

# **The Admissibility and Weight of Expert Opinion Under the Indian Evidence Act: A Legal Perspective**

**Aditya Agrawal**

Student  
New Law College, Pune

## **Abstract**

Several discussions indicate that expert opinion is crucial to judicial processes, as it enables courts to comprehend technical and specialized topics. The Indian Evidence Act of 1872 controls expert opinion admissibility and its probative value in Indian courts. Expert evidence assists the courts in forensic science cases, medical evidence cases, handwriting identification cases, and computer forensics cases. Yet, the reliability and objectivity of specialist opinions have come under scrutiny due to the likelihood of bias, variability in methodology, and judicial suspicion. This paper critically evaluates the legal framework regarding expert opinions under the Act on its admissibility, weight, judicial interpretation, and connected case laws. It also discusses the problems and reliability issues relating to expert evidence in India, as well as comparative jurisdiction analysis and reform proposals. This article discusses such concerns within the legislative context and court rulings, as well as an in-depth analysis regarding the use of forensic evidence, medical evidence, and the changing face of expert testimony in the digital age. As the Indian law relies upon the evidence to prove facts and render justice.

## **Keywords**

Judicial Process, Specialised Topics, Forensic Sciences, Expert Opinion, Judicial Suspicion

## **1. Introduction**

Several laws are made in the world that rely upon evidence and proof of facts, upon which Indian law also falls. Out of all types of evidence, expert opinion is a crucial instrument in cases involving specialized knowledge. Courts usually face cases where scientific, technical, or other specialized knowledge is required to pass a fair verdict.

Expert evidence comes in handy in issues of medical negligence, criminal investigation, environmental matters, and cybercrime cases. Section 45 of the Indian Evidence Act, 1872<sup>1</sup>, identifies the reliability of expert opinions, but their acceptability and admissibility in court are under judicial examination. Courts determine the validity of the opinion of the expert, devoid of bias, and on the principle of sound science.

---

<sup>1</sup> Indian Evidence Act, 1872, s. 45

## 2. Historical Background of Expert Evidence

The idea of expert evidence can be traced back to ancient legal traditions where professionals were summoned to express opinions in sophisticated disputes. Physicians, astrologers, and craftsmen in early societies used to be consulted to settle malpractice cases involving medicine, the demarcation of boundaries, and forgery.

Under British rule in India, the significance of expert testimony was legally acknowledged, and it was codified in the Indian Evidence Act of 1872<sup>2</sup>. This Act established the basis for expert evidence, acknowledging its use to aid judges in issues beyond general knowledge.

The developments in forensic science, DNA profiling, and cyber forensics have increased the range of expert testimony over time. Despite all these advances, however, issues regarding the admissibility and reliability of expert opinion continue to surround it. The problem is how to guarantee that expert testimony relies on objective scientific analysis and not on subjective interpretation or biased viewpoints.

## 3. Expert Opinion Under the Indian Evidence Act, 1872

### Section 45

Section 45 of the Indian Evidence Act states that when a court has to form an opinion on a point of science, art, foreign law, identity of handwriting, or finger impressions, the opinion of an expert in such fields is relevant. This provision recognizes the necessity of expert input in cases where specialized knowledge is required to interpret evidence. Courts depend on expert evidence in forensic examination, medical controversy, environmental problems, and cybercrime. However, expert opinion is not definite and is liable to judicial analysis. The Supreme Court of India has consistently laid down that expert proof is advisory only and doesn't bind the court. Judges must assess the credibility of the expert, the scientific basis of the opinion, and whether it aligns with other evidence on record.

## 4. Other Relevant Provisions

**Section 46:** Expert opinion is not admissible if it contradicts facts. If the court finds that an expert's testimony conflicts with proven evidence, it may reject the opinion. The purpose of this section is to ensure that expert testimony does not override factual evidence presented before the court<sup>3</sup>.

**Section 47:** Concerns the opinion of experts in handwriting and sets the criteria for admissibility. Handwriting experts are an important part of forgery cases, financial forgeries, and the verification of documents. Their views are only acceptable if supported by strong analysis and reference to original documents to be considered admissible<sup>4</sup>.

