



## Shot Communication

## Section 65B of Indian evidence Act and its applicability to computerized medicolegal reports prepared using online MedLePar software

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For reprints contact: [reprint@ipinnovative.com](mailto:reprint@ipinnovative.com)**1. Introduction**

The Indian Evidence Act, 1872, governs the admissibility of evidence in Indian courts. With the rise of digital documentation, Section 65B of the Act plays a crucial role in determining the evidentiary value of electronic records. One significant area where this section is now being applied is in medicolegal Postmortem and Injury reports (MLRs), which are being prepared using online software of MedLePar in states of Punjab, Haryana and Chandigarh in compliance to Order of Honorable High Court of Punjab and Haryana at Chandigarh.

**2. Understanding Section 65B of the Indian Evidence Act**

Section 65B deals with the admissibility of electronic records as evidence in legal proceedings. It states that any electronic record presented in court must be accompanied by a certificate under Section 65B, which authenticates the record and verifies its integrity. The section aims to ensure the reliability and accuracy of electronic evidence by providing a legal framework for its submission.

- Electronic records as secondary evidence:** Electronic documents are considered secondary evidence and can be admitted in court only if they meet the requirements of Section 65B.
- Requirement of a certificate:** A certificate under Section 65B(4) must be provided by a person in

charge of the device that generated or stored the electronic record. The certificate should specify:

- The manner in which the electronic record was produced.
- The reliability of the device used to generate or store the record.
- That the record has not been tampered with.

**2.1. No need for the original electronic device**

Unlike traditional evidence, courts do not require the original device that created the record. Instead, a printout or a copy of the electronic document, along with the Section 65B certificate, is sufficient.

**3. Applicability of Section 65B to Medicolegal Reports**

Medicolegal reports (MLRs) are critical in criminal and civil cases, particularly in forensic investigations, injury assessments, and medical negligence claims. With the increasing digitization of healthcare, many Civil Hospitals and forensic Medicine Departments in Medical Colleges now generate MLRs using electronic device as Computer output.

**4. How Section 65B Impacts MLRs****4.1. Computerized reports and electronic evidence**

Many hospitals generate Computerized MLRs and submit duly signed and stamped hard copies to concerned Police

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station but are stored in digital databases of National Informatics Center (NIC) Haryana.

When such reports are submitted as evidence on Judicial files in Criminal Courts, they are supposed to comply with Section 65B requirements by the Concerned Public Prosecutor. Investigation officers are being directed to procure Certificate U/S 65B of IEA from the concerned Doctors who issued the Postmortem report.<sup>1</sup> When Police office after being directed by Public Prosecutor approach the Medical officers who issue computerized report, are often in dilemma as neither they are having exclusive control over the computers used for this purpose nor the server is being maintained by them. Moreover no such directive ever circulated to any Civil/ District Hospital as well as any Medical College by the Department of Health and Family welfare and Directorate of Medical Education and Research.

If a scanned copy of a handwritten MLR is submitted, it qualifies as an electronic record and requires certification.

## 5. Electronic Signatures and Authentication

Doctors and forensic experts may sign MLRs using digital signatures. Courts accept digitally signed documents, but they must be accompanied by a Section 65B certificate. Currently no such obligation is there in the Govt. Hospitals for Doctors. However at Institutes like AIIMS Delhi where Virtual Autopsies are being conducted and instead of Traditional Postmortem examination, Electronic Evidence in the form of CD/ Memory card etc. is being generated and submitted to I.O. along with Autopsy report, certificate U/S 65B is being issued by the Department of Forensic Medicine.

### 5.1. Hospital and forensic database records

Patient records, including X-rays, CT scans, and Lab reports, are often stored electronically in Hospitals. Similarly whenever, these electronic medical records, need to be presented as evidence in courts, also need a certification under Section 65B to establish their authenticity, But it may not be practically possible to procure such certificate as these reports are generated at multiple levels.

## 6. Challenges in Compliance

1. Even among the Judicial officers there is no clarity whether it should be procured or not. Only a few Public Prosecutors insists Investigating officers to obtain certificate U/S 65 from the concerned Doctor who issue computerized Medico-legal report. Hence Lack of uniformity is a major deterrent in its acceptability.
2. Many hospitals and forensic departments are unaware of the procedural requirements of Section 65B. Due of lack of any instructions/ circular from the Office of the D.R.M.E. / Directorate of Health

services, regarding need to issue Certificate U/S 65 B in such cases also forces Doctors to have subjectivity for obliging such request of I.O.s . 65B Certificate is issued by Autopsy surgeons at AIIMS Bathinda however No such certificate is issued by Autopsy Surgeons posted at PGI Chandigarh.

3. The lack of exclusive control over the Computers used in Govt. Hospitals/ Forensic Medicine Department is also one contributory factor.

## 7. Judicial Interpretation and Case Laws

Indian courts have clarified the scope and applicability of Section 65B in several landmark judgments:

1. Anvar P.V. v. P.K. Basheer (2014): The Supreme Court ruled that electronic records are inadmissible unless accompanied by a Section 65B certificate.<sup>2</sup>
2. Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal (2020): The court reiterated the necessity of the certificate and clarified that it must be provided by a person controlling the computer system that stored or generated the record.<sup>3</sup>

## 8. Conclusion

With the increasing reliance on digital evidence in legal proceedings, understanding Section 65B of the Indian Evidence Act (63 BNSS wef 01/07/2024) is crucial for ensuring the admissibility of online Medico-legal reports. Hospitals, forensic departments, and medical professionals must ensure compliance with Section 65B requirements to prevent the rejection of critical evidence in court. Adequate training and procedural awareness are essential to bridge the gap between digital documentation and legal admissibility, ensuring that justice is served effectively.

## 9. Source of Funding

None.

## 10. Conflict of Interest

None.

## References

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