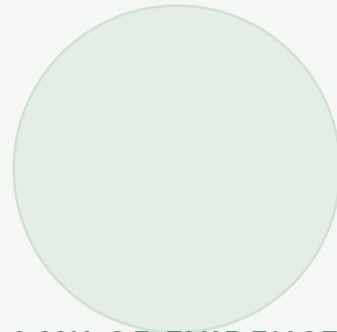




LAW OF EVIDENCE

UNIT – III

Character · Oral & Documentary Evidence · Exclusion rules

Twenty slides in this unit

1. Character meaning

2. Civil character

3. Criminal character ss.53–54

4. s.55 impeachment

5. Oral evidence 59–60

6. Hearsay idea

7. Documentary 61–73

8. Primary vs secondary

9. ss.65–66 secondary

10. Electronic ss.65A–65B

11. Public documents 74–78

12. Presumption on docs 79–90

13. ss.91–100 exclusion

14. Best evidence

15. Cases character

16. Cases 65B

17. Takeaways

18. BSA notes

19. Exam grid

20. Close

Character evidence

Character is reputation and disposition. The Act is strict because character easily prejudices.

Civil s.52

Character usually irrelevant to the issue, except when it is itself in issue (defamation, seduction).

Criminal s.53

Good character of the accused is relevant.

s.54

Bad character is irrelevant unless the accused has given evidence of good character, or it is itself in issue.

s.55

In civil cases, character to impeach credit of a witness is relevant, with limits.

Oral evidence – ss.59–60

s.59

All facts except the contents of documents (and e-records) may be proved by oral evidence.

s.60

Oral evidence must be direct – of the person who saw, heard, or perceived.

Hearsay bar

A witness repeating another's untested words is the classic exclusion.

Exceptions live elsewhere

ss.6, 32, 33, admissions – not a free hearsay code.

Quality

Direct oral evidence of a sterling witness can decide a trial.

Refresh memory

Later sections on papers used to refresh (s.159).

Documentary evidence – primary and secondary

s.61: contents of documents proved either by primary or secondary evidence. s.62 primary = the document itself. s.63 secondary = copies, counterparts, oral accounts of contents.

Best-evidence idea

Produce the original unless a statutory excuse exists.

s.64

Primary as a rule.

s.65 grounds

Original lost, detained, public document, etc.

s.66 notice

Notice to produce usually required before secondary evidence.

Electronic records – ss.65A–65B

Electronic records are documentary evidence. s.65B is the special admissibility certificate regime. Arjun Panditrao (2020) restated when the certificate is mandatory.

s.65A

Contents of electronic records proved under s.65B.

s.65B certificate

Output from a computer – conditions of regular use, proper working.

Owner of device

Certificate from a person in charge of the computer.

Primary device in court

If the original laptop is produced, the rigidity eases.

Public documents and presumptions

ss.74-75

Public vs private documents.

ss.76-78

Certified copies of public documents.

ss.79-85

Shall-presume cluster on gazettes, maps, powers of attorney, electronic agreements, official records.

s.90

Thirty-year-old document from proper custody – may presume.

s.90A

Electronic record five years old – a newer cousin.

Use

These presumptions move the first burden to the denier.

ss.91–100 – exclusion of oral by documents

When the law requires a contract, grant or disposition of property to be in writing, oral evidence cannot substitute for that writing (s.91). s.92 shuts out oral contradiction of the written terms between the parties.

s.91

Best written form for legally-written transactions.

s.92

No oral variance of a written contract as between parties.

Provisos to s.92

Fraud, intimidation, mistake, separate oral proviso, usage...

ss.93–100

Ambiguity, illegibility, applied and patent ambiguities.

Character, documents, 65B

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

s.65B certificate mandatory for secondary electronic evidence.

Arjun Panditrao (2020)

Clarifies when certificate is essential; original device exception.

Shafhi Mohammad (2018)

Relaxed view – later confined by Arjun.

Roop Kumar v. Mohan Thedani

s.91–92 – written agreement bars oral variance.

Mangleshwar v. State

Bad character not a shortcut to conviction.

Roman Catholic Mission

Certified copies of public documents.

Exam contrasts

Oral vs documentary

Perceived facts vs contents of a writing
/ e-record.

Primary vs secondary

Original vs allowed substitute.

Public vs private

Certified copy culture vs party
originals.

s.91 vs s.92

Existence of writing vs contradiction of
terms.

Character civil vs criminal

Mostly shut vs accused's good
character in.

BSA

Electronic rules carried forward with
new numbers.

Secondary evidence catalogue (s.63)

Certified copies

Public documents.

Mechanical copies

Photographs of originals.

Counterparts

Each executed against the other party.

Oral account

Of a person who has seen the original
– last resort.

Lost original

Prove loss, then secondary.

Opponent withholds

s.65(a) after notice.

s.73 comparison of signature

The court may compare a disputed signature with an admitted one. It is a risky power and is usually backed by an expert.

Who compares

The judge, with or without s.45 help.

Specimen

Court can direct a person present to write.

Limit

Do not convict on a lay comparison alone in a grave case.

Electronic

Hash values and 65B sit beside s.73.

Patent vs latent ambiguity

Patent s.93

The writing itself is unintelligible – oral evidence cannot cure it.

Latent s.95–97

Looks clear but fits two things – oral evidence may identify.

s.94

Plain document applied to plain facts – no oral twist.

s.98

Foreign / technical words can be explained.

s.99

Strangers to the document have more room.

Exam tip

Draw the patent / latent line. Easy marks.

When character becomes the issue

Defamation, custody fitness, seduction, keeping a brothel – character is a fact in issue and the gate opens.

Defamation

Truth of the reputation is the case.

Sentencing

Some facts of antecedents come in after conviction, not before.

Impeaching a witness

s.146 / 155 – credit, not a free character trial of the accused.

Rape shield

Past sexual history is tightly limited by special law.

Practical 65B checklist

Identify the device

Whose computer generated the output?

Regular use

Was it used to store this kind of data?

Working order

Any outage that corrupts the file?

Certificate signer

Person in charge of the computer.

Hash / hash mismatch

Tamper argument.

Produce the phone

Sometimes avoids the secondary-certificate fight.

IEA → BSA map (Unit III)

IEA 52-55

Character cluster.

IEA 59-60

Oral / direct.

IEA 61-73

Documentary primary-secondary.

IEA 65A-65B

Electronic – still the live battlefield.

IEA 74-90

Public docs + presumptions.

IEA 91-100

Exclusion of oral evidence.

Key takeaways

01 Character is tightly gated – especially bad character of the accused.

02 Oral evidence must be direct (s.60); hearsay needs a listed door.

03 Documents: original first; s.65 lists the excuses.

04 s.65B + Arjun Panditrao is compulsory reading for e-evidence.

05 ss.91–92 protect written instruments from casual oral rewrite.

06 Cite Anvar, Arjun Panditrao, Roop Kumar.

Document production drill

Have original?

Lead it – s.62.

Lost?

Prove search + s.65.

Public record?

Certified copy ss.76–78.

WhatsApp chat?

s.65B path.

Want to add oral terms?

Read s.92 provisos first.

30-year paper?

s.90 custody presumption.

Character drill

Accused good character

s.53 in.

Prosecution opens bad character

Usually s.54 out.

Accused boasts good character

Door opens the other way.

Witness credit

s.146 / 155, not a prejudice dump.

Civil defamation

Character is the issue.

Sentence stage

Antecedents after guilt.

End of UNIT – III

Next: UNIT-IV • Burden, presumptions, estoppel