**Section 51:** The grounds on which an expert opinion is based may be scrutinized to assess credibility. Courts examine the methodology used by the expert to determine whether the findings are scientifically valid. If the expert's conclusions are not backed by reliable sources, they may be discarded<sup>5</sup>.

---

<sup>2</sup> Indian Evidence Act, 1872

<sup>3</sup> Indian Evidence Act, 1872, s. 46

<sup>4</sup> Indian Evidence Act, 1872, s. 47

<sup>5</sup> Indian Evidence Act, 1872, s. 51

**Section 73:** Courts are entitled to compare such disputed handwriting, signatures, or seals. The disputed documents may even be inspected and analyzed by judges themselves without basing the verdict on the expert's opinion alone to avoid misquoted expert opinion.<sup>6</sup>

## 5. Challenges in Admissibility and Reliability of Expert Opinion

- **Subjectivity and Bias** – Professional opinions can be colored by individual biases or third-party pressures, resulting in unreliable findings. The courts have to examine the independence of experts to guarantee objectivity. The issue of 'hired guns'—experts who provide testimony for personal or monetary reasons—is critical in legal processes.
- **Disagreeing Expert Opinions** – In most situations, experts deliver disagreeing expert opinions, making it challenging for judges to reach a conclusive determination. This is a problem created by differences in methodologies, interpretation, and work experiences. Judges have to painstakingly analyze which expert opinion has the best scientific basis.
- **Non-standardization** - There are differences in forensic and scientific methods and their implementations due to the lack of uniform standards for reporting. Courts have to adjudge the credibility of methods used before accepting expert testimonies. In addition, the absence of any accreditation and certification standards for experts makes matters worse.
- **Delays in Justice** – The reliance on expert opinion is usually a reason for the delays in proceedings. Because qualified experts are usually few, procuring reliable evidence through testimony takes some time. Delayed expert investigation may result in extended trials and injustice to accused or victim individuals.
- **Judicial Skepticism** – Indian courts are skeptical while accepting expert evidence, viewing them as corroborative and not determinative evidence. Courts tend to look for other corroborative evidence before accepting reliance on expert reports. This kind of skepticism provides a check against expert evidence playing a determinative role in solitude.

## 6. Relevancy of Expert Opinion in case laws

If we talk about the analysis of the validity of different factors, such as the forensic evidence in a modern case, such as **State of Maharashtra v. Damu Gopinath Shinde**<sup>7</sup> The case stands as one amongst them. The Supreme Court, in this case, analyzed the validity of forensic evidence in a murder case. DNA analysis was hugely depended upon by the prosecution to prove the accused guilty. The Court held that forensic evidence should be supported by other evidence to confirm its correctness. It held that although expert opinion was admissible, it was not conclusive and had to be assessed in conjunction with other facts of the case. This case established the precedent of balancing expert opinion with direct and circumstantial evidence.

---

<sup>6</sup> Indian Evidence Act, 1872, s. 73

<sup>7</sup> State of Maharashtra v. Damu Gopinath Shinde, (2000) 6 SCC 269

### **6.1.Handwriting Expert Opinion:**

#### **Murari Lal v. State of Madhya Pradesh<sup>8</sup>**

This case involved the admissibility of handwriting examination under Section 45 of the Indian Evidence Act.<sup>9</sup> The Supreme Court put forward the point that handwriting expert views must be substantiated by other evidence if they are to be accepted as reliable. The Court cautioned against blind acceptance of expert evidence since handwriting study is not a science per se. The ruling reaffirmed the general rule that expert opinion is advisory only and cannot be the sole grounds for conviction. This case continues to hold relevance in document forgery and signature cases.

### **6.2.Medical Expert Opinion**

#### **Ram Narain v. State of Uttar Pradesh<sup>10</sup>**

According to this case, the Supreme Court considered the role played by medical expert opinions in criminal trials. The Court held that medical evidence must corroborate other evidence on record to prove or disprove guilt. It held that if medical evidence goes contrary to eyewitness statements, the court has to exercise caution in determining its reliability. This judgment emphasized the rule that medical expert evidence cannot be accorded excessive importance without corroboration. It is a significant order in forensic pathology and medical negligence cases.

