Title:
XII.4 - Prima facie evidence

Content:
No. XII.4 - Prima facie evidence

Prima facie evidence, which is based on a typical set of facts that, according to the general experience of life, justifies the assumption of a certain cause or consequence, is admissible ("res ipsa loquitur").

Commentary:
1 The Principle means an alleviation of the general Principle of burden of proof in cases which relate to a set of facts which, according to the general experience of life, typically lead to a certain cause or consequence. Such result or cause can then be inferred from the very nature of that set of facts, even without direct evidence for such cause or consequence. The party must prove only the set of facts, but not the cause or consequence that can be inferred from that set of facts. "Typically" does not mean that the set of facts must be the reason for the cause or consequence in all conceivable circumstances, but that this connection is so frequent that it is highly probable that this connection between the set of facts and the cause or consequence which the party intends to prove exists in the given case.

2 If the other party proves facts which support the assumption of an atypical set of facts which does not allow the inference of the cause or consequence which the first party intends to prove with prima facie evidence, the first party must meet the full burden of proof for establishing the facts underlying its claim or defense because the prima facie evidence rule is no longer available.