

The Evidence Act revolves around two cardinal things: facts and proof. It is these two things that combine to form evidence, which the court may or may not accept as showing the merit or otherwise of a party's case. In this article, we shall understand the concept of proved facts, disproved facts, and not proved facts.

According to Section 3 of the Indian Evidence Act, 1872,

“Fact” means and includes:

1. anything, state of things, or relation of things, capable of being perceived by the senses;
2. any mental condition of which any person is conscious.

Depending upon whether the fact is perceived by senses or not, facts are classified into two types a) physical facts and b) psychological facts. Clause (1) of Section 3 refers to the things which are subject to perception by bodily senses (vision, touch, taste, hearing, Smell). Such things which are subjected to the perception of bodily senses are called physical facts. Clause (2) of Section 3 refers to those facts, which cannot be perceived by senses and are ‘Psychological Facts’.

The term “proof” is not defined in the Indian Evidence Act, 1872 but it defines the terms “proved”, “Disproved”, and “Not proved” in Section 3. Let us discuss these terms in detail.

### **Proved Fact:**

According to Section 3 of the Indian Evidence Act, 1872 A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. Thus, where the court believes the facts shown by

a party, in any proceeding exist or when it is convinced that a reasonable person would see them as existing, the fact is said to be proved.

From the analysis of the definition we can conclude that the criteria that goes into the process of proof is:

1. There should be a matter for consideration before the Court
2. The Court either definitely believe upon it, or Considers its existence to be highly probable
3. that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists

Thus definition clears that it is the Court which has the authority or forum to decide the nature of the fact in a matter brought before it for consideration. It relates to the proof of the fact and not the entire case. Similarly the definition demands that the court has to act like an ordinarily prudent man (a man with normal intelligence or reason). Prudent man means such a person who is reasonable or understanding with respect to practical things.

Thus the satisfaction of the Court has to be arrived only after considering matter before it. The matter before court includes affidavits, admissions, confessions, Court's personal visits, demeanour and reliability of witnesses.

Thus proved fact means such evidence as would induce a reasonable man to come to a conclusion. The words "belief" and "probability" are not uncanalised subjective inferences but conclusions arrived at after scrutinizing all relevant facts and after considering the matter before it.

Let us take an example: A is alleged with theft in B's house. Two witnesses testify in evidence that they saw A committing theft B's house. A is caught at the place of crime and stolen property is seized from his possession. A also confesses. This fact is capable of being 'proved'.

In **Vijay Singh v. State of Uttar Pradesh, AIR 1990 SC 1459** case, the Supreme Court held that 'Proved does not mean to be a proof of mathematical level, because it is impossible. It means only with such

evidence which encourages an ordinarily prudent man towards a particular conclusion. The Court also pointed out that: “Section 3 of the Evidence Act refers to two conditions – (i) when a person feels absolutely certain of a fact – ‘believe it to exist’ and (ii) when he is not absolutely certain and thinks it so extremely probable that a prudent man would, under the circumstances, act on the assumption of its existence.... The degree of proof need not reach certainty but must carry a high degree of probability.”

In **M. Narsingha Rao v. State of Andhra Pradesh, Appeal (Crl) 719 1995** Case, the Supreme Court held that a fact is said to be proved when after considering the matter before it the court believes it to be true. The standard of proof required is proving beyond a reasonable doubt, yet it need not be absolute.

In **Bhagwan Jagannath Markad v. Maharashtra, AIR 216 SC 4531** case, Justice VR Krishna Iyer observed: “Relevancy is a tendency to make a fact probable.”

## Disproved Fact:

According to Section 3 of the Indian Evidence Act, 1872, A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. What is disproved is normally said to be false thing.

It is clear that the definition of Disproved is the exact opposite of ‘Proved’. Here, the court. Thus, where the court believes the fact shown by a party, in any proceeding does not exist or when it is convinced that a reasonable person would see it as non-existing, the fact is said to be disproved.

From the analysis of the definition we can conclude that the criteria that goes into the process of “disproved fact” is:

1. There should be a matter for consideration before the Court

2. The Court either definitely not believe upon it, or Considers its non-existence to be highly probable
3. that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

Thus definition clears that it is the Court which has the authority or forum to decide the nature of the fact in a matter brought before it for consideration. It relates to the disproving of the fact and not the entire case. Similarly the definition demands that the court has to act like an ordinarily prudent man (a man with normal intelligence or reason).

Let us take an example: A is alleged with the murder of B. A proves that he was imprisoned in a particular jail on the date on which the alleged incident is believed to occur. The record of the jail also proves it. Court has disproved the fact that A murdered B because it is highly improbable for A to murder while being under imprisonment.

In **Naval Kishore Somani v. Poonam Somani, AIR 1999 AP 1** case, the Court observed that a fact is disproved normally by the person, who claims that an alleged fact is not true.

In **Emperor v. Shashi Ahme (1925) 31 Bom LR 515** case, the Court opined that the definition of “disproved is merely the converse of the definition of “proved”.

### **Not Proved Fact:**

According to Section 3 of the Indian Evidence Act, 1872, a fact is said not to be proved when it is neither proved nor disproved. Thus, the expression “not proved” is a mental situation between proved and disproved. It rejects both proved disproved. Whenever it cannot be certainly said in any matter on the basis of evidence produced that a fact is neither proved nor disproved, it will be called ‘not proved’. It is to be noted that a fact not proved is not necessarily mean that it is a false fact and necessarily a fact disproved.

Let us take an example: A is alleged of murder of B. There are two eyewitnesses of the incident, but both the witness has become hostile. It becomes difficult to reach any conclusion because it can neither be said that A murdered B nor be said that A did not murder B. Such fact is said to be 'Not proved'.

In **Emperor v. Shashi Ahme (1925) 31 Bom LR 515** case, the Court observed that the term "not proved" indicates a state of mind between two states of mind ("proved" and "disproved") when one is unable to say precisely how the matter stands.

In **Bhagwan Patil v. State of Maharashtra, AIR 1974 SC 211** case, the Supreme Court observed that when truth and false fact related in such a way that they cannot be segregated, it is deemed to be 'Not proved'.

## Conclusion:

"Proved" shows a state of certainty in the Court's mind about the existence of a fact, "Disproved" shows a state of certainty about the non-existence of a fact. While "not proved" shows a state of uncertainty where the Court is not in a position to conclude, because of the inadequacy of evidence, that either the fact exists or does not exist and it has an open mind on the matter. This uncertainty may result in the acquittal of the accused.