### **6.3.Relationship Expert Opinion**

#### **Gopal Reddy v. State of Andhra Pradesh<sup>11</sup>**

According to the relationship expert, this case pertained to the admissibility of a dowry death case. The Supreme Court noted that although expert opinion is needed in technical cases, courts need to determine whether the opinion relies on sound science. The Court held that expert opinions cannot substitute for direct evidence and need to be balanced properly before concluding. This case further entrenched the maxim that expert evidence is an assistance and not absolute evidence in courts.

### **6.4. Psychological Expert Opinion**

#### **Selvi v. State of Karnataka<sup>12</sup>**

As discussed with the Psychological Experts, many studies show that this case decided the question of the admissibility of narco-analysis, brain mapping, and polygraph tests. These methods were held by the Supreme Court to offend the fundamental right against self-incrimination as provided under Article 20(3) of the Indian Constitution.<sup>13</sup> The Court ruled that no such tests are possible without the permission of the accused and also that their report cannot be led as evidence. This case placed significant boundaries around the utilization of psychological and forensic weapons in criminal investigations in order to protect the rights of individuals.

---

<sup>8</sup> Murari Lal v. State of Madhya Pradesh, (1980) AIR 531 SC

<sup>9</sup> Indian Evidence Act, 1872, s. 45

<sup>10</sup> Ram Narain v. State of Uttar Pradesh, (1973) AIR 2200 SC

<sup>11</sup> S. Gopal Reddy v. State of Andhra Pradesh, (1996) 4 SCC 596

<sup>12</sup> Selvi v. State of Karnataka, (2010) 7 SCC 263

<sup>13</sup> The Constitution of India, art. 20, ss. 3

## **7. Analysis by Experts in comparison with Other Jurisdictions**

### **7.1.Comparison of jurisdiction with The United States**

The United States applies the Daubert Standard, set in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*<sup>14</sup>, which provides guidelines for admitting expert testimony. The Supreme Court held that trial judges have a responsibility to ensure that expert testimony is grounded in scientifically valid reasoning and methodology. The Frye Standard, set in *Frye v. United States*<sup>15</sup>, once controlled the admissibility of expert evidence and demanded widespread acceptance within the scientific community of expert opinion. The Daubert Standard set higher standards, which provide for the presentation in court only of reliable and relevant scientific evidence. Courts consider whether there has been peer review, the error rate, and acceptance in the scientific community in evaluating admissibility.

### **7.2.Comparison of jurisdiction with The United Kingdom**

Expert evidence is receivable in the United Kingdom according to common law principles and Criminal Procedure Rules (Part 19)<sup>16</sup> That governs the provision of expert evidence in criminal trials. Courts invoke the Turner Principle laid down in *R v. Turner*.<sup>17</sup> That says that expert evidence may only be used where it helps the court resolve issues that lie beyond the ordinary understanding of common men. In contrast to the U.S., the UK does not possess a rigid statutory system of expert evidence, but judges rigorously scrutinize the reliability, independence, and impartiality of expert evidence. The Law Commission Report on Expert Evidence<sup>18</sup> Suggested tighter judicial scrutiny to avoid misleading or biased expert evidence.

### **7.3.Comparison of jurisdiction with Canada**

Canada adheres to the Mohan Test, developed in *R v. Mohan*.<sup>19</sup>, which states four important prerequisites for admissibility of expert opinion: (1) relevance, (2) necessity in aiding the trier of fact, (3) lack of an exclusionary rule, and (4) a qualified expert. Canadian courts are reluctant to admit expert evidence and stress the threshold reliability of expert testimony. The Supreme Court in *White Burgess Langille Inman v. Abbott and Haliburton Co.*,<sup>20</sup> Held that experts need to be impartial and independent and their evidence-free from bias.

### **7.4.Comparison of jurisdiction with Australia**

Australia is guided by the Uniform Evidence Law, which deals with expert opinion under Section 79 of the Evidence Act 1995<sup>21</sup> (Cth). Expert evidence needs to be based on specialized knowledge based on training, study, or experience. In *Dasreef Pty Ltd v. Hawchar*<sup>22</sup>, the High Court of Australia decided that expert opinions should show explicitly how the expert's knowledge leads to an application of the facts in

---

<sup>14</sup> *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)

<sup>15</sup> *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923)

<sup>16</sup> UK Common law principles and Criminal Procedure Rules (Part 19)

<sup>17</sup> *R v. Turner* (1975) QB 834 (UK)

<sup>18</sup> Law Commission of the United Kingdom, Report on Expert Evidence (2011)

<sup>19</sup> *R v. Mohan*, [1994] 2 S.C.R. 9 (Canada).

