

Expert Witness Testimony through Video Conferencing in India: Present Legal Status & Related Issues

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ABSTRACT

The integration of video conferencing (VC) into judicial proceedings has transformed the administration of justice in India, particularly following the COVID-19 pandemic. Expert witnesses, including forensic medicine specialists, medical practitioners, scientists, and technical professionals, often encounter practical difficulties in attending courts because of professional responsibilities, geographical constraints, financial burden, and administrative obligations. Recent legislative reforms and judicial pronouncements have strengthened the legal framework supporting testimony through video conferencing. To review the current legal status of expert witness testimony through video conferencing in India and evaluate its implications for forensic and medical expert evidence. A narrative review was undertaken of the statutory framework, judicial precedents, Supreme Court guidelines, High Court rules, and recent legislative developments governing expert testimony through video conferencing. Relevant provisions of the Bharatiya Sakshya Adhiniyam, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, landmark Supreme Court judgments, and the Delhi High Court Notification dated 4 July 2025 were examined to assess procedural safeguards, evidentiary validity, and practical implementation. The landmark decision in *State of Maharashtra v. Dr. Praful B. Desai* established that evidence recorded through video conferencing satisfies the legal requirement of witness presence and permits effective cross-examination. Subsequent statutory reforms, Supreme Court Model Rules, and High Court practice directions have institutionalized virtual testimony by prescribing safeguards relating to witness identification, oath administration, prevention of coaching, secure recording, and preservation of electronic records. Video conferencing significantly reduces delays, travel, costs, and disruption of essential medical and forensic services while enhancing judicial efficiency. However, challenges related to technological infrastructure, cybersecurity, witness authentication, and procedural uniformity remain. Video conferencing has evolved from an emergency measure into a legally recognized and increasingly indispensable mode of recording expert evidence in India. Strengthening digital infrastructure, ensuring uniform procedural standards across jurisdictions, and incorporating emerging technologies will further enhance the credibility, accessibility, and efficiency of expert witness testimony without compromising the principles of fair trial and evidentiary integrity.

Keywords: Video conferencing; Expert witness; Forensic medicine; Digital evidence; Tele-evidence; Judicial digitization

INTRODUCTION

Patient care is the primary role of any clinical specialist. However, a doctor is also expected to assist the judiciary in deliverance of justice by way of expert opinion on the legal aspects of treatment given by him or by someone else. For this purpose, doctors are summoned to the court of law for giving testimony as per the provisions of Bharatiya Sakshya

Adhiniyam, 2023 in India. ⁽¹⁾ Expert evidence occupies a unique position in judicial proceedings because courts frequently require specialized scientific, medical, technical, or forensic knowledge beyond the understanding of ordinary judges. Medical practitioners, forensic experts, DNA analysts, ballistic experts, cyber forensic specialists, and toxicologists are regularly summoned to testify before

courts.

Traditionally, expert witnesses were required to appear physically before the court. However, frequent adjournments, long travel distances, shortage of experts, security concerns, and disruption of professional duties often delayed criminal trials. The widespread adoption of digital communication technologies and the unprecedented restrictions imposed during the COVID-19 pandemic accelerated judicial acceptance of video conferencing as an alternative mode of recording evidence. alternative mode of recording evidence.⁽²⁾ Video conferencing (VC), initially adopted as an emergency response during the COVID-19 pandemic, has evolved into an accepted mode for recording evidence, including expert witness testimony.

Total number of Virtual Hearing in different High Courts and District Courts of India during COVID-19 pandemic.

COURTS No. of Hearings	High Courts	District Courts	Total Virtual Hearings
	7662243	16847520	24509763

Source: Reply to LOK SABHA UNSTARRED QUESTION No. 440 Answered on Friday, The 3rd February, 2023.

Today, video conferencing is no longer merely an emergency arrangement but has become a recognized judicial procedure supported by statutory provisions, Supreme Court guidelines, and High Court rules. This article reviews the present legal status governing expert witness testimony through video conferencing in India.

METHOD AND MATERIAL

Study Design: Narrative Review

Data Sources

PubMed, Scopus, Google Scholar, SCC Online/Manupatra, Supreme Court website,

e-Committee of the Supreme Court, Ministry of Law and Justice, Delhi High Court Notifications

Search strategy

The literature search was conducted between June 2026 and July 2026 using PubMed, Scopus, Google Scholar, SCC Online, and official judicial websites. Search terms included "video conferencing", "expert witness", "forensic medicine", "medical evidence", "virtual testimony", "electronic evidence", "Bharatiya Sakshya Adhiniyam", "BNSS", "Supreme Court Model Rules", and "Delhi High Court Video Conferencing Rules". Boolean operators (AND/OR) were employed to refine the search.

