

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 2

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Admissibility of Evidence in India

MONIKA RATHORE¹

ABSTRACT

The terminology "admissibility" refers to the act of admitting or acknowledging any sort of evidence in a court of law. As per the provisions of the Indian Evidence Act, of 1872 (hereinafter referred to as "Act"), the term "evidence" means any statement or proof whether written or oral, accepted by the court for the purpose of an ongoing lawsuit. Therefore, admissibility or acceptance of any sort of evidence refers to a written document or oral statement for reaching a conclusion in a court hearing. Section 17 of the act defines the terminology "admission" which in a literal sense refers to the act of admittance, acknowledgment, or the power to access or approach.

As per the provisions of Section 3 of the act, facts or statements are presented before the court to support a claim made by one party against the competing party in a lawsuit. In general interpretation, evidence means an admission of any type of proof to make a valid lawful point in the court proceeding (Field, 2023). The report will discuss the basic fundamental conditions of admissibility of evidence in a trial session or court hearing. Furthermore, different types of shreds of evidence as well as general principles governing the concept of admission will be discussed too. A brief description of the lawful concept of admissibility of evidence within the concept of international arena along with a few case laws implications will be provided in the report.

Keywords: Admissibility, Evidence, Admission.

I. INTRODUCTION

(A) Legal Provisions

a. Principles Related to Admission

- There exists no differentiation between the act of admissibility of a party to a lawsuit in a pleading and any subsequent admissions of shreds of evidence thereafter.
- Any admissibility of evidence presented by one party to be used against the other side of the party in a lawsuit must be duly verified, sealed, and signed.
- Any evidence presented before the court cannot be asked for examination in a partial manner, it means, the entire evidence shall be assessed in its entirety.

¹ Author is a LL.M. Student at Amity Law School Rajasthan, India.

- If any document is presented to be admitted as evidence, then, no statement can be asked to be ignored as per the convenience of the party who is asking the court to admit such document as evidence.
- Once the admission is submitted by the party to a lawsuit, then, there is no probability of disowning the facts made through such admission.
- No admission of evidence can be in the nature of force or coercion, it means, the submission of evidence must be made voluntarily.
- Admission is considered merely as prima facie evidence and cannot be treated as sole conclusive evidence.

As per the provision of Section 3 of the act, evidence refers to such facts or statements or documents, or any other substantial piece of proof recognized and acknowledged by the court to be admitted as legal and lawful evidence. There exists a major difference in two legal terminologies namely “*Relevance*” and “*Admissibility*”. It is possible that every admitted proof or evidence seems to be relevant in the hearing but it is not always true that every relevant evidence could be admitted by the court during the hearing (Khudhair, 2021). Furthermore, as per the relevant provisions of the act, evidence presented and admitted before the court to help the dispute reach a conclusion must be securely preserved and protected to be used in future hearings. As a matter of fact, electronic records are also legally admissible in the court, and hence same provisions are applicable to the preservation of electronic records (Inyang and Goodwil, 2020).

Generally, admission presented by a complete outside party is not acceptable and hence is considered irrelevant, but there is one general exception to this principle. As per *Section 20* of the act, admissions made by a third party to a lawsuit might be treated as relevant only if the information or facts provided are in context with the disputed matter (Viglione et al., 2022). Below mentioned are the numerous kinds of evidence as provided in the act:

b. Oral Evidence

Section 60 deals with the provisions related to oral evidence. Such types of evidence are personally witnessed by the party presenting the evidence. Oral evidence has the greatest impact on the ongoing hearing and helps in establishing strong facts related to the case. These types of evidence have a direct influence on the court hearing.

c. Documentary Evidence

As per the provisions of *Section 3* of the act, any documents, statements, or written records

presented before the court as evidence and agreed upon by the jury for further inspection are terms as documentary evidence. So, whenever the court of law finds that certain evidence submitted before them has a nature of relevance but a prior evaluation is required, are submitted further for inspection.

d. Primary Evidence

Section 62 provides the provisions governing the principle of primary evidence which constituted the most acknowledged and accepted kind of admissible evidence in the court. Furthermore, all the admitted evidence who have a nature of acceptance prima facie and is considered as a crucial and vital role in the court hearing.

e. Secondary Evidence

Due to the lack of availability of primary evidence, the court allows presenting before them a secondary source of evidence to reach a lawful conclusion. Pursuant to the provisions of **Section 63**, whenever a conflict situation arises between the admissibility of primary and secondary evidence, then priority shall be given to the primary source of evidence.

