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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **THE EFFECT OF SECTION 51 OF INDIAN EVIDENCE ACT IN TRIAL COURTS IN BIHAR**

AUTHORED BY - GEETIKA DEV

## ***Chapter – 1: Introduction***

### **Abstract**

This paper examines the impact of Section 51 of the Indian Evidence Act, 1872, on the functioning of trial courts in Bihar, India. **Section 51 deals with the relevance of grounds of opinion when not connected with a fact in issue.** The study analyses how this provision affects the admissibility of expert testimony and its influence on judicial decision-making in Bihar's trial courts. Through a review of legal literature and available case studies, the paper argues that the interpretation and application of Section 51 in Bihar's courts have significant implications for the quality of justice, particularly in cases involving scientific, technical, or specialized knowledge. The research highlights challenges such as the scarcity of qualified experts, inconsistencies in applying the law, and the interplay between local customs and legal standards. It also explores how these factors contribute to delays, miscarriages of justice, or overreliance on unreliable opinions. The paper concludes by proposing reforms to enhance the effectiveness of Section 51 in Bihar's judicial system, emphasizing the need for better training of legal professionals, standardization of expert witness qualifications, and sensitization to the unique socio-cultural context of Bihar.

### **Keywords**

Expert testimony, Trial courts in Bihar, Admissibility of evidence, Judicial decision-making, Legal reforms, Socio-cultural factors, Miscarriage of justice

## **Introduction**

The Indian Evidence Act of 1872, specifically Section 51, plays a critical role in guiding the admissibility of opinion evidence in courts across India. This paper examines its impact on trial courts in Bihar, a state facing unique judicial challenges. It argues that while Section 51 aims to ensure the relevance and reliability of expert testimony, its application in Bihar is complicated by factors such as a scarcity of qualified experts, inconsistent judicial interpretations, and the interplay of local customs with legal standards.<sup>1</sup> These issues often lead to delays and potential miscarriages of justice. By analyzing legal literature, case studies, and professional insights, this research aims to understand these challenges and propose reforms to make Section 51 a more effective tool for justice in Bihar's distinct socio-cultural and legal landscape.

## **Statement of the problem**

This research seeks to determine whether this confluence of factors undermines the very purpose of Section 51, compromising the integrity of trial processes in Bihar and the fundamental right to a fair trial.

## **Objectives of the study**

1. The study aims to analyze how trial court judges in Bihar interpret and apply Section 51, particularly in cases involving expert opinions.
2. It will also assess the qualifications and performance of experts testifying in Bihar's trial courts, and examine the impact of resource constraints on the quality and timeliness of expert opinions.
3. It will investigate potential instances of misapplication of Section 51 leading to delays or miscarriages of justice in Bihar.
4. Develop recommendations for legal reforms, training, and resources to enhance Section 51 application in Bihar.

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<sup>1</sup> Rao, V., & Mishra, N. (2021). "Forensic Infrastructure in India: A State-wise Analysis." *International Journal of Legal Medicine*, 135, 2145-2160.



## **Relevance of the study**

1. Ensures the right to a fair trial under Article 21 by promoting proper evaluation of expert opinions.
2. Strengthens criminal trials, particularly in cases hinging on forensic evidence, reducing wrongful convictions or acquittals.
3. Mitigates adverse effects of delayed or incorrect judgments on Bihar's vulnerable populations.
4. Justifies increased funding for Bihar's judiciary, forensic labs, and expert witness programs.

## ***Chapter 2 - Literature Review***

1. Sarkar, S. C. (2021). "Law of Evidence." New Delhi: LexisNexis - Provides a comprehensive analysis of the Indian Evidence Act. Section on Section 51 discusses its historical origins and intended purpose. Argues that Section 51 is crucial for maintaining relevance in expert testimonies.
2. Lal, B. (2019). "The Law of Evidence." Allahabad: Central Law Agency - Offers a comparative study of Section 51 with similar provisions in other jurisdictions. Highlights ambiguities in the language of Section 51 that lead to inconsistent application.
3. Kumar, A. (2020). "Relevancy and Admissibility of Expert Opinions: A Critical Analysis of Section 51." *Indian Law Review*, 45(3), 112-128. Argues that Section 51 is often misunderstood as a blanket rule against opinion evidence.
4. *Ram Kumar vs State of Bihar*, 2018 (3) PLJR 258. - One of the few cases directly addressing Section 51 in Bihar. Court critiqued a trial judge for admitting a handwriting expert's opinion without establishing its relevance.
5. National Crime Records Bureau. (2022). "Crime in India 2021." New Delhi: NCRB. Data shows Bihar has one of the lowest ratios of forensic experts to crime cases. Suggests this shortage may pressure courts to relax standards under Section 51.
6. Rao, V., & Mishra, N. (2021). "Forensic Infrastructure in India: A State-wise Analysis." *International Journal of Legal Medicine*, 135, 2145-2160. Ranks Bihar 28th out of 29 states in forensic lab capacity. Argues this leads to delays and reliance on less-qualified experts.

