



New

Criminal Laws

For All Judiciary Exams

Volume - 1

Bharatiya Sakshya Adhiniyam (BSA)



INDEX

The Bharatiya Sakshya Adhiniyam, 2023		
1.	Corresponding Section Table of BSA with Repealed Act	1
2.	List of Cases (BSA)	11
3.	Introduction	14
4.	CHAPTER I: Section 1-2 [Preliminary]	26
5.	CHAPTER II: Section 3- 50 [Relevancy of Facts]	35
6.	CHAPTER III: Section 51- 53 [Facts need not to be proved]	61
7.	CHAPTER IV: Section 54-55 [of oral evidence]	62
8.	CHAPTER V: Section 56-93 [of documentary evidence]	63
9.	CHAPTER VI: Section 94- 103 [of the exclusion of oral evidence by documentary evidence]	74
10.	CHAPTER VII: Section 104-120 [Burden of proof]	78
11.	CHAPTER VIII: Section 121-123 [Estoppel]	84
12.	CHAPTER IX: Section 124-139 [Witnesses]	88
13.	CHAPTER X: Section 140-168 [Examination of witnesses]	94
14.	CHAPTER XI: Section 169 [Improper admission and rejection of evidence]	102

1

CHAPTER

The Bharatiya Sakshya Adhiniyam, 2023

Corresponding Section Table of BSA with Repealed Act

BHARATIYA SAKSHYA ADHINIYAM, 2023	INDIAN EVIDENCE ACT, 1872
PART I CHAPTER I PRELIMINARY	PART I RELEVANCY OF FACTS CHAPTER I PRELIMINARY
1. Short title, application and commencement.	1. Short title. Extent. Commencement of Act.
	2. Repealed
2. Definitions.	3. Interpretation-clause. 4. May Presume. - Shall presume. - Conclusive proof.
PART II CHAPTER II RELEVANCY OF FACTS	CHAPTER II OF THE RELEVANCY OF FACTS
3. Evidence may be given of facts in issue and relevant facts.	5. Evidence may be given of facts in issue and relevant facts.
Closely connected facts	
4. Relevancy of facts forming part of same transaction.	6. Relevancy of facts forming part of same transaction.
5. Facts which are occasion, cause or effect of facts in issue or relevant facts.	7. Facts which are the occasion, cause or effect of facts in issue.
6. Motive, preparation and previous or subsequent conduct.	8. Motive, preparation and previous or subsequent conduct.
7. Facts necessary to explain or introduce fact in issue or relevant facts.	9. Facts necessary to explain or introduce relevant facts.
8. Things said or done by conspirator in reference to common design.	10. Things said or done by conspirator in reference to common design.
9. When facts not otherwise relevant become relevant.	11. When facts not otherwise relevant become relevant.
10. Facts tending to enable Court to determine amount are relevant in suits for damages.	12. In suits for damages, facts tending to enable Court to determine amount are relevant.
11. Facts relevant when right or custom is in question.	13. Facts relevant when right or custom is in question.

12. Facts showing existence of state of mind, or of body or bodily feeling.	14. Facts showing existence of state of mind, or of body or bodily feeling.
13. Facts bearing on question whether act was accidental or intentional.	15. Facts bearing on question whether act was accidental or intentional.
14. Existence of course of business when relevant.	16. Existence of course of business when relevant.
ADMISSIONS	ADMISSIONS
15. Admission defined.	17. Admission defined.
16. Admission by party to proceeding or his agent.	18. Admission - by party to proceeding or his agent; by suitor in representative character; by party interested in subject-matter; by person from whom interest derived.
17. Admissions by persons whose position must be proved as against party to suit.	19. Admissions by persons whose position must be proved as against party to suit.
18. Admissions by persons expressly referred to by party to suit.	20. Admissions by persons expressly referred to by party to suit.
19. Proof of admissions against persons making them, and by or on their behalf.	21. Proof of admissions against persons making them, and by or on their behalf.
20. When oral admissions as to contents of documents are relevant.	22. When oral admissions as to contents of documents are relevant.
DELETED	22A. When oral admission as to contents of electronic records are relevant.
21. Admissions in civil cases when relevant.	23. Admissions in civil cases when relevant.
22. Confession caused by inducement, threat, coercion or promise, when irrelevant in criminal proceeding.	24. Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.
22. Proviso 1	28. Confession made after removal of impression caused by inducement, threat or promise, relevant.
22. Proviso 2	29. Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.
23. Confession to police officer. 23(1)	25. Confession to police-officer not to be proved.
23(2)	26. Confession by accused while in custody of Police not to be proved against him.
23. Proviso	27. How much of information received from accused may be proved.

