

BURDEN OF PROOF IN COMMERCIAL TRANSACTIONS UNDER THE INDIAN EVIDENCE LAW

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ABSTRACT

This research paper looks at the issues and challenges involved in setting the burden of proof in commercial transactions under Indian evidence law. Drawing on legal concepts, case law research, and practical insights, the paper investigates the challenges of assigning the burden of proof amongst parties in business disputes. The nature of the transaction, the documentation and evidence available, burden-shifting measures, the level of proof necessary, and practical issues are all examined to provide a thorough understanding of the burden of proof in commercial transactions. Through a careful consideration of these issues, the paper aims to add to the continuing discussion about commercial law in India and provide support for practitioners and researchers navigating the intricacies of burden of proof in commercial litigation.

INTRODUCTION

The concept of ‘burden of proof’ in Indian commercial transactions is a sparsely navigated concept as most research work tends to isolate the link between the provisions and principles behind the provisions of Indian Evidence Act, 1872, and the concatenation with commercial transactions. The concept of burden of proof can be considered as the cornerstone that determines the course of a trial and forms a pillar of the entire notion of justice.

In India, the postulation of ‘innocent until proven guilty’ is followed through and through, which, under Section 101 puts the burden on the prosecution, also known as the party which asserts the allegation onto the defendant. This ‘innocent until proven guilty’ concept must also be proved beyond any reasonable doubt in order to be adequate enough for the conviction of the accused. This is the scenario that ensues in a criminal law trial with the parties being referred to as, the prosecution and the defendant.

However, in a commercial arena setup and in dynamic business arenas, various issues arise such as contracts being forged, defective goods being exchanged and when promises are made and broken, the significance of burden of proof becomes increasingly important and relevant, leading lawyers and judges through labyrinthine corridors of legal argument. The Indian Evidence Act of 1872 methodically defines the burden of proof in commercial transactions, giving a systematic framework within which disputes are addressed and justice is administered.

Section 101 of the Indian Evidence Act, 1872 lays down the foundation which states that the onus of proving the existence of a fact rests with the party making the allegation. This fundamental concept emphasises upon the importance for parties engaging in commercial transactions to substantiate their statements with credible evidence, in case their assertions fail during the Court proceeding. Furthermore, Section 102 of the Indian Evidence Act specifies that the burden of proof regarding any particular fact lies on that person who would fail if no evidence at all were given on either side. This provision

serves to distribute the burden of proof equitably, ensuring that each party is given the task of establishing the elements essential to their respective claims or defences.

To summarise, the burden of proof in business transactions under Indian Evidence Law is a cornerstone of legal jurisprudence, guiding litigants, adjudicators, and legal practitioners through the complexities of commercial disputes. Its invocation necessitates rigorous planning, strategic insight, and a strong dedication to truth and justice, thereby protecting the integrity of commercial transactions and the values of fairness and equity upon which the legal system is established.

The Evidence Act also provides various presumptions relevant to commercial transactions. These presumptions shift the burden of proof to the opposing party unless rebutted. For example, Section 118 of the Act presumes that negotiable instruments were made or endorsed for consideration. However, contradictory evidence can call this premise into question.

In most business transactions, the standard of proof required to demonstrate a truth is the preponderance of probabilities. Parties must demonstrate that their version of events is more than likely to be correct. However, in cases involving fraud or criminal activity, a higher standard of proof, such as proof beyond a reasonable doubt, may be required.

CASE LAWS AND JUDICIAL INTERPRETATION

Along with the applicable legislation, case laws have also contributed to determining the course of action by establishing the burden of proof in commercial transactions under the Indian Evidence Law. For example, consider the case of *Bharat Barrel and Drum Manufacturing Co. v. Amin Chand Eayrelal*. In this landmark case, the Supreme Court of India recognised that the party alleging consideration bears the burden of proof of its non-existence.

Consideration here, plays a pivotal role in majority of the commercial transactions as it forms the foundation of any business agreement. Hence, the Supreme Court ruled that the burden of proof in establishing that even though commodity was exchanged, there was a persistent non-existence of consideration, lies on the party that is alleging it.

