

## **BHARATIYA SAKSHYA ADHINIYAM**

BA.LLB./BBA. LLB/BCom.LLB (Honours/Non Honours ), Course Code : 8.2

LLB (Honours/Non Honours), Course Code 4.1

### **COURSE OBJECTIVE:**

1. To develop understanding of fundamental concept of Evidence and substantive and procedural provisions of Law of Evidence (Bharat Sakshya Adhinyam).
2. To define and clarify the role of Law of Evidence (Bharat Sakshya Adhinyam) in civil and criminal proceedings.
3. To state the relevancy and admissibility of facts.
4. To explain the concept of proof and burden of proof.
5. To describe the order of examinations, privileged communication and witnesses.

### **COURSE OUTCOME:**

After the completion of the course curriculum, the students will be able to:

CO1 : Analyse the concept and nature of different types of Evidence.

CO2: To evaluate the reliability of relevance of Evidence.

CO3: Analyse the provisions relating to relevance of Evidence and admissibility of facts.

CO4: Understand the burden of proof followed in civil and criminal cases.

CO5: Analyse the rules of order of examinations and competency of witness, different kinds of witness involved in proceedings.

End Semester – 80

Internal Assessment – 20

Total Marks – 100

### **UNIT I : INTRODUCTION Marks 16**

1.1 : Concept of Evidence

1.2 : Historical background, reason & objective of law of evidence.

1.3 : The fundamental principles of law of evidence.

1.4 : Nature and purpose of law of evidence in civil and criminal cases.

1.5 : Definitions

1.5.1 Distinction between Proved, Disproved & Not Proved.

1.5.2 Distinction between May Presume, Shall Presume &

Conclusive Proof.

1.6 : Division of evidence – Direct, Indirect, Real, Personal, Original, Hearsay, Primary, Secondary, Oral, Documentary, Judicial & Extrajudicial.

UNIT II: RELEVANCY & ADMISSIBILITY OF FACTS – I Marks 16

2.1 : Facts, Distinction between relevant facts and facts in issue, (See 3)

2.2 : Doctrine of Res Gestae (Sec 4) (Ss 5 – 7)

2.3 : Evidence of Common Intention – relating to conspiracy (Sec 8)

2.4 : Facts otherwise irrelevant when relevant. (Sec 9)

2.5 : Relevant facts for proof of custom. (Sec 11)

2.6 : Facts concerning mental state or body (Sec 12)

2.7 : Admission (Ss 15-21, 25)

2.8 : Confession (Ss 22-24)

UNIT III: RELEVANCY & ADMISSIBILITY OF FACTS – II Marks 16

3.1 : Statements by persons who cannot be called as witnesses (s 26-27)

3.2 : Statements made under special circumstances (s-28-32)

3.3 : How much of a statement is to be proved (s.33)

3.4 : Relevance of judgement(s.34-3)

3.5 : opinion of third person when relevant(s.39)

3.6 : Character when relevant (Ss 46-50)

UNIT IV: ON PROOF & BURDEN OF PROOF Marks 16

- 4.1 : Facts which need not be proved (Ss 51-53)
- 4.2 : Oral Evidence (Ss 54-55)
- 4.3 : Documentary Evidence (Ss 56-73)
- 4.4 : Presumptions as to documents (Ss 78-93)
- 4.5 : Exclusion of oral by documentary evidence (Ss 94 – 103)
- 4.6 : Burden of Proof (Ss 104 – 120)

UNIT V: ESTOPPEL & WITNESSES Marks 16

- 5.1 : Estoppel (Ss 121 -123)
- 5.2 : Who may testify (Ss 124-126)
- 5.3 : Judicial privileges (Sec 127)
- 5.4 : Privileged Communication (Ss 128-134)
- 5.5 : Rules relating to production of title deeds & documents or electronic records (Ss 135 -136)
- 5.6 : Accomplice and rules regarding evidence of an accomplice (Sec 138)
- 5.7 : Examination of witnesses ( Ss 140 -168)
- 5.8 : Appreciation of evidence
- 5.9 : Improper admission & rejection of evidence (Sec 169)

Internal Assessment Marks 20

Referred cases :

1. State of Maharashtra V. Praful B. Desai (Evidence by means of electronic records)

2. Iqbal Singh Marwah V. Meenakshi Marwah (Degree of standard of Proof)
3. State of U.P. v. Deoman Upadhyaya ( Presumption of Innocence)
4. State of Assam V. Mahim Barkakati (Testimony of Police officer)
5. State of Karnataka V. Papanaiika (Post-mortem Report)
6. State of Maharashtra V. Vasudeo Ramchandra Kaidalwar (Burden of Proof)
7. Rita Pandit V. AtulPandi (Examination in chief)
8. Pakala Narain Swami v. Emperor (Dying Declaration)
9. Arjun Panditrao Khotkar v. Kailash K Gorantyal & Ors (admissibility of e-evidence)
10. Bohda & Others v. State of J&K (Circumstantial Evidence)
11. Kalyan Kumar Gogoi v. Ashtosh Agnihotri (Hearsay Evidence)

Recommended Books:

1. Ratanlal and Dhirajlal's The Law of Evidence, Lexis Nexis.
2. Dr. Avtar Singh Indian Evidence Act, Central Law Publications.
3. Batuk Lal, Law of Evidence, Central Law Agency.
4. Rameshwar Dayal: Commentaries on Indian Evidence Act, Allahabad Law Agency.
5. V. P. Sarathi's Law of Evidence, Eastern Book Company.