of evidence. In the due process approach, where the burden of proof is on the parties to show their case, the Judge's discretion is very significant. Since corruption has risen to a new level, some set of rules for relevancy and admissibility are in place to ensure that the Judge does not use his power arbitrarily. Admissibility and relevancy are two key words in the Act. The term admissibility is not defined in the Act, but the term relevancy is. The concept of relevancy is based on the section 5¹ and section 7² of the Act.

RESEARCH OBJECTIVES

- 1) To explain the concept of relevancy of facts in a trial.
- 2) To understand the admissibility of any evidence to be proved.
- 3) To differentiate between relevancy and admissibility of evidence.

RESEARCH METHODOLOGY

The researcher primarily used secondary documentary data combined with multiple source data. Documentary secondary data is gathered through various forms of research from different publications, articles, journals, and books. This study was mainly planned to evaluate the concepts of relevancy and admissibility under Indian Evidence Act, 1872. The research is an exploratory research.

MEANING OF RELEVANCY

Fact has been explained in section 3³ of the Indian Evidence Act. Fact means a thing that exists. In the Evidence Act, it is not restricted to the tangible nature, even the feelings, state of mind and personal preferences come under the broad term fact. Section 5 to 55⁴ deal with the relevancy of fact. The main question arises as to which fact is legally relevant and also logical in nature. A logically relevant fact may not necessarily be legally relevant in court. All facts that are to be produced in court must be logically relevant as well as legally admissible.

¹ The Indian Evidence Act 1872 § 5

² The Indian Evidence Act 1872 § 7

³ The Indian Evidence Act 1872 § 3

⁴ The Indian Evidence Act 1872 § 55

In the case of *Ram Bihari Yadav v. State of Bihar*⁵, the difference between relevancy and admissibility is explained. Section 6⁶ of the Act is very important as it explains about the facts that form a part of the same transaction. The facts which are directly connected to the issue such as motive, cause, effect are most relevant this is contained in sections 6 to section 16⁷ of the Act. The relevancy regarding Confessions and precedents is also explained in the Indian Evidence Act, 1872.⁸

RELEVANT FACT

As per Section 3 of Indian Evidence Act, One fact is said to be relevant to another when one is connected with the other in any of the ways referred to in the provisions of the Act relating to relevancy of facts. The Act does not give any specific definition of 'relevancy' or 'relevant fact'. It simply describes when one fact becomes relevant to another fact. Section 5 to Section 55 of the Act provides several ways in which one fact may be connected with the other fact and therefrom the concept of relevant fact can be meted out.⁹

MEANING OF ADMISSIBILITY

Admissibility of fact is discussed in Section 165¹⁰ proviso 1 of the Indian Evidence Act 1872. In every case, there are some facts in the issue that can be proved either by direct evidence or by proving the relevant facts which are in relation to the fact in issue.

According to Section 165 proviso 1, a judgment, in any case, shall be delivered based on relevant facts which are duly proved to the satisfaction of the court. Only the relevant facts are the facts for which evidence shall be taken into consideration to prove them.

During trial, one party proposes to prove a particular fact by any evidence. The question on the admissibility of evidence arises whether or not the evidence can be accepted to prove the fact. In any case, initially, the question of admissibility of evidence arises after the admissibility of evidence has been accepted the said fact shall be considered by the court to be used for deciding the case or not.

⁵ *Ram Bihari Yadav v. State of Bihar*, (1998) 4 SCC 517

⁶ The Indian Evidence Act 1872 § 6

⁷ The Indian Evidence Act 1872 § 16

⁸ Paridhi Selvan, Ms..Roja.K, A critical study on admissibility of evidence, Vol.5, International journal of pure and applied mathematics, 2018.

⁹ Debaditya Roy, Relevancy and Admissibility under Indian Evidence Act, Legal Service India.

¹⁰ The Indian Evidence Act 1872 § 165

Under Section 136¹¹ of the Act, the party is allowed to give evidence of fact which is a relevant fact and which evidence is admissible and not to otherwise, while Proviso 1 to Section 165 of the Indian Evidence Act provide that, Judgement be based only on relevant facts which are duly proved, thus it is implicit here that, only relevant facts which are duly proved will be taken into consideration for judgment to be passed.¹²

ESSENTIALS FOR ADMISSIBILITY

For the admissibility of the evidence following essentials shall be full filled:-

- 1) Only evidences for relevant facts of which the evidence is admissible, directly on the facts in Issue.
- 2) The evidence so admissible is duly proved unless has been prohibited by any express provision of law. Like Section 25¹³ which makes the confessional statement before the police officer being inadmissible.
- 3) The proof of the document must be strict as per the provisions prescribed, such as Section 64¹⁴ which mandates that the document be proved by way of primary evidence and as per chapter V of the Evidence Act.
- 4) The basic rules related to evidence should not be violated. For example, rules related to prohibition of hearsay evidence and oral and documentary evidence, etc.¹⁵

CASE LAWS

In the case of *Sris Chandra Nandy v Rakhalananda*¹⁶, Lord Atkin stated that “it is not open for any judge to exercise a dispensing power, and admit evidence not admissible by the statute because to him it appears that the irregular evidence would throw light upon the issue.”