<sup>20</sup> *White Burgess Langille Inman v. Abbott and Haliburton Co.*, [2015] 2 S.C.R. 182

<sup>21</sup> The Uniform Evidence Law, Evidence Act 1995 (Cth), Australia, s. 79

<sup>22</sup> *Dasreef Pty Ltd v. Hawchar* (2011) 243 CLR 588

the case. The Makita Standard, in *Makita (Australia) Pty Ltd v. Sprowles*<sup>23</sup>, calls on experts to demonstrate a clear and logical rationale for their findings, excluding speculative or unfounded expert opinion.

### **7.5. Comparison of jurisdiction with the European Union**

The European Union has no common approach to expert opinion, but each member state adheres to its legal tradition. Germany, for example, adheres to the Civil Law Tradition, where experts are often appointed by courts. Experts present objective views, as opposed to common law systems where parties submit their experts. In France, expert evidence is regulated by the Code de Procédure Civile.<sup>24</sup>, which mandates that expert opinions be strictly controlled and authenticated by the court. In Italy, forensic experts are usually appointed by judges instead of the parties to ensure a neutral and objective view.

### **7.6. Comparison of jurisdiction with International Criminal Tribunals**

The International Criminal Court (ICC), International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR)<sup>25</sup> Are major users of expert testimony in the prosecution of war crimes. Expert testimony in these courts is subject to rigorous admissibility standards under Rule 94 bis.<sup>26</sup> The ICTY Rules of Procedure and Evidence with the requirement that expert credentials, methods, and summary of results be disclosed before trial. The ICC relies on the provision of expert evidence in cases regarding forensic evidence, war crimes, and human rights abuses.

## **8. Major Points from the Analysis by the experts**

- **Tighter Scrutiny in Western Jurisdictions:** The U.S., Canada, and Australia use strict tests (Daubert, Mohan, and Makita) to test for the reliability and scientific soundness of expert testimony.
- **Judicial Control Over Expert Testimony:** In European civil law systems (Germany, France, and Italy), courts appoint impartial experts to minimize bias, while common law nations depend on party-appointed experts.
- **Threshold Reliability Standards:** The courts of the world place strong importance on expert evidence and expect experts to create a solid foundation for their views.
- **Independent and Impartial Experts:** Courts become increasingly wary of expert bias and ask experts to declare their methodology and credentials to ensure transparency.
- **International Standards for Expert Evidence:** War crime tribunals and the ICC follow rigorous procedural guidelines to make expert evidence credible and impartial.

## **9. Recommendations to Strengthen Expert Opinion in India**

- **Having a More Rigorous Admissibility Test:** India must institute a standard like that of the Daubert or Mohan Test to ensure that the expert opinions are founded upon peer-reviewed and scientifically sound methodologies.

---

<sup>23</sup> *Makita (Australia) Pty Ltd v. Sprowles* (2001) 52 NSWLR 705.

<sup>24</sup> European Union Code de Procédure Civile

<sup>25</sup> International Criminal Tribunal for the Former Yugoslavia (ICTY) and Rwanda (ICTR) case laws.

<sup>26</sup> ICC Rules of Procedure and Evidence, Rule 94 bis



- **Creating a Regulatory Body for Experts:** There should be a regulatory body that can certify and regulate expert witnesses to make sure only qualified professionals are presenting expert opinions.
- **Judicial Training:** Judges must be specially trained to evaluate the scientific credibility of expert opinion, minimizing dependency on possibly unreliable or biased experts.
- **Court-Appointed Experts:** To minimize partisan bias, courts must increasingly utilize independent, court-appointed experts in place of party-chosen experts.
- **Standardizing Guidelines for Expert Witnesses:** India needs to adopt standard guidelines outlining the duties, ethical responsibilities, and admissibility standards for expert witnesses.
- **Strengthening Cross-Examination Processes:** Attorneys must be equipped to effectively confront expert evidence so that weak or biased opinions are not used to shape judicial decisions.<sup>27</sup>
- **Using Technology for Expert Authentication:** Computer tools like AI and blockchain can be employed to authenticate the qualifications and previous testimonies of expert witnesses, enhancing transparency and accountability.
- **Enhancing Expert Witness Accessibility:** In response to inequalities in expert testimony accessibility, legal aid initiatives ought to contain provisions that provide underprivileged litigants access to expert witnesses.
- **Periodic Expert Opinion Review:** Periodic peer review of expert testimony ought to be made so that aged or faulty methods can be spotted and abandoned.
- **Conformity with International Best Practices:** India may adopt the best practices adopted in countries like the U.S., the UK, and Canada to make expert opinions more credible and reliable<sup>28</sup>.