24. Consideration of proved confession affecting person making it and others jointly under trial for same offence.	30. Consideration of proved confession affecting person making it and others jointly under trial for same offence.
25. Admissions not conclusive proof, but may estop.	31. Admissions not conclusive proof, but may estop.
STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES	STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES
26. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.	32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.
27. Relevancy of certain evidence for proving, in subsequent proceeding, truth of facts therein stated.	33. Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.
STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES	STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES
28. Entries in books of account when relevant.	34. Entries in books of account, including when relevant.
29. Relevancy of entry in public record or an electronic record made in performance of duty.	35. Relevancy of entry in public record made in performance of duty.
30. Relevancy of statements in maps, charts and plans.	36. Relevancy of statements in maps, charts and plans.
31. Relevancy of statement as to fact of public nature contained in certain Acts or notifications.	37. Relevancy of statement as to fact of public nature contained in certain Acts or notifications.
32. Relevancy of statements as to any law contained in law books including electronic or digital form.	38. Relevancy of statements as to any law contained in law-books.
HOW MUCH OF A STATEMENT IS TO BE PROVED	HOW MUCH OF A STATEMENT IS TO BE PROVED
33. What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers.	39. What evidence to be given when statement from part of a conversation, document, electronic record, book or series of letters or papers.
JUDGMENTS OF COURTS WHEN RELEVANT	JUDGMENTS OF COURTS OF JUSTICE WHEN RELEVANT
34. Previous judgments relevant to bar a second suit or trial.	40. Previous judgments relevant to bar a second suit or trial.
35. Relevancy of certain judgments in probate, etc., jurisdiction.	41. Relevancy of certain judgments in probate, etc., jurisdiction.
36. Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 35.	42. Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 41.

37. Judgments, etc., other than those mentioned in sections 34, 35 and 36 when relevant.	43. Judgments, etc., other than those mentioned in sections 40, 41 and 42, when relevant.
38. Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.	44. Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.
OPINIONS OF THIRD PERSONS WHEN RELEVANT	OPINIONS OF THIRD PERSONS WHEN RELEVANT
39. Opinions of experts. 39(1)	45. Opinions of experts.
39(2)	45A. Opinion of Examiner of Electronic Evidence.
40. Facts bearing upon opinions of experts.	46. Facts bearing upon opinions of experts.
41. Opinion as to handwriting and signature, when relevant.	
41(1)	47. Opinion as to handwriting, when relevant.
41(2)	47A. Opinion as to digital signature, when relevant.
42. Opinion as to existence of general custom or right, when relevant.	48. Opinion as to existence of right or custom, when relevant.
43. Opinion as to usages, tenets, etc., when relevant.	49. Opinion as to usages, tenets, etc., when relevant.
44. Opinion on relationship, when relevant.	50. Opinion on relationship, when relevant.
45. Grounds of opinion, when relevant.	51. Grounds of opinion, when relevant.
CHARACTER WHEN RELEVANT	CHARACTER WHEN RELEVANT
46. In civil cases character to prove conduct imputed, irrelevant.	52. In civil cases character to prove conduct imputed, irrelevant.
47. In criminal cases previous good character relevant.	53. In criminal cases previous good character relevant.
48. Evidence of character or previous sexual experience not relevant in certain cases.	53A. Evidence of character or previous sexual experience not relevant in certain cases.
49. Previous bad character not relevant, except in reply.	54. Previous bad character not relevant, except in reply.
50. Character as affecting damages.	55. Character as affecting damages.
PART III ON PROOF CHAPTER III FACTS WHICH NEED NOT BE PROVED	PART II ON PROOF CHAPTER III FACTS WHICH NEED NOT BE PROVED
51. Fact judicially noticeable need not be proved.	56. Fact judicially noticeable need not be proved.

