

The Position of Expertise as an Evidence in Civil Claims

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Abstract:

According to the Iranian positive law, expertise is regarded as a legal evidence by Civil Proceedings Act and a few other statutes concerning expertise, while it has not been mentioned in the third chapter of Civil Code. However, this question could be raised whether expertise is treated as an independent evidence, is a circumstantial evidence or is some type of witness? Legal writers who have already discussed expertise, have not expressly answered to this fundamental question about the nature of expertise but it could be inferred that they tend to treat it as an independent evidence because they refer to it in separate discussions and not during discussing witness and circumstantial evidence. This article is to analyze the nature of expertise and its interaction with other evidences precisely and comprehensively via descriptive and analytical method to reach an understanding of its position in positive law. The aim of this article is to establish a unanimous procedure, to determine the value of expertise among other evidences, and to create some kinds of knowledge for judges. This study tries to analyze the subject and prove the fact that expertise could not be denied as an independent evidence among other evidences.

Keywords:

Circumstantial Evidence, Evidence, Expertise, Judge's Personal Knowledge, Witness