

Definition of evidence in the Indian Evidence Act

According to [Section 3](#) of the Evidence Act 1872, evidence means and includes:

- All such statements which the court allows or needs to be presented before it by the witnesses in connection to matters of fact under inquiry. These statements are termed as oral evidence.
- All such documents including any electronics record, presented before the court for inspection. These documents are termed as documentary evidence.

Types of Evidence

According to the definition given in the Indian Evidence Act, evidence can be divided into two categories:

- Oral Evidence;
- Documentary Evidence.

It should be noted that evidence can be both oral and documentary and also, electronic records can be presented in the court as evidence, which means that even in criminal cases, evidence can be presented by way of electronic records. This shall include video-conferencing.

Oral and documentary evidence can be divided into two categories:

- Direct or primary;
- Indirect or hearsay or secondary.

There is also a category of real or material evidence, which is supplied by material objects for inspection of the Court such as a stolen good or the weapon of offense.

Oral Evidence

Oral evidence renders to the evidence that is mainly words spoken by mouth. It is adequate to be proved without the support of any documentary evidence, provided it has credibility.

Primary oral evidence is the evidence that has been personally heard or seen or gathered by the senses of a witness. It is called direct evidence as defined by [Section 60](#) of the Indian Evidence Act.

Indirect or hearsay evidence is generally not admissible in a court of law as the person reporting the facts is not the actual witness of the facts in issues. However, there are some exceptions made in the case of hearsay evidence where it is admissible in a court of law. [Section 32](#) and [Section 33](#) of the Indian Evidence Act, states the exceptional cases of hearsay evidence.

Documentary Evidence

Documentary evidence is the evidence that mentions any issue described or expressed upon any material by way of letters, figures or marks or by more than one of the ways which can be used for recording the issue. Such evidence is presented in the form of a document to prove a disputed fact in court.

Primary documentary evidence includes the evidence that shows the original documents as mentioned in [Section 62](#) of the Indian Evidence Act, whereas secondary documentary evidence is the evidence that includes copies of documents that can be presented in the court under certain circumstances or as mentioned in [Section 63](#) and [Section 65](#) of the Indian Evidence Act.

Direct or primary evidence

Direct Evidence is acknowledged as the most important evidence required for deciding the matter in issue. Direct evidence directly proves a fact or disapproves of the fact by its virtue. In the case of direct evidence, a particular fact is accepted directly without giving any reason to relate to the fact. One does not even need to point out the illustration provided as the evidence given by the witness in the court of law is the direct evidence which is sufficient enough to prove the matter as against the testimony to a fact proposing guilt.

Also, at times the rule of best evidence plays an important part in upholding direct evidence in a court of law. The rule of the best evidence is a rule of law that only includes the primary evidence in itself. It states that if evidence such

as a document or a recording is presented in the court then only the original ones will be admissible unless there is a reason for not using the original one in the court.

Indirect evidence

Indirect evidence is that evidence which proves the facts in question by giving other facts that are indirect evidence and afterwards, proving their relevance to the issue. The deduction that can be drawn is from such evidence by connecting a series of other facts to the facts in question. These indirect facts must have been related to the facts in question and have a cause and effect connection.

Direct evidence is used in two senses:

- As against hearsay evidence

According to this opposition, direct evidence is the evidence given by a fact that is sensed by a witness with his senses or an opinion held by the witness whereas hearsay evidence is the evidence that what some other person has told the witness to have seen or heard by the other person. This differentiation can be noticed in [Section 60](#) of the Indian Evidence Act, where the word 'direct' is used in contradistinction with the term 'hearsay' evidence.

- As against circumstantial evidence

Direct evidence is that evidence which goes expressly to the very issue in question and which, if believed will prove the fact in question without needing any help from any reasoning for example evidence such as the testimony of an eye-witness to murder, whereas circumstantial evidence will not prove the issue in question but it ascertains the point only by inference or reasoning.

