

Evidence Act S. 32(5)

Kalidindi Venkata Subbaraju & Others v. Chintalapati Subbaraju & Others AIR 1968 SC 947 while construing the provisions of sub-section (5) of Section 32 of the Evidence Act this court observed as follows :

“Both sub-sections (5) and (6) of Section 32, as aforesaid, declare that in order to be admissible the statement relied on must be made ante litem motam by persons who are dead i.e before the commencement of any controversy actual or legal upon the same point.”

Relying on an earlier case of the Privy Council the Supreme Court further observed thus :

“In Kalka Parshad v. Mathura Parshad [1908 35 IA 166 = ILR 1908 30 All 510] a dispute arose in 1896 on the death of one Parbati. In 1898 in a suit brought by one Sheo Sahai a pedigree was filed. After this, the suit from which the appeal went up to the Privy Council was instituted in 1901. It was held there that the pedigree filed in 1898 was not admissible having been made post litem motam.”