

Chapter XI

IMPROPER ADMISSION AND REJECTION OF EVIDENCE

No new trial for improper admission or rejection of evidence: section 167

The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence has been received, it ought not to have varied the decision.

Commentary

Content of this section	<p>The improper admission or rejection of evidence is not a ground</p> <ul style="list-style-type: none"> i) for a reversal of the Judgment, or ii) for a new trial of the case, <p>If the Court thinks</p> <ul style="list-style-type: none"> a) that independently of the evidence admitted, there are sufficient evidence to justify the decision, or b) that if the rejected evidence has been received it ought not to have varied the decision.
Improper admission or rejection may be a ground	<p>⇒ Improper admission or rejection of evidence may be a ground, if injustice is caused to any party. But if it does not affect it materially, it cannot be a ground of reversal of a proper decision in appeal.</p> <p>⇒ The provisions of this section are made applicable by the clearest possible words to all judicial proceedings in or before any Court. The Section applies to civil cases and to criminal cases whether or not the trial had been held by a jury.</p>
object of the section	<p>⇒ The object of the section is that the Court of appeal or revision should not disturb a decision on the ground of improper admission or rejection of evidence, if in spite of such evidence, there are sufficient materials in the case to justify the decision.</p> <p>⇒ It means, technical objections will not be allowed to prevail, where substantial justice appears to have been done.</p>
Civil Cases	<p>⇒ In the case of first appeal in civil case, the provisions of this section have to be read with section 99 of the Civil Procedure Code, 1908. Section 99 of CPC provides, "No decree shall be reversed or substantially varied nor shall any case be remanded, in appeal on account of any error, defect or irregularity in any proceeding in the suit-not-affecting the merits of the case".</p>

	<p>⇒ In second appeal, the High Courts has no power to deal with the sufficiency of evidence; the second appeal is heard only on the point of law but the High Court can remand or reverse the decision of lower Court, if injustice is caused to any party.</p> <p>⇒ A document has been acted upon while pronouncing the judgment and passing the decree in consequence of that, the said document cannot be challenged in appeal in view of this Section. <i>Babulal v. Mohammed Sharif, AIR 1996 MP</i></p> <p>⇒ The omission to receive an important document or to examine a material witness justifies a reversal of the decision. <i>Talewar Singh v. Bhagwan Das, 1907 CJL</i></p>
Criminal Cases	<p>⇒ In criminal cases the same law has been enacted by the Legislature. Section 465 of Criminal Procedure Code, 1973 lays down, "No binding sentence or order passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision, on account of any misdirection in any charge to a jury unless such error, omission, irregularity or misdirection has in fact occasioned a failure of justice.</p> <p>⇒ When a part of evidence which has been allowed to go to the jury is found to be irrelevant and inadmissible, it is open to the high Court in appeal either to uphold the verdict upon the remaining evidence on the record under this section or to quash the verdict and order a re-trial. <i>Ramesh Chander Das v. Emperor, 1919 Cal.</i></p> <p>⇒ When the order according sanction for the prosecution of the accused for non filling of Provident Fund Return was on record but was not marked as exhibit, it was held that order acquitting the accused on that ground was liable to be set aside. <i>H. S. Sadashiva v. M. S. Muthappa, 1992 Cr L. J. (Kart.)</i></p>

QUESTIONS OF PREVIOUS YEARS' EXAM

“The improper admission or rejection of evidence shall not be grouped of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence has been received, it ought not to have varied the decision." Discuss fully.