52. Facts of which Court shall take judicial notice.	57. Facts of which Court must take judicial notice.
53. Facts admitted need not be proved.	58. Facts admitted need not be proved.
CHAPTER IV OF ORAL EVIDENCE	CHAPTER IV OF ORAL EVIDENCE
54. Proof of facts by oral evidence.	59. Proof of facts by oral evidence.
55. Oral evidence to be direct.	60. Oral evidence must be direct.
CHAPTER V OF DOCUMENTARY EVIDENCE	CHAPTER V OF DOCUMENTARY EVIDENCE
56. Proof of contents of documents.	61. Proof of contents of documents.
57. Primary evidence.	62. Primary evidence.
58. Secondary evidence.	63. Secondary evidence.
59. Proof of documents by primary evidence.	64. Proof of documents by primary evidence.
60. Cases in which secondary evidence relating to documents may be given.	65. Cases in which secondary evidence relating to documents may be given.
61. Electronic or digital record.	New Section
62. Special provisions as to evidence relating to electronic record.	65A. Special provisions as to evidence relating to electronic record.
63. Admissibility of electronic records.	65B. Admissibility of electronic records.
64. Rules as to notice to produce.	66. Rules as to notice to produce.
65. Proof of signature and handwriting of person alleged to have signed or written document produced.	67. Proof of signature and handwriting of person alleged to have signed or written document produced.
66. Proof as to electronic signature.	67A. Proof as to electronic signature.
67. Proof of execution of document required by law to be attested.	68. Proof of execution of document required by law to be attested.
68. Proof where no attesting witness found.	69. Proof where no attesting witness found.
69. Admission of execution by party to attested document.	70. Admission of execution by party to attested document.
70. Proof when attesting witness denies execution.	71. Proof when attesting witness denies the execution.
71. Proof of document not required by law to be attested.	72. Proof of document not required by law to be attested.
72. Comparison of signature, writing or seal with others admitted or proved.	73. Comparison of signature, writing or seal with others admitted or proved.
73. Proof as to verification of digital signature.	73A. Proof as to verification of digital signature.
PUBLIC DOCUMENTS	PUBLIC DOCUMENTS
74. Public and private documents. 74(1).	74. Public documents.
74(2).	75. Private documents.
75. Certified copies of public documents.	76. Certified copies of public documents.
76. Proof of documents by production of certified copies.	77. Proof of documents by production of certified copies.
77. Proof of other official documents.	78. Proof of other official documents.

List of cases [BSA]

Presumption & Burden of Proof

- **Kali Ram v. State of Himachal Pradesh (1973)**
 - ✓ **Rule:** If two views are possible on evidence, the one favorable to the accused **must be accepted**.
 - ✓ Innocence is presumed until proven guilty.
- **Woolmington v. DPP (1935)**
 - ✓ Famous UK case, often quoted in India.
 - ✓ **Rule:** Prosecution must prove its case **beyond reasonable doubt**. The burden never shifts in criminal trials.
- **State of U.P. v. Krishna Gopal (1988)**
 - ✓ **Rule:** Proof beyond reasonable doubt does **not mean absolute certainty**. Courts can convict if evidence inspires confidence.
- **State of Maharashtra v. Wasudeo Ramchandra (2008)**
 - ✓ **Rule:** Presumption of innocence is a human right under Article 21 of the Constitution.
- **Shambhu Nath Mehra v. State of Ajmer (1956)**
 - ✓ **Rule:** Section 106 applies when **facts are especially within the knowledge** of the accused. But it does not relieve prosecution of its primary burden.

Admissions & Confessions

- **Pakala Narayan Swamy v. Emperor (1939)**
 - ✓ **Rule:** A confession must either admit the offence or substantially all facts which constitute the offence.
- **State of U.P. v. Deoman Upadhyaya (1960)**
 - ✓ **Rule:** Extra-judicial confessions are **not unreliable per se**. They can form the basis of conviction if truthful and voluntary.
- **Nishi Kant Jha v. State of Bihar (1969)**
 - ✓ **Rule:** Extra-judicial confession needs corroboration but **can be the sole basis of conviction** if found reliable.
- **State of Punjab v. Gurdeep Singh (1999)**
 - ✓ **Rule:** Confession to police is not admissible under Section 25, except under Section 27 for **discovery of facts**.

Dying Declaration

- **Khushal Rao v. State of Bombay (1958)**
 - ✓ **Rule:** Dying declaration can be sole basis of conviction if it is **truthful and voluntary**. No need for corroboration.
- **Laxman v. State of Maharashtra (2002)**
 - ✓ **Rule:** Certification of mental fitness by a doctor is **desirable but not mandatory** for dying declaration.
- **P.V. Radhakrishna v. State of Karnataka (2003)**
 - ✓ **Rule:** Dying declarations should be recorded carefully, but minor contradictions do **not make them unreliable**.

Documentary Evidence

- **Hira Lal v. State of Bihar (1977)**
 - ✓ **Rule:** Contents of a document must be proved by **primary evidence**, i.e., the document itself, unless secondary evidence is allowed.
- **State of Rajasthan v. Khemraj (2000)**
 - ✓ **Rule:** Certified copies of public documents are **admissible without calling the original document**.

Oral Evidence

- **Bhagwan Singh v. State of M.P. (2003)**
 - ✓ **Rule:** Evidence must be **direct** unless exceptions exist, like in dying declarations.

Circumstantial Evidence

- **Hanumant v. State of Madhya Pradesh (1952)**
 - ✓ **Rule:** Circumstantial evidence must:
 - Fully establish guilt
 - Be consistent with guilt only
 - Exclude every other hypothesis except guilt

Sharad Birdhichand Sarda v. State of Maharashtra (1984)

- **Rule:** Laid down the “**five golden principles**” for circumstantial evidence:
 1. Circumstances must be fully established.
 2. Facts established must be consistent only with guilt.
 3. Circumstances must be conclusive.
 4. Must exclude every hypothesis except guilt.
 5. Chain of evidence must be complete.