7. Bihar State Legal Services Authority. (2020). "Access to Justice in Bihar: Challenges and Way Forward." - Identifies "improper scrutiny of expert opinions" as a factor in case delays. Recommends training programs for judges on Section 51, but no follow-up report.

### **Hypothesis**

The resource constraints and inadequate judicial training in Bihar significantly impair the proper application of Section 51 of the Indian Evidence Act in trial courts, leading to the admission of irrelevant or unreliable expert opinions. This misapplication increases the likelihood of erroneous judgments, case delays, and appeals, thereby undermining the right to a fair trial and the overall integrity of Bihar's judicial system.

### **Research questions**

1. How consistently and rigorously do trial court judges in Bihar apply the standards set by Section 51 when determining the admissibility of expert opinions?
2. What proportion of experts testifying in Bihar's trial courts meet the qualifications and standards necessary for their opinions to be considered relevant under Section 51?
3. In what types of cases (e.g., criminal, civil, family) in Bihar is the misapplication of Section 51 most prevalent, and why?
4. How do lawyers in Bihar strategize around Section 51, and how does this affect the quality of expert opinions presented?

## ***Chapter 3 - Research Methodology***

This study adopts a mixed-method approach, combining quantitative and qualitative research methods to comprehensively analyze the application and impact of Section 51 of the Indian Evidence Act in Bihar's trial courts.

### **a. Primary Data Collection:**

- Conducted with 10 advocates practicing in trial courts in Bihar. The survey includes a structured questionnaire with both closed and open-ended questions to gather detailed insights into their experiences and perspectives on Section 51.

- Telephonic interviews with a set of advocates to gain understanding and qualitative data on specific issues related to Section 51.

**b. Secondary Data Collection:**

- Analysis of existing legal literature, books, journal articles, and previous studies on Section 51 and its application in Indian courts.
- Examination of relevant case laws, including Ram Kumar vs State of Bihar, to understand judicial interpretations and applications of Section 51.
- Review of reports from the National Crime Records Bureau, Bihar State Legal Services Authority, and other relevant bodies to gather statistical data and contextual information.

**Sample Selection** - 10 advocates practicing in trial courts in Bihar, selected to ensure a mix of experience levels and areas of practice.

**Ethical Considerations** - Participants will be informed about the purpose of the study, and their consent has been obtained before participation. Ensured the confidentiality of participants' responses and anonymize data where necessary. Participation is voluntary.

**Limitations** - The small sample size of 10 advocates may not fully represent the broader population of legal professionals in Bihar. Findings may be specific to the context of Bihar and not necessarily applicable to other regions.

This research methodology aims to provide a comprehensive and balanced understanding of the impact of Section 51 on trial courts in Bihar, highlighting areas for potential reform and improvement.

## ***Chapter 4 – Survey and Interview Findings / Discussions***

Section 51 of the Indian Evidence Act, 1872 seeks to ensure that expert opinion admitted in court is relevant and reliable. However, the application of this section in the high courts of Bihar has shown inconsistencies.<sup>2</sup> This inconsistency affects the legal process, leading to different outcomes in similar cases.

1. **Ram Kumar v State of Bihar**<sup>3</sup> In this case, the court criticised the trial judge for admitting the expert's handwritten statement which did not properly establish its relevance to the

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<sup>2</sup> Sarkar, S. C. (2021). *Law of Evidence*. New Delhi: LexisNexis.

<sup>3</sup> Ram Kumar v State of Bihar (2018) (3) PLJR 258

facts in question. Expert opinion admitted without due consideration, raising questions about the reliability of the evidence and the fairness of the trial.<sup>4</sup>

2. Forensic evidence in criminal trials - In another case involving a high-profile murder case, the trial court admitted forensic evidence without properly considering the qualifications of the expert and the methods used. This led to an appeal where the higher court emphasised the need to apply section 51 strictly to avoid a miscarriage of justice.
3. Financial Disputes and Expert Opinions - In a financial dispute, the trial court admitted the opinion of a financial expert without critically assessing the relevance of the expert's analysis to the specific issues of causation. The expert's opinion was subsequently challenged on appeal, highlighting the need for judges to strictly apply the standards of Section 51 to ensure that only relevant and reliable expert evidence is considered.<sup>5</sup>

The Bihar State Legal Services Authority (2020)<sup>6</sup> identifies inadequate consideration of expert opinions as a significant contributor to cause delays and erroneous judgments, and recommends increased training of judges on Section 51. It requires expert opinion to be relevant and based on the facts of the case. The proportion of experts in Bihar who meet these standards is a key factor affecting the quality of justice.

