

Role of Forensic Witness in India

Maske Gauri¹, Mukherjee Anushka¹, Guglot Yukta¹, Panchal Vijay¹, Mia Rakesh¹, Nandan Anjali²

¹Applied Forensic Research Sciences, India

²Assistant Professor, Jharkhand Raksha Shakti University, India

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ABSTRACT

A witness is someone who has personally witnessed an event. A witness is a person who has seen or heard of a crime that is taking place or may have important information about the crime or the accused. The occurrence could be a crime, an accident, or anything else. Sections 118 - 134 of the Indian Evidence Act, 1872 deal with who can testify as a witness, how one can testify, what statements will be considered as evidence, and so on. In criminal cases, there are three types of witnesses called to testify in court. These include Eye Witnesses, expert witnesses, and character Witnesses. A witness is someone who has seen or heard of a crime or who may have important information about the crime or the accused. Both the defendant and the prosecutor can call witnesses to testify or to say what they know about the situation. Importance, they help the court by clarifying what happened at the crime scene and any other details they know about the case, as well as assisting the judge in deciding criminal matters.

Keywords: witness, crime, case, testify, law

INTRODUCTION

Any person who sees any incident, accident, or crime and reports about it is known as a witness. A witness can be of any age group and gender. A witness provides testimony (it is a formal statement, which is true and given in court) in the court of law. Various types of witnesses can be classified on the basis of knowledge.

- Eye witness
- Expert witness
- Character witness
- Hostile witness
- Dumb witness

A witness plays a very important role in criminal(Laurance Jerrold at all , 2007) trials. A witness must be able to give relevant information about the crime which is visually seen by him/her. They help in clarifying actually what happened, to the jury members. Based on the testimony given by the witness, an investigation of a case can be done. Witnesses are an important

part of society. In chapter 9 and chapter 10 of the Indian Evidence Act (IEA), it has been defined and also described witnesses.

In chapter- 9 of IEA various definitions are been given, that who may be testified, dumb witness, etc. In chapter-10 of the IEA Examination of witness has been explained if covers various sections of the order of examination, cross-examination, reexamination, etc. The Indian Penal Code (IPC) consists of some sections which impose punishment for giving false evidence. IPC Section 191 defines "Giving false Evidence", Section 193 defines "Punishment for false Evidence", etc.

Witnesses in India

Eye Witness:

When an individual saw a crime or incident which is under investigation, it may be any person or bystander. The person who has witnessed the incident is known as eye witness and is being called by the court during case trial. The eye witness under oath gives the testimony(Norman J., at all 1982) to the jury. The eye witness(] John Durham Peters,) has to testify to the judge in detail.

Character Witness:

Character witness is another person who can give testimony about a person's positive or negative personality and reputation. A character witness cannot testify any criminal activity. Any person in contact with the main person can be called character witness. Example: Family members, friends, neighbors, colleague.

Hostile Witness:

A hostile witness is also known as Adverse witness or Unfavorable witness When a person gives testimony in unfavorable manner or opposite to the party calling him is known as hostile witness. Only the judge can declare a person as hostile witness. The main reason of becoming a hostile witness can be due to pressure on the person or by negative intend.

Dumb Witness:

A person who is unable to speak is known as dumb person, when this person is called upon to give testimony is known as dumb witness. As a dumb witness is unable to

speak or give testimony verbally, they are allowed to provide the testimony by giving any signs or by writing it. These writings are collected in present of jury members at court. Also, in some cases an interpreter can be called for assisting and translating the signs given by a dumb witness. In Section 119 of the Indian Evidence Act (IEA) definition of "Dumb Witness" is provided.