Test Identification Parade (TIP)

- **Rameshwar Singh v. State of J&K (1972)**
 - ✓ **Rule:** TIPs are only aids to investigation, **not substantive evidence**.
- **Malkhan Singh v. State of M.P. (2003)**
 - ✓ **Rule:** Identification parades should be held at the **earliest possible opportunity**.

Expert Opinion

- **State of H.P. v. Jai Lal (1999)**
 - ✓ **Rule:** Expert opinion is only **advisory**. Court is not bound by it.

Hostile Witness

- **Sat Paul v. Delhi Administration (1976)**
 - ✓ **Rule:** A witness declaring hostility does **not become unreliable entirely**. His evidence can still be used for corroboration.

Accomplice Evidence

- **R. v. Baskerville (1916)**
 - ✓ UK case, often quoted in India.
 - ✓ **Rule:** Conviction can rest on accomplice evidence **if there is sufficient corroboration**.
- **Suresh Chandra Bahri v. State of Bihar (1994)**
 - ✓ **Rule:** An approver's testimony **must be reliable and corroborated** on material particulars.

Res Gestae (Section 6)

➤ **Sukhar v. State of U.P. (1999)**

- ✓ **Rule:** Statements made at or near the time of the incident can be admitted under **res gestae**.

Relevancy of Character

➤ **Ghulam Moinuddin v. State of Maharashtra (1971)**

- ✓ **Rule:** Character evidence is generally **irrelevant** in criminal cases unless specifically relevant under Sections 53-55 IEA/ 47-5 BSA.

Presumptions under Evidence Act/ BSA

➤ **Bharat Barrel v. Amin Chand (1975)**

- ✓ **Rule:** Presumption under Section 119 BNS/ 114 IEA can be drawn depending on the **natural course of human conduct**.

Estoppel

➤ **Indira Bai v. Nand Kishore (1990)**

- ✓ **Rule:** Estoppel applies only if one person **makes the other believe something** and the latter acts on it.

Evidence of Child Witness

➤ **Ratan Singh v. State of H.P. (1997)**

- ✓ **Rule:** Evidence of a child witness is **acceptable if found reliable**. Court must ensure the child understands the duty of speaking the truth.

Electronic Evidence

➤ **Anvar P.V. v. P.K. Basheer (2014)**

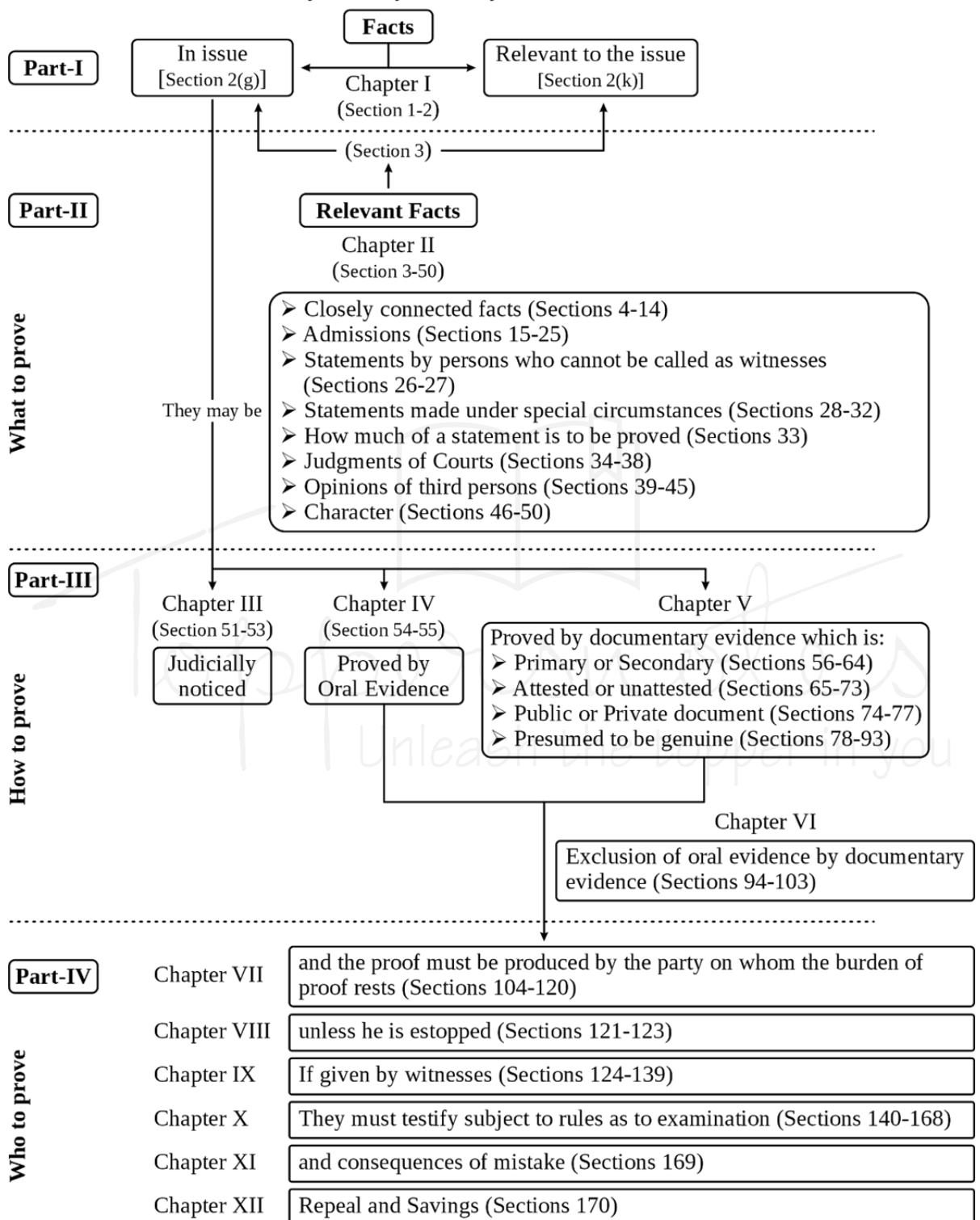
- ✓ **Rule:** Electronic records under Section 65B IEA/ 63 BSA are **admissible only if conditions are satisfied**. Certificate under Section 65B (4) IEA / 63 BSA is mandatory.

