

B.A.LL.B (Hons.) 5 YEARS INTEGRATED COURSE

SEMESTER-VII

Course Code	BAL702
Course Title	Law of Evidence
Type of Course	Core
L T P	5 1 0
Credits	6
Course Prerequisites	12 th
Course Objectives (CO)	The course is intended to: Initiate the law student into understanding the parameters for determining facts within the adjudicative process. Explain the legal principles relevant to the topics considered in this course Prepare the law student to make an informed appreciation of the law of evidence in practice in trial courts

UNIT-I

INTRODUCTORY

The main features of the Indian Evidence Act 1872
Other acts which deal with evidence (special reference to CPC, CrPC)
Proceedings under other Acts and of other Tribunals etc.: Administrative Tribunals; Industrial Tribunals; Commissions of Enquiry; Court-martial; Disciplinary authorities in educational institutions
Central conceptions in Law of Evidence (Sections 3-4)
Section 3: Definitions; Distinction-Facts-Relevant facts/Facts in issue
Evidence: oral and documentary
Circumstantial evidence and direct evidence
Presumption (Section 4)
“Proved”, “not proved” and “disproved”
Witness
Appreciation of evidence
Facts: relevancy (Sections 5-16)
The Doctrine of res gestae (Section 6,7,8,10)
Evidence of common intention (Section 10)
The problems of relevancy of “Otherwise” irrelevant facts (Section 11)
Relevant facts for proof of custom (Section 13)
Facts concerning bodies and mental state (Section 14, 15)

UNIT –II

ADMISSIONS AND CONFESSIONS (SECTIONS 17-31)
General principles concerning admission (Section 17-20,23)
Difference between “admission” and “confession”
The problems of non-admissibility of confessions caused by “any inducement,

threat or promise' (Section 24)
Inadmissibility of confession made before a police officer (Section 25)
Admissibility of custodial confessions (Section 26)
Admissibility of "information" received from accused person in custody; with special reference to the problem of discovery based on "joint statement" (Section 27)
Confession by co-accused (Section 30)
The problems with the judicial action based on a "retracted confession"
Dying declarations: The justification for relevance of dying declaration (Section 32 (1)) and the judicial standards for appreciation of evidentiary value of dying declarations
Other Statements by Persons who cannot be called as Witnesses (Ss 32-39)
General Principles of Relevance of Judgments (Sections 40-44)
General principles of Expert Testimony (Sections 45-51) :Who is an expert?
Types of expert evidence
Opinion on relationship especially proof of marriage (Section 50)
The problems of judicial deference to expert testimony
Character when relevant (Sections 52-55): In civil cases and In criminal cases
Facts which need not be proved (Sections 56-58)

UNIT –III

Oral and Documentary Evidence
General Principles concerning oral evidence (Sections 59-60)
General principles concerning Documentary Evidence (Sections 61-90)
Electronic Evidence
General principles regarding Exclusion of Oral by Documentary Evidence (Ss91-100)
Witnesses, Examination and Cross Examination (Sections 118-166)
Competency to testify (Section 118-121)
Privileged communications (Section 123-132)
Accomplice (Section 133)
Number of Witnesses (Section 134)
General principles of examination and cross examination (Section 135-166): Leading questions (Section 141-143); Lawful questions in cross examination (Section 146); Compulsion to answer questions put to witness; Hostile witness (Section 154); Impeaching of the standing or credit of witness (Section 155); Questions of corroboration (Section 156-157); Refreshing Memory (Section 159-161)

UNIT –IV

BURDEN OF PROOF & ESTOPPEL

The general conception on onus probandi (Section 101-106)

General and special exceptions to onus probandi

The justification of presumption and of the doctrine of judicial notice (Section 107-114)

Estoppel

Why estoppel? The rationale (Section 115) ; Estoppel, resjudicata and waiver and presumption

Kinds of Estoppel: Estoppel by deed; Estoppel by conduct; Equitable and promissory estoppel ; Issue estoppels and Tenancy estoppel (Section 116)

Improper admission and rejection of Evidence in civil and criminal cases (S. 167) Special problems: re-hearing evidence

Suggested Readings:

Sarkar and Manohar, Sarkar on Evidence (1999), Wadhwa and Co. Nagpur

Indian Evidence Act, (Amendment up to date)

Rattan Lal, Dhiraj Lal: Law of Evidence (1994) Wadhwa, Nagpur

Peter Murphy, Evidence (5th Edn. Reprint 2000) Universal Delhi

Albert S. Osborn, The problem of Proof

Avtar Singh, Principles of the Law of Evidence (2008) Central Law Agency, New Delhi

Ameer Ali and Woodroffe- Law of Evidence, Butterworths 18th Ed. (2009)

Phipson and Elliot Manual of Law of evidence, Universal publishing, New Delhi, 2001

Wigmore on Evidence, Tillers (revised ed. 1983), Kluwer India Pvt. Ltd., 2008

Sudhakar v. State of Maharashtra (2000) 6 SCC 671 M.C. Verghese v. T.J.

Poonan (1969) 1 SCC 37