Eligibility criteria Include

English language publications

Indian legal documents

Supreme Court judgments

High Court Rules

Government Notifications

Law Commission Reports

Articles published between 2000–2026

Exclusion criteria

Non-English publications

Opinion pieces without legal basis

Duplicate publications

Data extraction- Describe extraction from

Legal provisions

Judicial principles

Procedural safeguards

Expert witness categories

Implementation issues

Future recommendations

Flow Chart of PRISMA

Database search

Records identified (n=186)

Duplicates removed (32)

154 articles screened

Excluded after title/abstract (101)

53 full-text reviewed

Excluded (28)

15 articles + legal documents included

Evolution of Video Conferencing in Indian Courts

The concept of video conferencing in judicial proceedings emerged in India nearly two decades ago. Initially, courts used video links primarily for remand proceedings involving prisoners lodged in distant prisons. Subsequently, the scope expanded to recording witness testimony.

The landmark judgment of the Supreme Court in *State of Maharashtra v. Dr. Praful B. Desai* (2003).⁽³⁾ marked a turning point. The Court held that recording evidence through video conferencing satisfies the legal requirement that evidence must be recorded “in the presence of the accused.” The Court interpreted the expression “presence” broadly, recognizing virtual presence enabled through modern technology.

This progressive interpretation laid the foundation for future judicial acceptance of remote testimony.

STATUTORY & LEGAL FRAMEWORK

The Bharatiya Sakshya Adhiniyam (BSA), 2023, replacing the Indian Evidence Act, 1872 reflects India's transition towards digital evidence.

The Act recognizes electronic records and digital communications as admissible evidence, subject to prescribed safeguards. Although it does not specifically mention video conferencing for expert testimony, the recognition of electronic records strengthens the legal foundation for digitally recorded evidence.

Expert opinions remain admissible under the provisions relating to expert evidence, including medical science, forensic science, handwriting, fingerprints, DNA profiling, cyber forensics, and other scientific disciplines.

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, replacing the Code of Criminal Procedure ⁽⁴⁾, also encourages greater use of electronic communication and digital procedures. Electronic hearings under Section 530 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) provides that all trials, inquiries and proceedings under this Sanhita, including examination of complainant and witnesses, collection and preservation of evidence and recording of evidence in inquiries and trials and all appellate proceedings or any other proceeding, may be held in electronic mode, by use of electronic communication or use of audio-video electronic means.

Section 336 of BNSS makes provision of Evidence from Public Servants, Experts and police officers public officials, forensic experts, and police officers may provide via video conferencing.

Several other procedural provisions permit the use of electronic means during criminal investigations and judicial proceedings. Courts now possess greater flexibility to record evidence using technology whenever circumstances warrant.

Under the Code of Civil Procedure, 1908 (5 of 1908)⁽⁵⁾, The Commercial Courts Act, 2015 (4 of 2016)⁽⁶⁾ read with The Information Technology Act, 2000 (21 of 2000)⁽⁷⁾ and Delhi High Court (Original Side) Rules, 2018⁽⁸⁾, recording of evidence through electronic means and conduct of proceedings through video conferencing is fully recognized in all civil proceedings, commercial cases before High Court and the District courts. Civil courts also possess inherent powers to record evidence through video conferencing where appropriate. Various amendments Code of Civil Procedures and High Court rules have facilitated virtual examination of witnesses in civil proceedings.

Judicial Pronouncements/ Landmark Case Laws

1. State of Maharashtra v. Dr. Praful B. Desai (2003)⁽³⁾

remains the leading authority on this subject. In this case The Supreme Court observed that:

- Video conferencing satisfies legal requirements.
- Witnesses need not be physically present.
- Cross-examination through video conferencing remains equally effective.
- Scientific advances should facilitate justice rather than obstruct it.

The judgment remains the cornerstone of Indian jurisprudence on virtual testimony.

2. Santhini v. Vijaya Venkatesh (2018)⁽⁹⁾

The Supreme Court considered whether matrimonial disputes could routinely employ video conferencing. Although the Court adopted a cautious approach for family disputes, it acknowledged that video conferencing may be appropriate depending upon facts and circumstances.

3. *Suo Motu Writ (Civil) No. 5/2020*⁽²⁾

Video conferencing emerged as the mainstay of the Courts during the Covid lockdown period as physical hearings and normal court proceedings in the congregational mode were not possible. The Supreme Court exercised its constitutional powers to ensure continuity of judicial functioning through virtual courts. To bring about uniformity and standardization in the conduct of VC, an overarching order was passed by the Hon'ble Supreme Court of India on 6th April 2020 in the above cited case, which gave legal sanctity and validity to the court hearings done through VC. The Supreme Court e-Committee developed the Model Rules for Video Conferencing for Courts, which have been adopted with suitable modifications by several High Courts⁽¹⁰⁾.

