



# INDIAN EVIDENCE ACT, 1872

## UNIT 3

### “TESTIMONY OF EXPERTS”

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# INTRODUCTION

- A witness will be allowed to testify orally & produce documents in order to establish facts.
- But he may not get an opportunity to express his opinion on it.
- Opinion can be an inference from observed facts, expressed by experts of competence in that area.
- Thus, becomes paramount in establishing facts in issue or relevant facts.



## WHO IS AN EXPERT

- Ideally the judge or jury is supposed to give opinion; but exceptions exist.
- If it were to assist in determining a particular fact, an individual well versed in that field may be worth consulting to arrive at a better inference.
- So an expert is a person who has specialized knowledge on any matter by reason of his special study or experience.
- English courts have acted on the opinion of experts from the very early times.
- Archives-Smeaton, a famous Engineer was called to give his opinion in structural mishap in a harbor.[Folkes V Chadd (1782)]

## FUNCTIONS OF AN EXPERT

In Davie V Edinburgh Magistrates(1953) functions of an expert is stated as:

*“ Their duty is to furnish the judge or jury with necessary scientific criteria for testing the accuracy of their conclusions, so as to enable the judge or jury to form their own independent judgment by application of these criteria to the facts proved in evidence.”*



## COMPETENCY OF AN EXPERT

The competency of an expert is a unique combination of his knowledge, skill & experience. But in a courts` perspective usually decided as;

*“It is the duty of the judge to decide whether the skill of any person in the matter on which evidence of his opinion is offered is sufficient to entitle him to be considered an expert, and therefore , competent to give evidence”.*

[ R v Silverlock (1894)]

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# WHAT IS EXPERT EVIDENCE

- The facts upon which an expert's opinion is based must be proved by admissible evidence, and he should be asked in his reasoning what those facts are.
- The evidence so provided becomes, expert evidence. And the expert indirectly becomes a technical witness to the case.
- However, before an expert may testify, the judge must first determine:
  1. Whether the witness is qualified as an expert in the particular field by knowledge, skill, experience, training, or education &
  2. That the testimony will help the jury arrive at the truth.

# VARIOUS EXPERTS

## Different kinds of Experts who render their expertise

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| <ul style="list-style-type: none"><li>• <b>Medical Examiner or Coroner</b></li><li>• <b>Document Examiner</b></li><li>• <b>Finger Print Expert</b></li><li>• <b>Skid-mark expert, speed expert, and accident reconstructionist</b></li><li>• <b>Bookmaking, narcotics and other specific “Types of Crimes” experts.</b></li></ul> | <ul style="list-style-type: none"><li>• <b>Criminalist or Forensic Scientist</b></li><li>• <b>DNA expert</b></li><li>• <b>Pattern(footprint) Expert</b></li><li>• <b>Psychologist &amp; Psychiatrist</b></li><li>• <b>Polygraph Examiner</b></li><li>• <b>Voiceprint expert</b></li><li>• <b>Photographer( expert in spectrograph, micrograph, x-ray.)</b></li></ul> |
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## EXPERT V LAYMAN

- An expert's evidence is not confined to what actually took place, as in the case of other witnesses, but he can **give his opinion on facts**. (E.g: Even without attending a poisoned patient he can describe the desired symptoms)
- An expert can elaborate on **experiments made by him behind the back of the other party**, in order to give the grounds of his opinion under s.51. [Birrell v Dryer (1884)]. So that it is ensured that the evidence is not founded on rumor or hearsay as the case may be otherwise.



## 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)

Thank  
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