



FACULTY OF JURIDICAL SCIENCES

NAME OF FACULTY: Dr. Ravi Kant Gupta

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SUBJECT: Law of Evidence

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Lecture-23



JUDGMENTS OF COURT WHEN RELEVANT

The section 2(9) of CPC defines it as a decision which is given by the judges in a court regarding the rights, duties and liabilities of an individual. The basic theory of law is whether the previous judgements or the following judgements are not relevant, as every case is decided by its own facts. The judgement depends upon the facts of the case of particular parties and not by the references to the judgement of other cases.

Judgment is of two types: –

1. Judgement in rem
 2. Judgement in personam
1. Judgement in rem: – When a judgment is given on a particular subject matter, it will not only remain between the two parties but also be applicable to the entire world.
 2. Judgement in personam: – When a judgment is given on a subject matter, it will remain between the parties. It means the judgment will be against an individual.

“Relevancy of judgement,” it means that every judgement is based upon the facts of each particular case. If we understand it in a simple way, it says that each and every case has its own importance. The judgement of each case is based upon the subject matter and it is not necessary that the judgment of one case is interrelated with another case.

A civil judgement is not relevant to a criminal trial though arising out of the same fact. A judgement in a civil case for defamation is not relevant to criminal prosecution. The previous judgment is not relevant to the subsequent case. More importance is given to the facts of the cases and on the basis of which judgement is given.

The Indian Evidence Act, 1872

The law may be divided into 2 parts i.e. substantive law and procedural laws. Substantive laws are those laws which define the right, duties, punishments and offences for the same, for e.g. I.P.C., and procedural laws are those by which the procedure of substantive law is regulated, for e.g. Cr..P.C. So the procedural law includes the Evidence Act. The existence of proof or evidence is necessary in procedural law. The Indian Evidence Act was originally passed by the Imperial Legislative Council in 1872 in India, during the British Rule. It contains a set of rules and provides, inter alia, how a fact is to be proved.

It includes sections regarding the judgment of court of justice when relevant from Section 40 to Section 44 which talks for the same.

Section 40– The existing judgment will be relevant even in a second suit trial.

Section 41– The certain judgments in probate, matrimonial, admiralty, and insolvency jurisdiction are relevant.

Section 42– The effect of judgement, order, or decree is relevant, other than those which are given in section 41.

Section 43– Judgment, order or decree are irrelevant, other than those mentioned in section 40-42.

Section 44– If the previous judgment may proved fraud, collusion or incompetency of a court then such judgment does

Section 40- Previous judgments relevant to bar a second suit or trail

Under the Indian Evidence Act, 1872, Section 40 defines that, the existence of any judgment, will be relevant even in a second trial. Here the rule of ‘res judicata’ applies. It simply means that if any judgement which prevents the court from giving attention to such a suit or petition then it will be a relevant fact.

The question arises: what is “res judicata”?

Many of you may have heard about this word. “Res” means “subject matter” and “judicate” means “already decided”. So, it says that the matter is already decided. It is defined under Section 11 of C.P.C.

For Example: – ‘A’ and ‘B’ are two parties, ‘A’ sues ‘B’ for matters related to property. But the court dismissed the suit and then again ‘A’ filed a suit against ‘B’. So it was said that once the judgement was given by a court over a particular subject matter then that court does not have the jurisdiction and the formulae of res judicata applies.

Similarly, the Criminal Procedure Code bars a second trial of a person once tried or convicted. Thus, the judgment by which he was convicted will be relevant to every case or proceeding in which he is charged with the same offence.

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