➤ **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal (2020)**

- ✓ **Rule:** Confirmed that **Section 65B IEA/63 BSA certificate is mandatory** unless the original electronic device itself is produced in court.

Introduction

Overview of The Bharatiya Sakshya Adhiniyam, 2023



The Bharatiya Sakshya Adhiniyam, 2023 has 4 parts, 12 Chapters & 170 Sections.

The Bharatiya Sakshya Adhiniyam, 2023

ACT NO: 47 OF 2023

Date of enactment: 25th December, 2023

Date of commencement: 1st July, 2024

Introduction:

The main purpose of any court case is to decide someone's rights or responsibilities.

- In criminal cases, the aim is to find out whether the accused (person charged with a crime) is guilty or not, and what punishment should be given.
- In civil cases, the aim is to decide about things like property, family rights, agreements, or personal disputes between people or organizations.

To make sure these cases are handled fairly and properly, we need rules. These rules help us:

1. Understand what rights and duties people have, and
2. Know how to prove those rights or duties in court.

To do this, law is divided into two main parts:

1. Substantive Law (What the Law Is)

Substantive law is the part of law that tells us:

- ✓ What is right or wrong,
- ✓ What is allowed or not allowed, and
- ✓ What happens if someone breaks the rules.

It defines the actual rights and duties of people in society.

Examples of Substantive Law:

- ✓ *Indian Contract Act* – deals with agreements and promises.
- ✓ *Transfer of Property Act* – deals with buying/selling property.
- ✓ *Bharatiya Nyaya Sanhita* – new criminal law that defines crimes and punishments.

Substantive law tells you what you can or cannot do, and what punishment or remedy you will face if you break the law.

It applies to areas like:

- ✓ Criminal law (e.g., murder, theft),
- ✓ Civil law (e.g., contract disputes, property matters),
- ✓ Family law (e.g., marriage, divorce).

2. Procedural Law (How the Law Works)

Procedural law tells us how to bring a case to court and how courts will deal with it.

It includes all the steps and rules that must be followed in a legal case – from filing a case to getting a judgment.

Examples of Procedural Law:

- ✓ *Code of Civil Procedure (CPC)* – used in civil cases.
- ✓ *Code of Criminal Procedure (CrPC)* – used in criminal cases.
- ✓ *Bharatiya Nagarik Suraksha Sanhita* – new criminal procedure law.
- ✓ *Evidence (Bharatiya Sakshya Adhiniyam)*.

Procedural law tells you how to go to court, how the trial will run, and how decisions will be enforced.

It covers:

- ✓ Jurisdiction (which court will hear the case),
- ✓ How to file a complaint or suit,
- ✓ What evidence is allowed,
- ✓ How the trial and appeals are done,
- ✓ How to enforce the judgment.

"The Law of Evidence is the Lex Fori"

What is "Lex Fori"

Lex fori is a Latin term meaning "the law of the forum"—i.e., the law of the country where the court is situated.

