

Section 32

Section 32 is a quite lengthy section, dealing with another exception to hearsay evidence. The general rule is that hearsay evidence is not acceptable that only he who has seen, heard or perceived a fact can bear witness to it, however the underlying principle of S.32 is that; when a person who is the actual witness to a crime i.e. he has actually seen, heard or perceived the fact, is for certain reasons unable to attend court, maybe due to death or disability, another third person to whom he has deposed the fact he witnessed, can bear witness to it on his behalf.

Illustration:-

A had seen B murder C, because of A's illness he was unable to attend court but he told his wife regarding the crime, by virtue of this section she can give evidence in court.

This section will come into play under the following circumstances:-

- ✓ If the person is dead
- ✓ Missing
- ✓ Has become incapable of giving evidence
- ✓ Attendance of his would lead to unwanted delay or expenses.

What is unwanted delay/expense has to be determined by the court.

PRITHI CHAND v. STATE OF HP

It was held that where the doctor who prepared the report could not attend court because she was on maternity leave, another doctor could on her instructions bear witness.

The section has eight sub-clauses, dealing with the following issues wherein the statement of such a person as mentioned above can be used:-

1. When the matter relates to cause of death of the transaction which led to death
2. When statement made in ordinary course of business
3. When the statement is against interest of the maker
4. When statement is an opinion as to public right or custom
5. When statement relates to existence of relationship
6. The statement regards will or deed relating to family affairs
7. Or in relation to section 13(a)
8. The statement is made by several persons expressing their opinion or feelings relevant to the matter.

When the matter relates to cause/transaction leading to death:-

The first clause of S.32 mentions that when a statement given by such a person who has been incapacitated in the manner mentioned above (mention the points), refers to two things:-

- ✓ The cause of his death
- ✓ The transactions leading upto his death

Section 32 Birds Answer Key

Jodene Smith

A red circular graphic with a gradient, appearing as a semi-circle or a partial circle, located to the right of the author's name.

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Table of Contents Section 32 Birds Answer Key

1. Understanding the eBook Section 32 Birds Answer Key
 - The Rise of Digital Reading Section 32 Birds Answer Key
 - Advantages of eBooks Over Traditional Books
2. Identifying Section 32 Birds Answer Key
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Section 32 Birds Answer Key
 - User-Friendly Interface
4. Exploring eBook Recommendations from Section 32 Birds Answer Key
 - Personalized Recommendations
 - Section 32 Birds Answer Key User Reviews and Ratings
 - Section 32 Birds Answer Key and Bestseller Lists
5. Accessing Section 32 Birds Answer Key Free and Paid eBooks
 - Section 32 Birds Answer Key Public Domain eBooks
 - Section 32 Birds Answer Key eBook Subscription Services
 - Section 32 Birds Answer Key Budget-Friendly Options
6. Navigating Section 32 Birds Answer Key eBook Formats
 - ePub, PDF, MOBI, and More
 - Section 32 Birds Answer Key Compatibility with Devices
 - Section 32 Birds Answer Key Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Section 32 Birds Answer Key
 - Highlighting and Note-Taking Section 32 Birds Answer Key
 - Interactive Elements Section 32 Birds Answer Key
8. Staying Engaged with Section 32 Birds Answer Key

- Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Section 32 Birds Answer Key
9. Balancing eBooks and Physical Books Section 32 Birds Answer Key
- Benefits of a Digital Library
 - Creating a Diverse Reading Collection Section 32 Birds Answer Key
10. Overcoming Reading Challenges
- Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Section 32 Birds Answer Key
- Setting Reading Goals Section 32 Birds Answer Key
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Section 32 Birds Answer Key
- Fact-Checking eBook Content of Section 32 Birds Answer Key
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
- Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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