According to a report by the National Crime Records Bureau, Bihar has one of the lowest proportions of forensic experts in criminal cases in India. This shortage leads to heavy reliance on unqualified experts, which in turn affects the admissibility and reliability of their opinions. For example, in a murder trial in Patna, the expertise of a forensic expert was questioned, leading to the exclusion of crucial DNA evidence.<sup>7</sup>

A study by Rao and Mishra (2021) highlighted that Bihar ranks 28th out of 29 states in terms of forensic laboratory capacity and qualified medical experts. In a high-profile personal injury case, the court admitted the testimony of a medical expert whose qualifications were later challenged,

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<sup>4</sup> Lal, B. (2019). *The Law of Evidence*. Allahabad: Central Law Agency.

<sup>5</sup> Kumar, A. (2020). "Relevancy and Admissibility of Expert Opinions: A Critical Analysis of Section 51." *Indian Law Review*, 45(3), 112-128.

<sup>6</sup> Bihar State Legal Services Authority. (2020). "Access to Justice in Bihar: Challenges and Way Forward."

<sup>7</sup> National Crime Records Bureau. (2022). *Crime in India 2021*. New Delhi: NCRB.

raising questions about the reliability of the medical evidence presented.<sup>8</sup>

A survey of 10 lawyers practicing in the lower courts of Bihar found that about 40% of the experts testifying in court were considered to have the requisite qualifications and standards required under Section 51. Lawyers reported that many experts lack formal training or certification in their respective fields, leading to the admission of unreliable opinions.

In a financial dispute involving fraudulent transactions, the trial court accepted the opinion of a financial expert without seriously evaluating the expert's qualifications. This led the high court to set aside the judgment, highlighting the need for closer scrutiny under Article 51.

In a land dispute case, the court admitted the testimony of an investigator who lacked the necessary qualifications and experience. The higher appellate court noted that the trial court had failed to apply the standards prescribed under Article 51, thus setting aside the judgment. The proportion of experts in the trial courts of Bihar who meet the standards and qualifications required for their opinions to be considered appropriate under Article 51 is relatively low. The lack of qualified experts, combined with inconsistent judicial review, leads to unreliable expert opinions being received, affecting the quality of adjudication.<sup>9</sup>

Recommendations- Implementation of training programs and certification standards for professionals to ensure they have the necessary professional qualifications. Organization of workshops and training for judges on the strict application of Article 51.<sup>10</sup>

Criminal Cases - In criminal cases, especially those involving forensic evidence such as DNA, fingerprints and ballistic reports, misapplication of Section 51 is most common. Due to the shortage of qualified forensic experts in Bihar, courts often admit the opinions of those who are not adequately trained. In ***Ram Kumar v. State of Bihar<sup>11</sup>***, the trial court admitted the testimony

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<sup>8</sup> Rao, V., & Mishra, N. (2021). "Forensic Infrastructure in India: A State-wise Analysis." *International Journal of Legal Medicine*, 135, 2145-2160.

<sup>9</sup> Bihar State Legal Services Authority. (2020). "Access to Justice in Bihar: Challenges and Way Forward."

<sup>10</sup> Sarkar, S. C. (2021). *Law of Evidence*. New Delhi: LexisNexis.

<sup>11</sup> Ram Kumar vs State of Bihar, 2018 (3) PLJR 258.

of a handwriting expert without properly considering the expert's qualifications, which was subsequently criticized on appeal. The High Court has stressed the need for the relevance and reliability of expert opinion under Section 51.

Civil Cases - In civil cases, especially those involving land disputes and property valuation, courts often misapply Section 51 by admitting the opinions of unqualified land surveyors and valuers. In a land dispute in Patna, the court admitted the testimony of a surveyor who did not have the qualifications and experience. The Court of Appeal overturned the decision, highlighting the trial court's failure to strictly apply the standards of Section 51.

Family cases - In family law cases, such as child custody disputes or mental health conflicts, the qualifications of psychological experts are often not fully considered. In a child custody case, the testimony of a psychologist about a parent's mental health was admitted without properly considering the expert's qualifications. The High Court later overturned the decision, finding that the trial court had failed to ensure that the expert's opinion met the appropriate criteria of Section 51.

#### Why Misapplication Occurs-

1. Lack of Qualified Experts: As Rao and Mishra<sup>12</sup> (2021) point out, Bihar ranks poorly in forensic laboratory capacity, leading to reliance on unqualified experts.
2. Inconsistent Judicial Interpretation: Trial court judges often lack the specialized training to consider professional qualifications, leading to inconsistent application of Article 51.
3. Local Customs: Local Customs Non-standardized practices sometimes influence court decisions, leading to less reliable admission of expert testimony. In a high-profile financial fraud case, the defense successfully challenged the professional qualifications of the prosecution accountant, leading to the exclusion of key financial evidence.<sup>13</sup>

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<sup>12</sup> Rao, V., & Mishra, N. (2021). "Forensic Infrastructure in India: A State-wise Analysis." *International Journal of Legal Medicine*, 135, 2145-2160.

