**Fact (Sec.3)**

"Fact" means and includes -

(1) Anything, state of things, or relation of things, capable of being perceived by senses,

(2) Any mental condition of which any person is conscious.

***Illustrations***

1. That there are certain things arranged in a certain order in a certain place, is a fact.
2. That a man heard or saw something is a fact.
3. That a man said certain words is a fact.
4. That a man holds a certain opinion, has a certain intention, act in good faith, or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.
5. That a man has a certain reputation is a fact.

Law has not merely to deal with things physically but also with things which are so hidden as to be beyond physical observation, such as, a state or condition of a person's mind. Thus, intention, fraud, good faith, negligence, etc. are facts. It has been said that "a state of man's mind is as much a fact as the state of his digestion". The state of person's health is a fact. The psychological facts can only be proved by circumstantial evidence.

The fact sought to be proved (***factum probandum***) is called "principal facts", the facts which lead to establish it are called 'evidentiary facts' (***factum probans***).

**Facts in Issue (Sec.3)**

"Facts in issue" means and includes –

(1) any act from which either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability or disability, asserted or denied in any suit or proceeding, necessarily follows,

(2) any fact asserted or denied in answer to an issue of fact recorded under the Civil Procedure Code.

Facts which are in dispute are facts in issue. Evidence becomes necessary only in reference to facts which are in controversy or dispute between the parties. Further, the fact should be such that the question of liability should depend' upon it. The following illustration make clear the point: -

***“A is accused of the murder of B". At his trial the following facts may be in issue - that A caused B's death; that A intended to cause B's death; that A had received grave and sudden provocation from B; that A at the time of doing-that act which caused B's death, was, by reason of unsoundness of mind incapable of knowing its nature.”***

Thus, every fact which a plaintiff must prove in order to get an adjudication in his favour, or which a defendant may prove to defeat the suit, becomes a fact in issue. Facts in issue will depend upon the provisions of the substantive law applicable to the offence. If, for example, the action is for the tort of negligence, such of the ingredients of liability for negligence which are in dispute shall be the facts in issue. If the plaintiff alleges that the defendant was under duty of care towards him and the defendant denies the fact, this fact will be a fact in issue between the parties. Thus, facts in issue depend upon the ingredients of the offence and the state of the parties' pleadings. A fact in issue is called the 'principal' fact; or ***factum probandum.***

In criminal matters, the allegations in the charge-sheet constitute the facts in issue. In civil matters, the process of ascertaining facts in issue is known as framing issues. Whatever be the facts in issue, their existence has to be proved to the satisfaction of the court before the court can be called upon to pronounce a judgement on the basis of those facts.

**Relevant facts (Sec.3)**

“One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Act relating to the relevancy of facts”, viz.

(i) facts logically connected with facts in issue (Ss. 5-16), (ii)admissions and confessions (Ss.17-31), (iii) statements by non-witnesses(Ss. 32-33), (iv) statements under special circumstances(Ss. 34-37), (v) judgement in other cases (Ss. 40-44), (vi) opinions of third persons (Ss. 45-51),(vii) evidence as to character (Ss. 52-55). It is to be noted that the section does not define the term "relevant". Rather, it simply indicates when one fact becomes relevant to another. Normally, facts relevant to an issue are those facts which are necessary for proof or disproof of a fact in issue. Thus, relevant facts (or evidentiary facts) or **factumprobans** are those which are capable of affording a reasonable presumption as to either the facts in issue or the principal patters in dispute. The word 'relevant' has been held to be admissible ***(Lakhmi v Haider, 3 CWN 268).*** Relevant facts are not themselves in admissible but are foundations of inferences regarding them.

For example, "when A is accused of the murder of B", the facts are - A had a motive and opportunity to kill B, he had preparations by buying a knife, etc., or after the murder he was running with blood-stained knife in hand.