

**Short Note**

**DIRECT AND CIRCUMSTANTIAL EVIDENCE**

**PRESUMPTION OF LAW AND  
PRESUMPTION OF FACT**



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*BRIEF ILLUSTRATIVE NOTE*

*(This question was asked in Delhi Judicial Services Exam 1973)*

**DIRECT AND CIRCUMSTANTIAL EVIDENCE**

**Direct Evidence**

It means any fact which without the intervention of any other fact proves the existence of a fact in issue.

*Example-*

A is tried for causing grievous hurt to B with a club. C deposes to the fact that he saw the accused, inflicting the blow, which caused the grievous hurt. The evidence adduced (*mentioned, pointed out, cite as evidence*) by C is direct evidence.

## **Circumstantial Evidence**

It is that which relates to a series of facts other than fact in issue. This evidence assumes great importance when direct evidence is lacking.

The most fundamental decision on circumstantial evidence is-

*Hanumant Govind Nargundkar vs State of MP*

J. Mahajan said that the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis excluding the one proposed to be proved.

## **Presumption of Law and Presumption of Fact**

### **Presumption of Law**

Presumption of law is based on provisions of law. There may be rebuttable presumption or irrebuttable presumption of law. Irrebuttable presumption can be found in **section 82 of IPC** wherein it is laid down that 'Nothing is an offence which is done by a child under seven years of age. No evidence will be allowed to be adduced that the accused was guilty'.

### **Rebuttable presumption of Law:**

*Example-*

A man is presumed innocent until proven guilty, a child born in a legal wedlock shall be presumed to be legitimate and the one who questions his legitimacy must disprove it.

**Courts can not ignore Presumption of Law.** Presumption of Law is mandatory and court is bound to presume the same.

### **Presumption of Fact**

These presumptions are indicated in the act as '**May Presume**'.

These presumptions are based on the discretionary power of the court. They are rebuttable as their evidentiary effect may be negated (*invalidate, nullify, cancel, neutralise, make ineffective*) by contrary proof.

Position of presumption of fact is uncertain and transitory. Court can ignore presumption of fact even if it is strong. These presumptions are based on logic, law of nature and human experience.

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