For example, the evidence of the fact that a person had a motive to murder another individual and at the time of the murder the person was seen with a dagger, going towards the place of the murdered individual and shortly afterwards, was seen returning from that very place in blood-stained clothes, would be called as indirect or circumstantial evidence.

Difference between direct and circumstantial evidence

As per [Section 5](#) of the Indian Evidence Act, evidence may be presented in a court proceeding of the existence or non-existence of facts in issue and of such other facts that are considered relevant by the Act. If the presented evidence

relates directly to the existence or non-existence of a fact in issue then the evidence will be considered direct, but if the evidence relates to the existence or non-existence of only a relevant fact then it will be considered as indirect or circumstantial evidence. However, direct evidence as understood by this section should not be confused as defined in Section 60 of the Indian Evidence Act. According to Section 60, the word 'direct evidence' is used as opposed to 'hearsay evidence' and not in contradistinction to 'circumstantial evidence' and thus, going by the section, circumstantial evidence should always be direct as in the facts from which the existence of the fact in issue is to be established have to be proved by direct evidence and not by any hearsay evidence.

For establishing proof by circumstantial evidence, four things are required:

- All the facts should be consistent with the theory.
- The circumstances from which the inference for the theory was drawn, should be fully established.
- The circumstances should be of a decisive nature.
- The circumstances should serve to mean and prove only the theory proposed to be proved and should not entertain any other theory.

It is recommended to use both the direct and circumstantial evidence to prove a theory that is in question in a court of law and no theory prevents the use of both the rules of law in a case.

And also because using the powers of both circumstantial and direct evidence can have a considerable effect in restricting the dishonest parties from tampering with witnesses and any other means of witness. It would have been possible for them to distort the evidence if they had knowledge.

Powers of written evidence

Section 144

[Section 144](#) of the Indian Evidence Act deals with the evidence as to matters in writing. This section states that under the section, a witness who is being examined can be asked whether any agreement, grant, or any other disposition of property as to which the witness is disposing of was not included in the document. When the witness responds to the question affirmatively or when the witness is about to give any statement as to the contents of such a document which in the judgment of the court have to be presented before the court, the opposite party in the case has a right to object to such evidence being

presented before the document itself is produced or the proper establishment is laid for the objective of proving the contents of the document by way of any secondary evidence.

Section 144 permits a witness to present oral evidence of statements made by any other individual about the contents of a document if such statements are in itself relevant facts.

For example, if it is alleged that A has assaulted B and C, a witness testifies that he has heard A to say that the B had sent a letter accusing A of committing a murder and A will take revenge from B. This statement given by C about the contents of the letter can be proved even if the letter is not presented since the statement is relevant enough to show A's motive for assaulting B as per [Section 8](#) of the Indian Evidence Act.

Section 145

According to [Section 145](#) of the Indian Evidence Act 1872, a witness can be cross-examined as to the previous statements made by the witness in writing or deduced in the form writing and on relevant matters in question, without showing the witness any such writing or as of that matter proved to before him but if it is meant to contradict the witness by the writing, the witness's attention should, before the writing can be proved, be called to those portions of the writing which are to be used for contradicting the witness.

Generally, what happens is that the contents of a writing are not used as evidence until and unless the writing itself is produced in the court. But section 145 makes an exception in this case as it states that a witness can be cross-examined as to prior statements made by the person in writing or reduced in writing and on the relevant matters in question without showing such writing to the witness or being proved.

Conclusion

Evidence is simply everything that is utilized to acknowledge or explain the truth of submission and every kind of evidence is considered extremely important to determine the outcome of a case.

Whether it is a civil or a criminal case, evidence plays a significant role as the proof of facts will not be effective without having any evidence. Moreover, the different types of evidence are notable concerning their relevance and

admissibility standards. In simple words, it would be impossible to determine the results of a case without having any evidence in the case.