Explanation of the Passage:

- Law of Evidence = Part of Procedural Law:
 - ✓ The law of evidence governs *how* facts are proved in a courtroom.
 - ✓ Since it deals with procedure, it falls under procedural law (not substantive law).
- Indian Courts Apply Indian Evidence Law:
 - ✓ Indian courts only apply the Indian Evidence Act, regardless of where the cause of action or facts originated.
- Competency of Witness and Proof = Lex Fori:
 - ✓ Whether a witness is competent or a fact is proved is decided by the law of the country where the court is sitting, not where the incident happened.
 - ✓ Example: If a trial is in an Indian court, Indian law decides these questions.
- Illustration — Foreign Proceedings, Indian Recording:
 - ✓ Suppose a case is going on in Russia, but evidence is recorded in India (via commission or court assistance).
 - ✓ In such a case, Russia Law of Evidence applies — because the main proceeding is in Russia.

What is Proof? How Does it Differ from Evidence?

Meaning of Proof:

- Proof is a broad term.
- It refers to everything that can convince a person (or court) that a statement or allegation is true or false.
- Proof involves legal reasoning, facts, and submissions that persuade the court to accept a claim.

Meaning of Evidence:

- Evidence is narrower than proof.
- It refers specifically to the materials (like documents, objects, testimony) that are admissible in court to support proof.
- Evidence is the means through which proof is attempted.

Key Differences:

Aspect	Proof	Evidence
Scope	Broad term	Narrow term
Nature	Convincing the court about truth/falsity of a claim	Facts/documents/testimony used to support proof
Function	Final satisfaction of the court	Tools used to reach that satisfaction
Legal Use	Outcome	Means to an outcome

Facts

Types of Facts

- Physical and Psychological Facts
 - ✓ Physical Facts (Illustrations a to c)
 - ✓ Psychological Facts (Illustrations d and e)
- Positive and Negative Facts
 - ✓ Positive Facts: The existence of a certain state of things.
 - ✓ Negative Facts: The non-existence of a certain state of things.
- Matter of Fact
 - ✓ Anything that is the subject of testimony and can be proved by evidence.
- Matter of Law
 - ✓ The general law of the land, of which the court will take judicial notice.
 - ✓ It does not need to be proved by evidence.

Relevance

Definition of 'Relevant'

The term "relevant" has two meanings:

1. As admissible (i.e., legally acceptable as evidence).
2. As connected (i.e., having a logical or factual link to the case).
 - ✓ The word 'relevant' means that any two facts to which it is applied are so related to each other that, according to the common course of events, one, either by itself or in connection with other facts, proves or renders probable the past, present, or future existence or non-existence of the other.
 - ✓ Strictly speaking, 'relevant' means admissible in evidence.

Fact in Issue

- Facts in issue are those facts from which some legal right, liability, or disability arises in the inquiry.
- The decision in a case must be based upon these facts.

In Criminal Cases

- The charge itself constitutes and includes "facts in issue".
- Reference: Section XVII CrPC.

In Civil Cases

- Facts in issue are determined through the process of framing issues.
- Reference: Order XVI, Rules 1-7 CPC.

Kinds of Witnesses

Hostile Witness

A hostile witness is one who:

- Is antagonistic to the party that called him.
- Is unwilling to tell the truth.
- Has been won over by the opposite party and may not testify truthfully.

Procedure for Dealing with Hostile Witnesses:

- The party calling the witness may request permission from the court to cross-examine the witness, including:
 - ✓ Leading questions (Section 143).
 - ✓ Questions about previous statements in writing (Section 145).
 - ✓ Questions to test the veracity of the witness (Section 146).
 - ✓ Impeaching the credit of the witness (Section 155).

Court's Approach:

- Merely because part of the statement from a witness is unfavorable to the calling party, the court should not readily conclude that the witness is suppressing the truth.
- The court must attempt to separate the truth from falsehood carefully, while being cautious in accepting the evidence.
- It is important to approach hostile witness testimony with great care to ensure justice.

Case Law: Govindaraju v. State of Srirampuram (2012 SC)

- Prosecution case does not fail if a witness turns hostile.
- The supporting part of the testimony from a hostile witness can still be considered.
- Conviction is possible if the testimony is corroborated by other evidence.
- The court must act with great caution and accept the evidence with a higher degree of care.

Case: State Tr.P.S. Lodhi Colony v. Sanjeev Vanda (2012 SC)

Observations by the Court:

- Court's Duty to Seek Truth:
 - ✓ The court cannot shut its eyes to the reality and must make every effort to uncover the truth in criminal cases.
- Impact of Intimidated Witnesses:
 - ✓ Witnesses who act under pressure or inducement through intimidation can undermine the criminal justice system.
 - ✓ The court emphasized that these gullible witnesses should not be allowed to derail the pursuit of justice.
- Section 193 IPC - False Evidence:
 - ✓ Section 193 IPC punishes those who give false evidence in court.
 - ✓ However, it is seldom invoked, even though it is an important provision to ensure that witnesses testify truthfully.

Interested Witness

An interested witness is one who:

- Is interested in having the accused convicted, meaning they have a stake or benefit from the outcome of the litigation.
- Derives some benefit from the result of the case (e.g., personal gain, vindication, or financial advantage).