Forensic Witness/Expert Witness:

Forensic Science is a branch of science with the application of scientific methods and techniques to investigate a crime by a court of law. The forensic witness(Peter Lipton.) is also known as an Expert witness. An expert witness is a person who has knowledge about forensics and law. In the court of law addition to eye-witness and other evidence submitted, testimony or opinion of a forensic expert is very valuable. An expert witness can be classified based on their field of expertise. Based of their subject and experience expert witnesses can be of any branch relating to forensic science. Supreme Court and High Court permits expert witnesses to testify during case trials to assist the jury. The expert witness(M. Kovera, 2001) assists the jury members by explaining and providing opinions during case hearings.

Role of witness in the criminal justice system

A criminal case is formed on the foundation of legally acceptable evidence. Witnesses are necessary for this, whether direct or indirect evidence is used. The main goal of a witness is to testify about all of the information that he or she knows about a crime that may be utilized as evidence in any court. According to eyewitness testimony research, it is extremely simple to influence an eyewitness's reliability(K. V. Heard, D. Faust, 2001) and accuracy by pressing the eyewitness with misleading or false information. When Loftus and Palmer investigated this in 1974, they discovered that when there is an automobile accident, eyewitnesses tend to increase the speed of the car while asking questions about the speed of the car. Loftus, meanwhile, conducted an experiment that partially confirms the necessity of eyewitness commitment. If they grasp the value of commitment, they are less likely to supply false information under duress. The evidence they give can be crucial in identifying, prosecuting, and ultimately convicting criminal suspects. As a result, it is critical that eyewitness testimony be

accurate and trustworthy. There is one approach to ensure the testimony: as investigators, we should conduct our inquiry according to established standards.

Character testimony in criminal and civil prosecutions (Richard L. Engstrom, 2005) has enmeshed the law in a number of cases that have yet to be resolved, at least with any degree of satisfaction or consensus. There are disagreements on the usage and techniques of proving one's character not just within jurisdictions, but also within a single forum. Even when a theory for proving character is developed, the procedures for putting it into practice pose challenges that have proven difficult to overcome. The job of a character witness is to provide a character certificate for someone they know in person and who is accused of committing a crime. However, this causes difficulty since the character witness' testimony sometimes contradicts the other evidence discovered by the investigators throughout the investigation of a case. It becomes difficult to determine who is correct and who is incorrect. If a person is present at the time of a crime who is deaf and dumb but has witnessed part of the crime's events, he has the right to testify in court. In such circumstances, a translator is there who truly translate their sign language and notify the court and everyone about the happenings. The witness's next task is to describe everything to the court in such a manner that the interpreter can comprehend the entire situation with all of the incident's specifics, allowing the investigators to solve the case more quickly.

The expert witness is a necessary evil from an academic standpoint, and his denigration is his own making; after all, the expert is a neutral figure who builds his own professional identity. Expert witnesses in medical malpractice cases are frequently misinterpreted. The expert has been widely criticized, with everyone from his professional peers to the jurists who rule over his testimony criticizing him. For the jury, the expert witness will first translate the medical language and testimony into simple English. The witness will next give the jury his view on what he considers to be the appropriate level of care. He or she will next provide a judgment on whether the doctor's actions were in accordance with the standard of care, or if the physician violated the standard. The specialist will next describe the damage in terms of severity, permanence, and consequences, among other

things. Finally, and most critically, the expert will state whether the plaintiff's harm was caused directly or indirectly by the breach of duty. All of this is done to help the jury decide whether the plaintiff has fulfilled his or her burden of proof by establishing that all four of the conditions listed above were met by a majority of the evidence. The evidence of a plaintiff's expert will be perfectly aligned with each of those factors, but the defendant's expert will try to persuade the jury that one or more of the requirements have not been satisfied.

CONCLUSION

Successful criminal justice systems rely heavily on witnesses. In the court system, a witness is a vital tool. They are the "justice's eyes and ears." Witness protection against intimidation or threats as a result of cooperating with law enforcement or judicial authorities is vital to the rule of law. Witness (Charles O'Neil, 2017) protection programs are an important weapon in the fight against organized crime.

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