

EVIDENCE

Evidence is defined under Section 3 of Indian Evidence Act, 1872 as oral statements made by the witnesses and documents produced into the court.

Procedure under law-

- According to the Code of Civil Procedure, 1908, the parties state their cases through their pleadings which are accompanied by the documents being relied upon by the parties. Thereafter, both the parties file evidence to support their issues.
- Once the stage of pleadings is over and issues are framed by the Court, parties proceed to the stage of evidence whereby examination-in-chief and cross-examination of the witnesses takes place. The procedure of evidence in a civil suit is explained below.

Examination and Cross-examination-

- As per the Indian Evidence Act, a witness is first examined by the party who has produced him as a witness, the said process is called examination-in-chief. Subsequently such witness is cross-examined by the opposite party and the statements made therein through their examination and cross-examination are recorded.

Doctrine of Estoppel-

- Doctrine of Estoppel prevents a person from taking up different positions from what he had stated earlier.

Final Judgment/ Decree

- After the stage of evidence is over, final arguments take place by the respective parties and final judgment/ decree is passed by the court.

APPEALS

An appeal is a process through which an aggrieved party challenges any order to the Appellate Court. Right to appeal is neither an inherent nor natural right but a statutory and a substantive right.

There are four kinds of appeals provided under Code of Civil Procedure, 1908 (CPC):

Appeal from original Decree

- An appeal can be filed under CPC challenging any final decree passed by the Court exercising Original Jurisdiction except under certain circumstances.

Second Appeals

- As per CPC, an appeal shall lie to High Court against any decree passed in the first appeal by any subordinate court, if the High Court is satisfied that a substantial question of law is involved.

Appeals from Orders

- No appeal lies from an order, unless it falls within the category of appealable orders provided under Section 104 or Section 105.

Appeal to the Supreme Court

- A party may approach Supreme Court of India against any judgment, decree or final order in a civil proceeding of a High Court subject to the conditions below:
 - The High Court has to certify that the case involves a substantial question of law of general importance and that in the opinion of the High Court the said question needs to be decided by the Supreme Court of India.
 - A Special Leave Petition can still be filed in case the High Court refuses to grant the certificate of fitness for appeal to Supreme Court of India.

Judgement

A Judgement is defined under Section 2 (9) of the CPC as the statement given by the Judge on the grounds of a Decree or Order. A judgment states the ground and the reasons for the Judge to have arrived at a decision. It is the decision of a court of justice upon the respective rights and claims of the parties in a suit. A judgment includes-

- A crisp statement of facts of the case.
- The points or issues for determination.
- The decision on such issues and finally.
- The reasons for such a decision.

Decree

- A decree is the formal expression of an adjudication which is expressed by the Court, and the same conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit. It can be final or preliminary. It is defined under Section 2(2) of CPC.
 - Adjudication of a decree in the court is a necessity.
 - Decree can only be given in relation to any or all of the matters in controversy in the suit.
 - There must be a conclusive determination of the rights of the parties in the suit.
 - A mere comment of the judge cannot be a decree.

Order

- Order means the formal expression of any decision of the Court which is not a decree. It is defined under section 2(14) of CPC.
- An order need not conclusively determines the rights of parties on any matter in dispute. However, it may relate to the issues in controversy.
- An order need not always be passed on presentation of a plaint in the Court, it can also be passed on presentation of an application or a petition.
- An order is different from a decree. In case of a decree, an aggrieved party has the right to second appeal on the grounds mentioned in Section 100 of CPC. But in case of appealable orders an aggrieved party does not have the right to second appeal.



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