

INDIAN EVIDENCE

ACT, 1872

UNIT-2

FACTS CONCERNING

BODIES AND MENTAL

STATUS

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SECTION 12

- . In suits for damages, facts tending to enable Court to determine amount are relevant.—In suits in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded, is relevant.



SECTION 13

- Facts relevant when right or custom is in question.—Where the question is as to the existence of any right or custom, the following facts are relevant:—(a) any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted, or denied, or which was inconsistent with its existence;
- (b) particular instances in which the right or custom was claimed, recognized, or exercised or in which its exercise was disputed, asserted or departed from. Illustration The question is, whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcilable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours, are relevant facts.

CHARACTERISTICS OF RIGHTS

- Rights are those claims of the individual which are essential for his development and self-realization.
- Such claims are recognized by society. There can be no rights outside society.
- Rights must serve the higher interests of society. They have a moral basis.
- Rights are not absolute. Restrictions can be placed on rights in the interests and welfare of the society as a whole.
- Rights should be universal. They should be given to all members of the society.
- The state gives legal recognition to rights. The state is the coercive force which ensures the exercise of rights.
- Rights of the individual must correspond to the contribution which he makes to the society in his personal capacity. Just as a man who does not work, has no right to food; similarly he who does not perform functions to contribute to social good cannot demand any rights.

CUSTOMS-

- 1. A **custom** must be reasonable. ...
- 2 Conformity with statute law – No **custom** or prescription can take away the force of an Act of Parliament. ...
- 3 Observance as of right. It must have been observed as of right. ...
- 4 Certainty. ...
- 5 Consistency. ...
- 6 Immemorial antiquity. ...
- 7 Continuity : ...
- 10 Must be General or Universal.

CUSTOM IN QUESTION WAS CREATED, CLAIMED,
MODIFIED, RECOGNIZED, ASSERTED, OR DENIED,
OR WHICH WAS INCONSISTENT WITH ITS
EXISTENCE;

- Created
- Claimed
- Modified
- Recognized
- Asserted
- Denied
- Inconsistent with its existence

IMPORTANT CASES

- Section 12
- Shaikh gafoor Vs state of maharashtra.AIR 2008
- Section 13
- Sheetal das vs santdas AIR 1954

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Thank you