In *State of Gujarat vs Ashulal Nanji Bisnol*¹⁷, the Hon’ble High Court stated “there is no express or implied mandate laid down in the Indian Evidence Act with respect to ‘relevancy’ and ‘admissibility’. The phrase “admissible and relevant”, means that admissible for the consideration of the judge, “admissible and relevant” for the consideration of the judge to pronounce the judgment in a case. The statements or documents which are not relevant and

¹¹ The Indian Evidence Act 1872 § 136

¹² Samarth Agrawal, Relevancy and Admissibility, <https://samarthagrawalbooks.com/2021/08/11/relevancy-and-admissibility/>

¹³ The Indian Evidence Act 1872 § 25

¹⁴ The Indian Evidence Act 1872 § 64

¹⁵ Ritika, The importance of the terms relevancy and admissibility in Indian Evidence Act, Law Wallet, 2021.

¹⁶ *Sris Chandra Nandy v Rakhalananda*, AIR 1941 PC 16

¹⁷ *State of Gujarat vs Ashulal Nanji Bisnol*, (2001) SCC Online Guj 204

admissible, cannot be taken on the record. It is nowhere provided in the Indian Evidence Act that the material which the judge thinks not relevant or inadmissible, cannot be brought on record. Evidence and material which may not be relevant or admissible cannot be prevented from placing on record.¹⁸

RELEVANCY AND ADMISSIBILITY OF FACT

The concept of admissibility is often distinguished from relevancy. Relevancy is determined by logic and common sense, practical or human experience, and knowledge of affairs. On the other hand, the admissibility of evidence, depends first on the concept of relevancy of a sufficiently high degree of probative value, and secondly, on the fact that the evidence tendered does not infringe any of the exclusionary rules that may be applicable to it.

Relevancy is not primarily dependant on rules of law but admissibility is founded on law. Thus, relevancy usually known as logical relevancy while admissibility is known as legal relevancy. Relevancy is a question of fact which is the duty of lawyers to decide whether to tender such evidence in the court. The probative value of the evidence is the weight to be given to it which has to be judged having regard to the facts and circumstances of each case. A judge by using the power under section 136 of the Act, can satisfy himself that whether a fact is relevant as well the manner in which it shall be proved so that it can be a relevant and then can admit it. It is the duty of the court to see all the relevant facts are allowed before the court in a case and also to exclude all irrelevant facts.¹⁹

In general, a relevant fact given in evidence under Section 5 to 55 is admissible in the court. However, a relevant fact under Section 5 to 55 may not be admissible if the other sections of the Act do not permit it to be received by the court. These are the main exclusionary rules in the Act which excluded the admissibility of a relevant fact. Hearsay statement, confessions, evidence of the defendant character, exclusion of evidentiary facts by estoppel and exclusion of privileged communication.²⁰

However, in certain cases, evidence, which is not relevant under Section 5 to 55 may nonetheless be admissible. For example, Statement of relevant fact by person who is dead or cannot be found. Former statements of witness may be proved to corroborate later testimony

¹⁸ Arya Mishra, Relevancy and Admissibility, iPleaders, 2019.

¹⁹ Sidhartha Sekhar Dash, Principles of relevancy and admissibility under the Indian law of evidence, Vol. 1, IJETRM.

²⁰ Venancio D'Costa, Astha Ojha & Gauri Goel, : Two sides of a coin, Mondaq.com, 2020.

as to same fact.²¹ “Whether a document is relevant and admissible in evidence or not is a question governed by the Evidence Act and how it should be produced in Court and how it should be dealt with by the Court are questions of procedure governed by the Code of Civil Procedure. The Evidence Act does not deal with the procedure relating to documents offered in evidence”²².

CONCLUSION

Relevancy is a test for admissibility. The topic of admissibility is one of the laws and is controlled by the Court. In Section 136 of Evidence Act 1950, a variation is made among relevancy and admissibility, on the off chance that it very well may be demonstrated that the proof would be relevant whenever demonstrated, the court will concede proof of it. All admissible evidence is relevant but all relevant evidence is not admissible. An irrelevant truth isn't allowable in court. Be that as it may, in specific cases, proof which isn't relevant under Section 5 to 55 may, in any case, be acceptable.

²¹ The Indian Evidence Act 1872 § 157

²² Jageshar Naik vs Collector Of Jaunpur, AIR 1966 All 392