

VI SEMESTER
COURSE-I
LAW OF EVIDENCE

Objectives:

The law of Evidence has its own significance amongst Procedural Laws. The knowledge of law of Evidence is indispensable for a lawyer. The course is designed to acquaint the students with the rules of evidence in relation to relevancy of facts and proof. In addition, they are introduced to law relating to production of evidence. The course teacher shall familiarize the students with appreciation of evidence and use innovative techniques like simulation exercises wherever necessary.

Course contents:

UNIT – I

Introduction: Distinction between substantive and procedural law – Salient features of the Indian Evidence Act, 1861.

Facts – Facts in issue and relevant facts – Evidence – Circumstantial and direct evidence – Presumptions, proved, disproved, not proved – Witness – Appreciation of evidence. Relevancy of Facts – Facts connected with facts in issue – Doctrine of Res gestae; Sections 6, 7, 8 and 9 of Evidence Act – Evidence of Common Intention – Section 10, Relevancy or otherwise irrelevant facts – Facts to prove right or custom (Section 13) – Facts concerning state of mind/state of body or bodily feelings (Sections 14 and 15) – Relevancy and admissibility of admissions, privileged admissions – evidentiary value of admissions (Sections 17 to 23).

UNIT – II

Relevancy and admissibility of confessions – Admissibility of information received from an accused person in custody – Confession of co-accused (Sections 24 to 30) – Admitted facts need not be proved (Section 58); Dying declaration – Justification for relevance – Judicial standards for appreciation of evidentiary value – Section 32 (1) with reference to English Law – Other statements by persons who cannot be called as witnesses – (Section 32(2) to (8), 33) – Statement under special circumstances (Sections 34 to 39); Relevance of judgments, - General principles – Fraud and collusion (Section 40 to Sec. 44); Expert testimony: General principles (Sections 45-50) – who is an expert – Types of expert evidence – Problems of judicial defence to expert testimony.

UNIT – III

Character evidence – Meaning – Evidence in Civil Criminal cases; English Law (Sections 52-55) – Oral and documentary Evidence - Introduction on Proof of facts – General principles concerning oral: Evidence (Sections 59-60) – General principles concerning documentary; Evidence (Sections 61-90) – General principles regarding exclusion by evidence (Sections 91-100).

UNIT – IV

Burden of Proof – The general conception of onus probandi (Section 101) – General and special exception to onus probandi (Sections 102-106) – The justification of presumption and burden of proof (Sections 107-114) with special reference to presumption to legitimacy of child and presumption as to dowry death – Doctrine of judicial notice and presumptions.

Estoppel: Scope of Estoppel – Introduction as to its rationale (Section 115) – Estoppel distinguished from Res judicata – Waiver and Presumption – kinds of Estoppel – Equitable and Promissory Estoppel – Tenancy Estoppel (Section 116).

UNIT – V

Witness, Examination and Cross Examination:

Competence to testify (Sections 118 to 120) – Privileged communications (Sections 121 to 128) – General principles of examination and cross examination (Sections 135 to 166) – Leading questions (Sections 141 to 145) – Approver's testimony (Section 133) – Hostile witnesses (Section 154) – Compulsion to answer questions (Sections 147, 153) – Questions of corroboration (Sections 156-157) – Improper admission of evidence.

Prescribed Book:

1. Ratanlal and Dhirajlal, Law of Evidence, (New Delhi: Lexis Nexis, 2011).

Reference Books:

1. Sarkar, Law of Evidence, 18th Edition, (Lexis Nexis Butterworths, 2014)
2. Lal, Batuk, Law of Evidence, (Central Law Agency, 1990).