



INDIAN EVIDENCE ACT, 1872
UNIT 3
RELEVANCY OF EXPERT'S OPINION

BY

ROUNAK SHRIVASTAVA

SOS LAW

JIWAJI UNIVERSITY

RELEVANCY OF EXPERT EVIDENCE

- The general rule is that expert's opinions are relevant but *not conclusive*. In contemplation of which, the following are reasons on its relevancy:

a) A court is not bound to act on the evidence of an expert.

But in Selvaguru v Thialpagar (1952) Supreme Court held that a rejection of expert opinion without justification by trial judge was wrong.

b) Sufficient reasons must be given by the expert.

In Solicitor-General V Podisira (1965), on a charge of selling government arrack without license, the preventive officer's (expert) evidence was rejected as he failed to give reasons as to how he came to his opinion.

RELEVANCY OF EXPERT EVIDENCE

c) The difficulty of assessment of expert evidence.

The court has no means of qualitatively & quantitatively verifying the conclusions of the witness. If there is conflicting testimony, the court may have to decide on doubtful matters such as the reputations & experience of the rival expert. -Keeton v R (1906)

- Thus the experts opinion, therefore is relevant but may not be conclusive. In R v Pinhamy (1955) Basnayake C.J, contended that it is not conclusive, but is only an item in the chain of evidence to establish the facts.
- It was considered as a relevant fact to be taken into account in forming the opinion of courts – Charles Perera v Motha (1961)

SECTION 45

- Illustration –(a)

The question is whether the death of A was caused by poison.

The opinions of experts as to the symptoms produced by the poison by which A is supposed to have died are relevant. Thus this matter relates to science.

Kularatne Murder Case(1967), postmortem revealed she was poisoned, the prosecution lead evidence by expert opinion & it became almost decisive on the expert identification of arsenic poison on the plates used by Padmini(deceased), by the Government Analyst.

SECTION 45

- Illustration –(b)

The question is whether A, at the time of doing a certain act was by reason of unsoundness of mind , incapable of knowing the nature of the act.

The opinion of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, & whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts done is relevant. This is a matter related to medical science or a Psychologist & Psychiatrist.

Toohey v Commissioner of Metropolitan Police(1965), the defense counsel used medical evidence by virtue of a expert to deem his client as mentally ill.

SECTION 45

- Illustration –(c)

The question is whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.

The opinions of experts on the question whether the two documents were written by the same person or by different persons, is relevant. This matter relates to the identity or genuineness of handwriting.

Ajith Samarakoon V AG(2004), (Kobeiganne Murder case) a EQD Expert assisted the judge in identifying the handwriting of the accused.

SECTION 47

- Whenever a question arises before court whether a particular document was written/signed by a particular person, the opinion of any person **acquainted with the handwriting** of such person would become relevant under this section.
- A Witness is said to be acquainted with handwriting , in the following circumstances
 1. A witness has **seen the person write**, *Either the document in question or another document.*(Dhani V Neem (1972)- AIR)
 2. Witness has **received documents** purporting to be written by that person in answer to documents written by the witness & addressed to him , There must have been a sufficient for the witness to acquire such knowledge of the handwriting if the evidence is to be worthwhile. Nadarajah v Thillairajeswari (1948), unsuccessful attempt to apply this limb.
 3. In the ordinary course of business, documents purported to have been written by that person have been **habitually** (usually, generally or according to custom) submitted to witness.(Doe V Suckermore (1836))

SECTION 47

Illustration to s.47

The question is as to what is relevant to prove A's handwriting...(where B- a merchant, C- a clerk and D- a broker.)

- B had written letter to A & has received answers from A.
- C, has constantly read such letters.
- D, has habitually seen & been consulted on such letters.

B,C or D never saw A write. But their opinion is relevant. (Doe v Suckermore -1836)

SECTION 51

- Whenever the opinion of any living person is relevant the grounds on which such opinion is based also becomes relevant.
- illustration to s.51 - states that ;therefore an expert may give an account of experiments performed by him in arriving at his opinion.
- Hence the principle highlighted by s.51 is the importance of tests to value the expert opinion, and a bare statement of his opinion is not sufficient. (Karuppan v S.I.P Pindeniya 1959)

CONCLUSION

- An Expert witness is a person skilled in some art, trade, science or profession.
- An expert must have either knowledge, skill, experience, training, or education that is beyond and above that of the average person (layman).
- In this respect, therefore, an expert is in a position to assist the jurors because they do not have the background to this type of.
- Expert opinions are relevant, but not conclusive.
- Experts may be called upon by both sides to a case.
- A mere handwriting is not direct evidence to convict an accused, but is an assisting component.
- Every expert who gives an opinion must give logical reasoning or grounds behind his findings for the courts to accept it as evidence.

THANK
YOU