Evidentiary Value:

- The testimony of an interested witness cannot be presumed to be tainted or automatically disbelieved just because they are interested in the outcome.
- Courts are required to scrutinize the evidence more carefully and assess its credibility and reliability.
- Interest alone does not make the witness's testimony invalid or inadmissible. It must be evaluated based on the merits of the evidence presented.

Case Law: **Bur Singh v. State of Punjab (AIR 2009 SC 157)**

Relationship does not affect credibility: The relationship between the witness and the accused or victim is not a factor that inherently affects the credibility of the witness.

The primary focus of the court should be on adopting a careful approach in examining the cogency (strength) and reliability of the evidence provided by the interested witness.

Child Witness

Competency: There is no law that automatically rejects child witnesses. A child is competent to testify if their statements are:

- Reliable.
 - Truthful.
 - Corroborated by other prosecution evidence.
1. **K. Venkateshwarlu v. State of A.P. (2012 SC):**
 - ✓ A child witness is pliable due to their tender age.
 - ✓ They can be influenced by threats, inducements, or coercion.
 - ✓ Great caution must be exercised, and the child's testimony should be taken with care and scrutiny.
 2. **P. Ramesh v. State Rep. by Inspector of Police (2019 SC):**
 - ✓ The court must determine if the child has the intellectual and cognitive skills to recollect and narrate the incident of the crime.
 - ✓ The judge has the liberty to test the child's capacity to understand and testify.

Decoy Witness

A decoy witness is a person who acts as an agent for the prosecution with the aim of discovering and exposing the commission of a crime.

- This can happen either before association with wrongdoers or before the actual preparation of the offense.
- A decoy is not an accomplice but rather a spy, detective, or decoy for law enforcement.

Testimony of a Decoy Witness

- If a witness acts as a decoy, their testimony cannot be rejected solely on that basis.
- However, prudence requires that their testimony be corroborated in material particulars to enhance its credibility.

Stock Witness

Definition:

- A stock witness is not an actual witness but instead is someone who testifies only to what the police want them to testify.
- Such witnesses often tailor their testimony to fit the narrative that the police are seeking.

Key Characteristics:

- Testimony from stock witnesses can be discarded if it is proven that their statements were fabricated or influenced by the police.
- However, it is not enough to falsify the entire prosecution case based on the testimony of stock witnesses alone.
- The testimony of stock witnesses should be scrutinized with caution, but it is important to view the rest of the evidence carefully before dismissing the entire case.

Chance Witness

Definition:

- A chance witness is someone who happens to be present at the scene of an incident purely by chance, without any prior knowledge of the event.

Evidentiary Value:

- Chance witnesses must justify their presence at the scene to establish the credibility of their testimony.
- Their testimony should be scrutinized with great caution to ensure that their presence is genuine and not fabricated.

Case Law: *Rena Pratap Singh v. State of Haryana* (AIR 1983 SC)

Key Points:

- Murders are not committed with previous notice to witnesses, and such witnesses cannot be expected to be present deliberately.
- If a murder occurs in a dwelling house, the inmates of the house are considered natural witnesses.
- Similarly, if a murder occurs in a brothel, prostitutes there are considered natural witnesses.
- If the murder happens on the street, passersby can be considered natural witnesses.
- The testimony of such witnesses should not be brushed aside or viewed with suspicion just because they are chance witnesses.

Conclusion:

- Even if a witness is a chance witness, their evidence cannot be dismissed outright, especially if their presence at the scene is natural and reasonable.
- The court should approach such testimony with careful consideration and evaluate it based on its merits and consistency with other evidence.

Police as Witness

Key Principles:

- There is no law that automatically discards or disbelieves the statements of police officers simply because they are law enforcement personnel.
- Police statements can be relied upon unless found to be unreliable or inconsistent.
- Reliability depends on whether the police have no enmity with the accused and whether their testimony inspires confidence in the court.

Case Law: C. Ronald v. State of U.T. of Andaman and Nicobar Islands (AIR 2015 SC)

- The Supreme Court held that the statements of police officers should not be disregarded merely due to their profession.
- Test for Acceptance: The court will consider the reliability of police testimony, especially when there is no enmity with the accused.
- Reliance on Police Testimony: Police testimony can be accepted if it inspires confidence in the court based on the circumstances and credibility.

Expert Witness / Expert Evidence

General Rule:

- Opinion of third parties is generally considered irrelevant and inadmissible in court.
- Exception: Expert opinion is an exception to this rule, as a judge may not be an expert in every field and may need assistance in areas such as:
 - ✓ Science.
 - ✓ Art.
 - ✓ Jurisprudence (law).
 - ✓ Handwriting analysis.
 - ✓ Fingerprint identification.

Who is an Expert?