Factors that help in determining the basis of the admissibility of evidence are provided below:

Relevant

The presence of relevance in any given type of evidence is a must for admissibility, the absence of which might lead to inadmissibility due to the reason of irrelevance within the context of the dispute. Thus, for any given evidence to be treated as relevant and related to the hearing, then, the fact of relevance must be proved beforehand.

Reliable

Any source's trustworthiness which is acknowledged and termed as an authoritative source of information is referred to by the term reliability. The principle of reliability is frequently considered true and relevant for testimony given by witnesses.

II. PROVISIONS RELATED TO ADMISSIBILITY OF EVIDENCE IN THE COURT OF LAW

For matters related to Civil proceedings- For all the matters related to Civil proceedings, the normative, quality, or strength of the proof is used for assessing an argument component. Nevertheless, much of the proof presented is composed of official papers like rental contracts, acquisition acts, tenancy contracts, gifting acts of kindness, and so forth.

For matters related to Criminal proceedings- In cases related to Criminal proceedings, the objective of the proof, or legally termed as evidence serves to demonstrate the innocence or

culpability of the person being charged in a legal case. Nevertheless, testimony might simply be eligible to be employed throughout criminal investigations as long as it is deemed permissible and pertinent with regard to pertinent information, topics, matters, or any additional point of contention. The judiciary has the power to decide if they are going to accept any piece of information.

Section 136 indicates that the magistrate or the court as the case may be, solely owns the authority to determine whether or not a piece of documentation is significant, acceptable, or otherwise permitted to be considered in an ongoing trial. Furthermore, anyone related to the proceeding might get asked by a jury or a panel of judges for clarification on how they intend or plan to present or submit any sort of evidence or demonstrate a point of view related to the case (Shahi and Dash, 2020). Also, when the testimony is sufficiently pertinent to the issues at hand and the presiding judge looking after the case agrees with the witness's response will determine if the evidence is to be accepted during the ongoing hearing.

III. ANALYSIS WITH INTERNATIONAL ARENA

The qualities which a written request, a pleading, or proof needs to demonstrate in order to be allowed to be subject to inquiry by the concerned international governing body it is presented to is referred to as acceptability of any issue in international legislation. Frequent issues raised on a global scale demonstrate the constitutionality of the international law of court or formation of the tribunal, which seems otherwise unable to operate without the explicit written and formal authorization of certain international governing bodies (Fallah, 2020). As far as local or domestic courts are concerned, the procedure followed in international case hearings it is quite different. For instance, if any local court or tribunal body is summoned by the international court before the establishment of the concerned international hearing process, then admissibility becomes a difficult task. The defendant frequently seeks to avoid a claimant's assertion based on the notion of a mandatory specific jurisdiction procedure, and this seems to be the reason for the existence of certain international or overseas litigation frameworks pertaining to the requirements for the execution of authority.

Whenever any matter of legal issue appeared before the court of the international body, it must be ensured that proper jurisdiction analysis has been checked to exercise the powers. After ensuring that the particular case scenario falls within the lawful jurisdiction of the concerned international court, then only the claims, as well as objections of both parties to a lawsuit, must be entertained. Furthermore, it is the duty of the court to identify if all the requirements of filing a lawsuit before the international tribunal are met, if not, the proceeding will be held

inadmissible and void. World Trade Organization (WTO) is registering and solving thousands of lawsuits involving different states across the globe and this is striking. Hence, before filing any suit for the consideration of an international court or tribunal, each state must ensure that are capable of justifying themselves before the court and that sincere efforts were made to solve the case beforehand at a personal level. So, as far as the international arena is concerned, there exist different viewpoints and provisions for handling the matters of admissibility of evidence before the international tribunals whereby the parties to the hearing are states.