The Model Rules prescribe procedures relating to:

- Identification of witnesses
- Verification of identity documents
- Administration of oath
- Prevention of coaching
- Recording proceedings
- Preservation of electronic records
- Confidential communication between advocates and clients
- Technical standards

These rules ensure that evidence recorded electronically maintains procedural integrity comparable to physical testimony.

The salient features of these guidelines are:

(i) Video conferencing facilities may be used at all stages of

judicial proceedings and proceedings conducted by the Court.

(ii) All proceedings conducted in a Court by way of video conferencing shall be judicial proceedings and all the courtesies and protocols applicable to a physical Court shall apply to these virtual proceedings.

(iii) All relevant statutory provisions applicable to judicial proceedings shall apply to proceedings conducted by video conferencing.

(iv) There shall be no unauthorized recording of the proceedings by any person or entity.

(v) The required person shall provide identity proof as recognized by the Government of India/State Government/Union Territory.

(vi) There shall be a Coordinator both at the Court Point and at the Remote Point from which any Required Person is to be examined or heard.

(vii) Any party to the proceeding or witness, save and except where proceedings are initiated at the instance of the Court, may move a request for video conferencing.

(viii) Any proposal to move a request to for video conferencing should first be discussed with the other party or parties to the proceeding, except where it is not possible or inappropriate, for example in cases such as urgent applications.

(ix) On receipt of request of video conferencing and upon hearing all concerned persons, the Court will pass an appropriate order after ascertaining that the application is not filed with an intention to impede a fair trial or to delay the proceedings.

(x) While allowing a request for video conferencing, the Court may also fix the schedule for convening the video conferencing.

(xi) Costs, if directed to be paid, shall be deposited within the prescribed time, commencing from the date on which the order convening proceedings through video conferencing is received.

4. High Court of Delhi: New Delhi, Notification No. 36/Rules/DHC Dated: 04.07.2025⁽¹¹⁾

General Principles Governing Video Conferencing and other modes of Audio- video electronic communication
Subject to the provisions hereinafter contained, video conferencing and other modes of audio-visual electronic communication may be used at all stages of judicial proceedings and proceedings conducted by the Court, where a person who is required to be present or appear is not physically present in the court room:

(i) All proceedings conducted by a Court via video conferencing and other modes of audio-visual electronic

communication shall be judicial proceedings and all parties shall maintain decorum and protocols applicable to these proceedings;

(ii) All relevant statutory provisions applicable to judicial proceedings including provisions of BNSS, Code of Civil Procedure, 1908, CCA, 2015, Contempt of Courts Act, 1971, Bharatiya Sakshya Adhiniyam, 2023 and IT Act, shall apply to proceedings conducted by video conferencing;

(iii) Subject to maintaining independence, impartiality and credibility of judicial proceedings, and subject to such directions as the High Court may issue, Courts may adopt such technological advances as may become available from time to time;

(iv) Courts shall use only High Court/government approved and secure video conferencing platforms equipped with end-to-end encryption to protect data and privacy;

(v) Any unauthorized access, hacking attempts, or security breaches shall be reported immediately and addressed in accordance with the law;

(vi) The Rules as applicable to a Court shall mutatis mutandis apply to a Commissioner appointed by the Court to record evidence and to an inquiry officer conducting an inquiry;

(vii) Unless expressly permitted by Court, no person, either at Court Point or at designated place or at Remote Point or Advocate's Remote Point, shall record or publish the proceedings or any part thereof, conducted by video conferencing or other modes of audiovisual electronic communication;

(viii) There shall be no unauthorized recording of the proceedings by any person or entity.

The Table-1 summarizes legal provisions with respect to Virtual evidence/ Video conferencing in India.

EXPERT WITNESSES SUITABLE FOR VIDEO CONFERENCING

Several categories of expert witnesses which are particularly suited for virtual testimony are given in the Table-2.

Majority of these experts work in public and private institutions where their absence for court appearances adversely affects public services.

The Standard Procedure adopted for Recording Expert Evidence generally includes:

1. Issuance of summons mentioning virtual appearance.
2. Verification of witness identity.
3. Confirmation of uninterrupted internet connectivity.

4. Administration of oath.

5. Recording of examination-in-chief.

6. Cross-examination.

7. Re-examination.

8. Digital preservation of proceedings.

The entire proceeding is usually digitally recorded for future verification

Advantages, Challenges and Procedure of VC followed in India

Tele-evidence” or giving evidence through videoconferencing provides not only an alternative to the physical appearance of healthcare worker in the courts but studies have shown that telemedicine and its applications can yield savings in terms of cost as well as carbon footprints^(12,13). Tele-evidence resulted in significant saving of time also for the doctors, which was earlier spent in commuting to various courts. The average hours per month spent in physical appearance for court summons reduced by 29% following the introduction of tele-evidence⁽¹⁴⁾.