- An expert is someone who has acquired special knowledge, skill, or experience in a particular field.
- This knowledge can be acquired through:
 - ✓ Practice.
 - ✓ Observation.
 - ✓ Careful study.

Maxim:

- "*Cullibet in sue arts est credendum*"
 - ✓ A person who has gained specialized knowledge in their field of vocation must be trusted and relied upon by the court when testifying on a particular point of fact.
 - ✓ A person skilled in their art is considered credible for the purposes of testimony.

Requisites Before Admitting Expert Evidence:

- **Necessity:** The court must be unable to form an opinion on a specific matter without the assistance of the expert.
- **Expert Status:** The person must be really an expert in the subject matter and must be a truthful witness.

Evidentiary Value of Expert Testimony:

- Not substantial evidence: Expert opinion is generally considered supportive evidence, not substantial on its own.
- Corroborative: It serves as corroborative or supportive evidence to strengthen the case.
- Not conclusive or binding: Expert evidence is not conclusive or binding on the court, as it merely assists the judge in understanding specialized topics.

Case Law:

- Darshan Singh v. State of Narayan (1997 SC)
 - ✓ Key Point: In cases where there is consistency in the testimony, the opinion of an eyewitness will prevail over the expert opinion.
 - ✓ This is because eyewitnesses are witnesses of facts, while experts provide opinions, and the direct testimony of an eyewitness is generally given more weight.
- Ram Narain v. State of U.P. (1973 SC)
 - ✓ Key Point: A conviction can be based solely on the uncorroborated testimony of a handwriting expert if their opinion is clear and reliable.

Opinion on Handwriting Evidence

Modes of Proving Handwriting:

Sections of the Evidence Act related to handwriting:

- **Section 45 – Opinion of Experts**
 - ✓ The court may take the opinion of a handwriting expert.
 - ✓ An expert compares the disputed handwriting with admitted handwriting and gives a report.
 - ✓ Example: A forensic handwriting expert examines signatures.
- **Section 47 – Opinion of a Non-expert (Acquainted Person)**
 - ✓ A person familiar with the handwriting of the person in question (e.g., colleague, friend, relative) can give an opinion.
 - ✓ They must have seen the person write or dealt with their writing in the ordinary course of business.
- **Section 67 – Proof of Signature and Handwriting**
 - ✓ It lays down that the signature or handwriting must be proved to be that of the person claimed.
 - ✓ This can be done by any of the methods listed below (expert, acquaintance, comparison, etc.).
- **Section 73 – Comparison by the Court**
 - ✓ The judge can personally compare the disputed handwriting/signature with any admitted or proved writing.
 - ✓ The court may also ask the person to write something in court to compare.

Presumption

What is Presumption?

Presumption refers to a rule of law that courts and judges shall draw a particular inference from a particular fact or evidence, unless and until the truth of such an inference is disproved.

In other words, presumption is an inference of fact drawn from other known or proved facts. It is a rule of law that authorizes courts to draw a particular inference from a particular fact unless and until it is disproved.

Kinds of Presumption

Presumption of Fact and Law

1. Presumption of Fact [may presume] (Discretionary in nature)

- ✓ Presumption of fact refers to inferences drawn from the observation of the course of nature or the constitution of the human mind.
- ✓ Rebuttable: This type of presumption can be challenged or disproved with an explanation. It means mere explanation is enough to rebut such presumption.
- ✓ Relevant Sections:
 - Section 114
 - Sections 86, 87, 88, 90, 90A

2. Presumption of Law (Mandatory in nature)

- ✓ Presumption of law arises when certain legal rules define the amount of evidence required to support a particular allegation. These facts can be explained away or rebutted by evidence to the contrary but are conclusive in the absence of such evidence.
- ✓ Rebuttable: in such presumption mere explanation will not serve the purpose the party has to lead some evidence to rebut such presumption. In other words, the presumption can be contested with evidence.
- ✓ Examples:
 - A man is presumed innocent until he is proved guilty.
 - Relevant Sections:
 - ☞ Sections 107, 108
 - ☞ Sections 79 to 81, 83, 85, 85A, 85B, 85C, 89, 113B, 114A

Shall Presume

- Shall presume means that the court is bound to take the facts as proved until evidence is adduced to disprove it.
- The party interested in disproving the presumption must produce evidence to the contrary if they can.

Rebuttable Presumption

- Rebuttable presumption refers to legal rules where the presumption can be overcome by contrary evidence or explanation.

Irrebuttable Presumption (Conclusive proof)

- Irrebuttable presumption refers to legal rules where the presumption is conclusive, meaning that no contrary evidence can overcome the presumption, and the fact is deemed to be proven.

Examples of Irrebuttable Presumptions

1. Section 82 IPC
2. Sections 115, 116, 117 IEA
3. Sections 112, 113A, 114 IEA