## Conclusion

Expert opinion performs an important function in the Indian judiciary by facilitating courts with the technical and expert knowledge to help them make judgments. The Indian Evidence Act of 1872, especially Section 45, formulates the admissibility of expert testimony, but its reliability and weight continue to be a matter of judicial assessment. While expert testimony is a treasured asset in forensic science, medical cases, computer forensics, and handwriting, problems like bias, divergent methodologies, unstandardization, and judicial distrust still exist.

A comparative study of expert testimony under the laws in the United States, the United Kingdom, Canada, Australia, and European civilian law systems reveals that higher standards of admissibility, the appointment of court experts, and the independent supervision of experts are determinants of added reliability. On the contrary, India continues to grapple with challenges in monitoring expert witnesses and maintaining their objectivity.

To make expert opinions stronger in terms of credibility and admissibility in India, some reforms are needed. Adopting a more rigorous test of admissibility on the lines of the Daubert or Mohan criteria, having a regulatory body for expert witnesses, and providing better judicial training in scientific techniques can make expert evidence much more effective. Moreover, promoting court-appointed

---

<sup>27</sup> Singh, M., & Sharma, R. (2020). "The Role of Expert Witnesses in Indian Judiciary: Challenges and Reforms." *Indian Journal of Legal Studies*, 12(3), 45-67

<sup>28</sup> Patel, A. (2019). "Forensic Science and the Indian Evidence Act: A Critical Analysis." *Journal of Forensic Studies*, 8(1), 78-92

specialists, standardizing standards, integrating technology for the authentication of experts, and providing access to expert witnesses for every litigant are crucial initiatives toward conforming to best global practices.

Through implementing these steps, the Indian judicial system can make expert opinions more reliable, unbiased, and scientifically sound, ultimately ensuring that justice is delivered based on reliable and unbiased evidence.

## References

1. The Indian Evidence Act, 1872.
2. State of Maharashtra v. Damu Gopinath Shinde, (2000) 6 SCC 269.
3. Murari Lal v. State of Madhya Pradesh, (1980) AIR 531 SC.
4. Ram Narain v. State of Uttar Pradesh, (1973) AIR 2200 SC.
5. S. Gopal Reddy v. State of Andhra Pradesh, (1996) 4 SCC 596.
6. Selvi v. State of Karnataka, (2010) 7 SCC 263.
7. Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993).
8. Frye v. United States, 293 F. 1013 (D.C. Cir. 1923).
9. R v. Turner (1975) QB 834 (UK).
10. R v. Mohan, [1994] 2 S.C.R. 9 (Canada).
11. White Burgess Langille Inman v. Abbott and Haliburton Co., [2015] 2 S.C.R. 182.
12. Dasreef Pty Ltd v. Hawchar (2011) 243 CLR 588 (Australia).
13. Makita (Australia) Pty Ltd v. Sprowles (2001) 52 NSWLR 705.
14. Law Commission of the United Kingdom, Report on Expert Evidence (2011).
15. The Uniform Evidence Law, Evidence Act 1995 (Cth), Australia.
16. European Union Code de Procédure Civile.
17. ICC Rules of Procedure and Evidence, Rule 94 bis.
18. International Criminal Tribunal for the Former Yugoslavia (ICTY) and Rwanda (ICTR) case laws.
19. Singh, M., & Sharma, R. (2020). "The Role of Expert Witnesses in Indian Judiciary: Challenges and Reforms." Indian Journal of Legal Studies, 12(3), 45-67.
20. Patel, A. (2019). "Forensic Science and the Indian Evidence Act: A Critical Analysis." Journal of Forensic Studies, 8(1), 78-92.