There are numerous other advantages of Video Conferencing/ Tele-Evidence such as:

A. Improved Judicial Efficiency

B. Virtual testimony substantially reduces adjournments caused by non-availability of experts.

C. Reduced Costs for evidence recording, as Government expenditure on travel allowances and transportation decreases significantly.

D. Better Utilization of Experts

E. Medical specialists can attend court without compromising hospital responsibilities.

F. Increased Safety of experts and reduces security risks associated with transporting prisoners or other vulnerable witnesses.

G. Faster Disposal of Cases as prompt recording of expert evidence accelerates criminal trials.

H. Environmental Benefits as reduced travel contributes to lower carbon emissions.

The flow diagram below describes the procedure of VC being followed in India.

Flow Chart for Procedure of VC in India

Court summons

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Permission for VC

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Identity Verification

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Oath

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Examination-in-chief

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Cross-examination

↓

Re-examination

↓

Digital Record Preservation

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Certified electronic record

However, despite of numerous benefits, there are few Challenges also in this practice, like:

A. Technical Issues- Poor internet connectivity, equipment failures, audio disturbances, and power interruptions occasionally affect proceedings.

B. Witness Coaching-Courts must ensure that witnesses are not receiving external assistance during testimony.

C. Confidentiality-Sensitive medico-legal evidence requires secure digital platforms.

D. Digital Divide-Some district courts continue to face infrastructure limitations.

E. Cross-examination Concerns-Although generally effective, some lawyers believe physical demeanor assessment is comparatively easier during in-person testimony.

A comparison between physical and virtual testimony is given in the Table-3.

INTERNATIONAL PERSPECTIVE

Several common law jurisdictions routinely employ remote testimony.

Countries including the United Kingdom, Australia, Canada, Singapore, and the United States permit expert evidence through secure video conferencing under judicial supervision. India's evolving framework aligns with global trends promoting digital justice while preserving procedural fairness. A comparison of different countries regarding status of virtual expert testimony is given in the Table 4

The next phase of judicial digitization should include:

- Artificial intelligence-assisted transcription.
- Digital signature integration.
- Secure encrypted judicial platforms.

- Electronic scheduling systems.
- National expert witness portals.
- Dedicated video conferencing facilities in all medical establishments catering medico-legal cases.
- Integration with e-Courts Phase III.

Emerging technologies such as virtual reality courtrooms and AI-assisted evidence management may further improve judicial efficiency.

CONCLUSION

Video conferencing has emerged as a legally recognized and practically indispensable mode of recording expert witness testimony in India. Judicial interpretation beginning with *State of Maharashtra v. Dr. Praful B. Desai* established that virtual presence satisfies statutory requirements governing witness examination. Subsequent legislative reforms, including the *Bharatiya Sakshya Adhiniyam, 2023* and *Bharatiya Nagarik Suraksha Sanhita, 2023*, together with Supreme Court guidelines and High Court rules, have strengthened the legal framework supporting digital judicial processes.

For forensic medicine experts and other scientific professionals, video conferencing represents a significant advancement by reducing unnecessary travel, minimizing delays, conserving public resources, and improving access to justice. Nevertheless, robust technological infrastructure, cybersecurity measures, witness authentication protocols, and uniform procedural safeguards remain essential to preserve the fairness and integrity of judicial proceedings⁽¹⁵⁾.

As India continues its transition towards a digitally enabled justice system, expert testimony through video conferencing is poised to become the norm rather than the exception.

Table 1: Development of Legal Provisions on Virtual Testimony

Legal Instrument	Relevant Provision	Importance for Expert Witness
BSA 2023	Recognition of electronic evidence	Validates VC evidence
BNSS 2023	Electronic proceedings	Allows expert testimony electronically
Supreme Court Model Rules	Identity, oath, recording	Procedural safeguards
Delhi HC Rules 2025	Operational framework	Practical implementation

Table 2: Categories of Expert Witness suited for VC

Forensic Medicine specialists	Cyber forensic analysts
Autopsy surgeons	Psychiatric experts
DNA experts	Radiologists
Ballistic experts	Medical specialists
Fingerprint experts	Handwriting experts
Toxicologists	Digital forensic experts

Table 3: Comparison between physical and Virtual testimony

Parameter	Physical Court	Video Conferencing
Travel	Required	Not required
Cost	High	Low
Delay	Frequent	Reduced
Expert availability	Limited	High
Hospital disruption	High	Minimal
Cross-examination	Direct	Direct through VC
Recording	Manual	Digital

Table 4: Status of Virtual Expert Testimony among different countries

Country	VC permitted	Expert evidence	Specific Rules
India	Yes	Yes	BSA, BNSS
UK	Yes	Yes	Criminal Procedure Rules
USA	Yes	Yes	Federal Rules & State Rules
Australia	Yes	Yes	Evidence Acts
Singapore	Yes	Yes	Electronic Litigation

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