IV. CASE LAWS

1. Basant Singh Vs. Janki Singh & Ors²

High Court in this case ruled that evidence submitted by the plaintiff is inadmissible on the grounds that the pleading could be acknowledged as the evidence concerning the suit in which the pleading was submitted and not the other case around. Another reason for the inadmissibility of evidence by the High Court was that since the plaintiff was not ready to acknowledge the correctness of a few statements in the plaint, so remaining statements cannot be accepted in the court (Basant Singh, 2023). However, Supreme Court held that it is not mandatory to accept the plaint in its entirety and both the plaintiff and the court are allowed to consider only such statements concerning the subject matter which seem true and correct. As stated in **Section 17** of the act, there exists no differentiation in the admission over certain facts or statements with reference to one issue and other admissions throughout the case. So, if any particular admission is accepted by signing and lawful verification by a party to a case might be used against that party as valid legal proof in any other different case situation. However, with reference to that other case scenario, it is completely up to the party whether to accept or reject the conclusiveness of such sealed and signed written admission.

2. K.M. Singh Vs. Secretary, Association of Indian Universities & Ors³

The court held that another limitation that applies the broad principle outlined pursuant to the provisions of **Section 18** would be **Section 20**. Within the context of this case analysis, a specific group of vicarious admittance was covered. Whenever a party to the case asks an unrelated party or outsider to provide data or a specific viewpoint concerning the important subject under dispute, any expression or statements made by that outsider would be admissible as evidence. Furthermore, the expression "information" meaning of which is provided in **Section 20** of the act cannot be interpreted to mean whereby every single party of the case intends to acquire

²[1966] INSC 129 (2 August 1966)

³[1992] INSC 106 (21 April 1992)

knowledge concerning an issue that no one is presently aware of or known as of now (KM Singh, 2023). Every remark that the above-highlighted outsider might provide would still constitute evidence as per the act. The reason behind such admissibility might include the reasoning of the fact whereby the judge wants to come to a conclusion based on the presentation made by the outsider to identify the factual basis of the subject at hand. The declaration by the outsider might be made explicitly or by actions. Also, in a circumstance whereby case parties seem willing to be accustomed to such statements, disclosures by the outsider might serve as estoppel.

3. Jagjit Singh Vs. State of Haryana & Ors⁴

In this political case, the speaker council of the Haryana-based legislative assembly dismissed a member of the assembly on the grounds of defection. This situation made that member seek assistance from the court for justice. During the preceding case, numerous pieces of digital or electronic media-based evidence were presented before the Supreme Court of Law. Such digital evidence was in the form of news recordings from various recognized news channels including Zee News and AajTak (Jagjit Singh, 2023). Since the entire matter was based out in the state of Haryana, a recording from a local news channel namely Haryana News of Punjab Today was also presented for consideration in court. The opponent party of the case argued and challenged the admissibility of electronic media recordings as lawful evidence. After due consideration and based on the provisions of **Section 65B** of the act which deals with the admissibility of digital records in any court hearing, the supreme court allowed the news channel recordings as evidence. The section further states that if the such digital recording is presented and admitted as evidence in one of the hearings, then its presence in every subsequent hearing is not mandatory.

V. CONCLUSION

It can be concluded that evidence is solely acceptable or admissible in the court of law concerning any ongoing hearing if the contents of the evidence or facts of the statement submitted as evidence are consistent with the dispute. It means if any evidence is admissible in the hearing but the facts or subject matter of the evidence is not relevant to the court hearing, then, it shall be considered as wasting the time of the court which is a severely punishable offense. Given the present-day digital context, even virtual or digitally stored documents constitute the acknowledgment or admissibility as lawful evidence if the information is trustworthy, pertinent, and derived through a legitimate internet-based channel. Furthermore,

⁴[2006] Insc 935 (11 December 2006)

the underlying primary and crucial component of any legal process, whether civil, judicial, criminal, or political comprises actual admissible evidence. However, it must be protected against every type of manipulation or it may become invalid before the law and the judge might declare the evidence as inadmissible. Merely trustworthy and pertinent information can be presented in a proceeding of legislation; any additional or supplementary proof cannot be permitted to be acknowledged by the judges. Lastly, evidence typically presented before a court or panel in support of a claim or other crucial aspect of the proceeding needs to meet prescribed criteria for admissibility.