The implication for Stakeholders upon the release of this verdict had far-reaching implications and consequences for businesses, consumers and any prospective party to be involved in commercial transactions. By establishing and specifying this particular allocation of the burden of proof in commercial contracts, a particular reliance was fostered and precedent was set hereby, gaining more confidence from the individuals engaged in the commercial environment.

In the case of *Bharat Bank Ltd. v. Employees of Bharat Bank Ltd*²⁰³³, the Supreme Court held that in situations which involve negotiable instruments, then only after the execution of the instrument is proven, the burden of proof falls upon the party disputing the forgery, fraud or another claim. Because it introduced a crucial idea known as the "doctrine of the initial burden of proof," this case is remembered as a landmark decision. The Supreme Court decided that in cases involving negotiable instruments, the burden of proof shifts to the party challenging the validity of the instrument to show fraud, forgery, or other voiding conditions once the execution of the instrument is verified. This ruling created an important concept known as the "doctrine of the initial burden of proof." This decision established a fundamental principle known as the "doctrine of the initial burden of proof." The aforementioned doctrine of the initial burden of proof, as laid down in the case of *Bharat Bank Ltd. v. Employees of Bharat Bank Ltd.*, states that in commercial transactions which use negotiable instruments, the burden of proof initially falls upon the party producing the

²⁰³³ 1950 AIR 188

instrument to demonstrate its execution and validity. Once this particular initial duty is met, the burden then transfers to the party disputing the instrument's validity in order to demonstrate evidence of forgery, fraud, or other faults.

This decision provided greater clarity and consistency to the burden of proof requirements in commercial transactions under Indian evidence law, notably in matters involving negotiable instruments. It emphasised the significance of demonstrating the authenticity and legality of such instruments and established a clear structure for distributing the burden of proof among the parties involved. As a result, *Bharat Bank Ltd. v. Employees of Bharat Bank Ltd.* substantially contributed to the development of commercial law in India and enhanced the legal framework controlling

APPLICATION OF ESTOPPEL

In addition to the aforementioned statutory provisions pertinent to evidence law, the concept of Doctrine of Estoppel, as defined under Section 115 of the Indian Evidence Law also plays a significant role in further determining the burden of proof in commercial transactions. The Doctrine of Estoppel prevents a party from contravening to what is already alleged by a previous action or a previous statement. In other words, the Doctrine of Estoppel prevents a party from asserting a new information which is contrary to an already existing action or statement made by the party. In business transactions, arguments made during negotiations, which are vital in ascertaining the conditions and details of the agreement to be signed, may give rise to the Doctrine of Estoppel. The Estoppel Doctrine is important in this case because it promotes trust and guarantees that the negotiating parties can rely on the claims made. Other situations where this doctrine can be implemented would be during the performance of contracts, or prior dealings between the parties as well. The use of estoppel can drastically change the burden of proof by preventing a party from contesting the truth of past claims or actions.

CHALLENGES AND CONSIDERATIONS

Despite the provisions laid down in the statute and the precedents set by the courts, challenges still persist in determining the burden of proof in commercial transactions. This is due to the fact that commercial transactions can vary widely in complexity and can involve various kinds of contracts, parties and goods and services. Determining the burden of proof in commercial cases involving complex legalities requires a deep understanding of the specific transaction at hand which also includes its terms, conditions as well as the prevalent customary practices within the relevant industry.

Further, Indian Evidence Law contains particular laws governing the shifting of the burden of proof in certain situations. For example, under Section 139 of the Negotiable Instruments Act of 1881, negotiators must show attention. Properly understanding and applying these laws is necessary to determine the burden of proof in a commercial agreement.

Further, depending upon the particulars of the agreement and the problems raised, different levels of proof may be required to support a claim or defence in a business dispute. The burden of proof is the preponderance of the evidence, while there are situations where a greater threshold may be necessary, such as when fraud is being alleged.

CONCLUSION

Determining the burden of proof in business transactions under Indian evidence law is a complex procedure that consists of a variety of legal, factual, and practical factors. This entails comprehending the nature of the transaction and the papers involved, as well as applying burden-shifting laws and assessing the requisite level of proof. To successfully navigate this burden of proof, one must have a thorough awareness of the legal system and pay close attention to the specifics of each case. Despite the hurdles, such as the intricacy of business transactions and the requirement for good evidence, Indian evidence law provides a sound

framework for resolving disputes in an equitable and efficient manner.

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