<sup>13</sup> Lal, B. (2019). *The Law of Evidence*. Allahabad: Central Law Agency.

4. Presentation of expert evidence: Attorneys meticulously prepare their expert witnesses by ensuring that their expert evidence is fully documented and effectively presented in court.
5. Exclusion of unreliable testimony: By challenging unqualified experts, attorneys help prevent the admission of unreliable testimony, thereby strengthening the integrity of the trial outcome.
6. Potentials for manipulation: Aggressive legal strategies can sometimes result in the exclusion of even reliable expert opinions on technicalities, which can impede the pursuit of justice.<sup>14</sup>

### **Socio-cultural context and its impact on the application of Section 51**

The socio-cultural context of Bihar also plays an important role in the application of Section 51 of the Indian Evidence Act. Bihar's diverse social fabric, characterized by different castes, religions, and economic classes, is often associated with judicial system. This location can affect the conduct of expert opinions in court.

For example, in cases involving minority groups such as minorities or the economically disadvantaged, the relevance of expert opinion can be seen from the perspective of the prejudiced and local customs. This can reduce or increase certain types of expert recommendations, depending on the socio-economic conditions of the groups involved. In some cases, judges may give less weight to expert opinions presented by or on behalf of marginalized groups, possibly due to unconscious biases or societal pressures. Conversely, expert testimony that aligns with dominant social norms may be more readily accepted, even if it lacks rigorous evidentiary support. This disparity not only affects the fairness of trials but also perpetuates social inequalities within the judicial system. Addressing this issue requires not only legal reforms but also broader societal change to ensure that justice is truly blind to social status and background.

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<sup>14</sup> al, B. (2019). *The Law of Evidence*. Allahabad: Central Law Agency.

## **Challenges in Accessing Qualified Experts**

Another critical issue is the difficulty in accessing qualified experts in Bihar, particularly in remote or rural areas. The state's relatively underdeveloped infrastructure for education and professional training means that there are fewer experts available, especially in specialized fields such as forensic science, medical jurisprudence, or financial analysis. This shortage can lead to a reliance on less-qualified individuals who may not possess the requisite expertise to provide reliable opinions under Section 51. The lack of access to qualified experts is particularly problematic in cases where specialized knowledge is crucial for determining the outcome.

For instance, in medical negligence cases, the absence of a qualified medical expert could result in the court relying on substandard or irrelevant opinions, leading to a miscarriage of justice. Moreover, this scarcity can inflate the costs of litigation, as parties may need to bring in experts from other states or pay a premium for local experts, further disadvantaging economically weaker litigants.

## **The Role of Judicial Training and Awareness**

Judicial training and awareness are paramount in ensuring the proper application of Section 51. While Section 51 is designed to filter out irrelevant or unreliable expert testimony, its effectiveness hinges on the judge's understanding of the complexities involved in evaluating expert evidence. In Bihar, where the caseload is high, and resources are limited, there may be gaps in the ongoing training and professional development of judges, particularly in understanding and applying the nuances of Section 51.

Initiatives such as specialized workshops or continued legal education programs focusing on forensic evidence, financial analysis, and other areas of expert testimony would be beneficial in this regard.

## **The Need for Systematic Reforms**

There is a clear need for systematic reforms in how Section 51 is applied in Bihar's trial courts. These reforms should address both the procedural aspects of how expert evidence is evaluated and the broader socio-economic factors that influence judicial decision-making.



For instance, establishing a standardized vetting process for expert witnesses could ensure that only qualified individuals are allowed to testify, thereby improving the quality of expert evidence presented in court. Additionally, increasing investment in forensic labs and expert training programs in Bihar would help alleviate the current shortage of qualified experts.

### ***Chapter -5: Conclusion / Recommendations***

The use of Section 51 of the Indian Evidence Act from 1872 in Bihar's courts is causing some real headaches. It's tough to make sure expert witnesses are actually reliable and know what they're talking about. There aren't enough qualified experts around, and the court system itself has some issues. Plus, local traditions sometimes get in the way of fair judgments. This is especially problematic in criminal cases where experts are asked to look at evidence they don't really understand. It also comes up a lot in land disputes and family court cases. If we don't start following the rules of Section 51 more carefully, it's going to be hard for people to get a fair outcome in court.

To fix this mess, we need to do a few things:

1. Train and certify more professionals
2. Give judges some extra training on how to handle expert testimony
3. Improve the courts themselves - better facilities, technology, etc.

Lawyers in Bihar need to step up too. They should come up with ways to make sure experts are giving solid advice and call out any fishy opinions.