VI. REFERENCES

- Basant Singh, 2023 *Basant Singh vs. Janki Singh & Ors [1966] INSC 129 (2 August 1966)*, *latestlaws.com*. Available at: <https://www.latestlaws.com/latest-caselaw/1966/august/1966-latest-caselaw-129-sc> (Accessed: April 15, 2023).
- Fallah, S.M., 2020. The Admissibility of Unlawfully Obtained Evidence before International Courts and Tribunals. *The Law & Practice of International Courts and Tribunals*, 19(2), pp.147-176. https://brill.com/view/journals/lape/19/2/article-p147_2.xml
- Field, C., 2023. *The Law of Evidence in British India*. BoD—Books on Demand. https://books.google.co.in/books?hl=en&lr=&id=rJG1EAAAQBAJ&oi=fnd&pg=PR5&dq=electronic+evidence+in+india&ots=3enT-mIsEE&sig=YYV0x2cBijW4mgXezY2-UEIB8wg&redir_esc=y#v=onepage&q&f=false
- Inyang, W.S. and Goodwil, G.F., 2020. Forensic evidence: How does admissibility influence weight in the law of evidence. *International Journal of Business, Economics and Law*, 21(5), pp.53-65. https://d1wqtxts1xzle7.cloudfront.net/63623173/MY_KLIBEL_-_PAPER_FORENSIC_EVIDENCE__HOW_DOES_ADMISSIBILITY_INFLUENCE_WEIGHT_IN_THE_LAW_OF_EVIDENCE20200614-39706-4orrx8-libre.pdf?1592139950=&response-content-disposition=inline%3B+filename%3DFORENSIC_EVIDENCE_HOW_DOES_ADMISSIBILITY.pdf&Expires=1681550481&Signature=DNXZmTCVUdGy-hAIqSpnhisRaw0xEjWEaQlscFGEvalcGDeEA4E1Q5XY~GG0yqoBVVAVW8frDqSUNFr8yUdvl9Ett4MKQ5Iw6MsnO7O9tptiIplWHVBN1ZwqSAkjhpGF3JcOSJKSxxERrWyIt8emzZ6bak2jzK6f7vcCKfwqSg1ntOn6hYgggactPPK8R3rlv6jHTZKkHaObYmgYBLfn9gb7odkb3o2VaBs4v1AWbtXTMMXCAqOVlOh9zVdrK1ee7iQ1t5EBhBgD3ITMqITZFZCw1Ts0mX6iWkmBbKEAY8d6NzoBqiaGFoJs2-HiTov4x~eviq52aIbb9P2uxaUjag__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA
- Jagjit Singh, 2023 *Jagjit Singh vs. State of Haryana & Ors [2006] INSC 935 (11 December 2006)*, *latestlaws.com*. Available at: <https://www.latestlaws.com/latest-caselaw/2006/december/2006-latest-caselaw-878-sc/> (Accessed: April 15, 2023).
- Khudhair, N.S., 2021. Revisiting the admissibility of electronic evidence: Indian jurisdictions and notes from other countries. *Psychology and Education*, 58(5),

pp.1135-1148.https://www.researchgate.net/profile/Nibras-Salim-2/publication/352091025_Revisiting_the_Admissibility_of_Electronic_Evidence_Indian_Jurisdictions_Notes_from_Other_Countries/links/60b87fda458515218f856b9d/Revisiting-the-Admissibility-of-Electronic-Evidence-Indian-Jurisdictions-Notes-from-Other-Countries.pdf

- KM Singh, 2023 *K.M. Singh v secretary, Association of Indian Universities and Ors. on 21 April 1992 - Judgement, LawyerServices*. Available at: <https://www.lawyerservices.in/KM-Singh-Versus-Secretary-Association-of-Indian-Universities-and-Ors-1992-04-21> (Accessed: April 15, 2023).
- Shahi, S.K. and Dash, S.S., 2020. Expert Opinion: Relevancy and Admissibility Under the Indian Law of Evidence. https://d1wqtxts1xzle7.cloudfront.net/65302606/9._Expert_Opinion_Relevancy_and_Admissibility-libre.pdf
- Viglione, D.J., de Ruiter, C., King, C.M., Meyer, G.J., Kivisto, A.J., Rubin, B.A. and Hunsley, J., 2022. Legal admissibility of the Rorschach and R-PAS: A review of research, practice, and case law. *Journal of Personality Assessment*, 104(2), pp.137-161. <https://www.tandfonline.com/doi/full/10.1080/00223891.2022.2028795>
