

ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

“Not proved”. — A fact is said not to be proved when it is neither proved nor disproved.

¹[**“India”.** — “India” means the territory of India excluding the State of Jammu and Kashmir.]

²[the expressions “Certifying Authority”, “³[electronic signature]”, ⁴[(Electronic Signature Certificate], “electronic form”, “electronic records”, “information”, “secure electronic record”, “secure digital signature” and “subscriber” shall have the meanings respectively assigned to them in the Information Technology Act, 2000 (21 of 2000).]

4. “May presume”.—Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it.

“Shall presume”.—Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.

“Conclusive proof”.—When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.

CHAPTER II. — OF THE RELEVANCY OF FACTS

5. Evidence may be given of facts in issue and relevant facts. —Evidence may be given in any suit or proceeding of the existence of non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others.

Explanation.—This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure⁵.

Illustrations

(a) A is tried for the murder of B by beating him with a club with the intention of causing his death.

At A’s trial the following facts are in issue:—

A’s beating B with the club;

A’s causing B’s death by such beating;

A’s intention to cause B’s death.

(b) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure⁵.

6. Relevancy of facts forming part of same transaction.—Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

Illustrations

(a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.

1. Subs. by Act 3 of 1951, s. 3 and the Schedule, for the definitions of “State” and “States” which were ins. by the A.O. 1950.

2. Ins. by Act 21 of 2000, s. 92 and the Second Schedule, (w.e.f. 17-10-2000).

3. Subs. by Act 10 of 2009, s. 52, for “digital signature” (w.e.f. 27-10-2009).

4. Subs. by s. 52, *ibid.*, for “Digital Signature Certificate” (w.e.f. 27-10-2009).

5. See now the Code of Civil Procedure, 1908 (Act 5 of 1908).