



EXPERT OPINION IN TANZANIA.

INTRODUCTION

Section 3 of the evidence Act defines “evidence” as the means by which an alleged matter of fact, the truth of which if submitted to investigation, is proved or disproved; and without prejudice to the preceding generality, including statements and admissions by accused persons. The facts which are said to be proved are given by way of testimony either by a person related to the case or by a witness. It may also be proved by using document related to the case or any fact in issue. Hence evidence involves facts, means of proving facts and the mode of proving facts.

Expert opinion evidence is an evidence from experts. It applies when a court has to form an opinion upon a point of foreign law, or of science or art, or as to identity of handwriting or finger or other impressions. And the opinion, upon that point of persons (generally called experts) possessing special knowledge, skill, experience or training in such foreign law, science or art or question as to identity of handwriting or finger or other impressions are relevant facts.

An expert witness is one who has devoted time, experience and study to a special branch of learning, and this is skilled special on the points on which he is asked to state his opinion. His evidence on such points is admissible to enable the tribunal to come to a satisfactory conclusion.

HOW AN EXPERT IS MEASURED

1. Educational background.

Ordinarily, for a person to be judged as an expert, he/she should have an educational background which enables him/ her to become conversant with the subject matter that he/she is expected to testify on.

In Tanzania, the court will consider the experience of experts even when they did not acquire formal training. Experts may therefore not be specialists in a particular field but may just be skilled or experienced in the branch of knowledge even though the exercise of such skill or acquisition of such knowledge is not part of their general occupation.

RELEVANCY AND ADMISSIBILITY OF EXPERT OPINION EVIDENCE



Section 47 of the Evidence Act provides for the relevance of expert opinion evidence in Tanzania, and as a general rule; expert opinion evidence is admissible with a few exceptions provided by the law. The law identifies experts for the purpose of evidence as well as when expert opinion may be sought. Further, According to section 48, where the opinion of the expert is relevant, any other fact which supports or is inconsistent with the opinion though not otherwise relevant, is relevant.

In Tanzania, the admissibility of expert opinion evidence is subject to certain requirements to include the following:-

1. The expert opinion must be given by an expert/ the qualified personnel who have specialized knowledge or experience in the particular area relevant to the case.

1. The expert's opinion must be based on facts that are admissible in evidence.

This means that, facts from the experts opinion must be within their knowledge and that are admissible in evidence. The expert must also be able to provide a clear and concise statement of their opinion and the reasons for it.

1. The expert's opinion must be relevant to the issue in the case.

This is to say, an expert's opinion must be relevant to the issues in the case and must assist the court in understanding the evidence or determining a fact in issue. Generally, an expert's opinion should not be based on speculation or conjecture and must be independent and unbiased.

1. The expert's opinion must be helpful to the court in reaching a decision.

Thus, the court has the discretion to determine whether expert opinion evidence should be admitted or not and the court will consider the relevance and reliability of the expert's opinion in making its own decision. Apart from that, the court will also consider the qualifications of the expert and whether the expert's opinion is based on sound reasoning and methodology.

In criminal cases, expert opinion evidence is often used in cases involving forensic science,



such as DNA analysis, ballistics, and toxicology while in civil cases, expert opinion evidence is often used in cases involving medical malpractice, engineering, and construction disputes.

It is worth noting that the Tanzania legal system does not require that expert witnesses be independent. This means that experts can be hired by either the prosecution or defense in criminal cases or by either the plaintiff or defendant in civil cases. However, the court may consider the independence of the expert when evaluating the reliability of their opinion.

CONCLUSION.

In conclusion, an expert witness can provide their opinion on a matter within their expertise, but they must be properly qualified and have sufficient knowledge and experience in the particular area in which they are providing their opinion. Expert opinion evidence is an important aspect of the Tanzania legal system and thus must be relevant, clear, unbiased and subject to cross-examination by the opposing party purposely to enhance justice to the public. The admissibility of expert opinion evidence is subject to certain requirements, and the court has the discretion to determine whether expert opinion evidence should be admitted or not.

Thus, the expert's opinion must be based on facts that are admissible in evidence, and they must be able to provide a clear and concise statement of their opinion and the reasons for it. Also that, an expert opinion must be relevant to the issues in the case and must assist the court in understanding the evidence or determining a fact in issue.

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