

MR HARPRABDEEP SINGH (1): WHAT MAKES GOOD ORAL ADVOCACY?

What makes a good oral legal argument in English?

In order to make a good legal argument in English, I'd say there are three components. First, you need to know the English language. Second of all, you need to know the law back and front. And third, you need to know how to be able to present an argument succinctly and concisely.

What makes a good oral legal argument in an academic setting?

In the academic setting, specifically in a moot, the key issue, so to speak, is to convince the panel who is judging you in the moot. Now, there is a variety of issues which come into play when it comes to convincing judges because you may have judges from the continental legal system, you may have them from the common law legal system, so the first thing you must know is understand your audience. Having figured that out, then you need to go on to the second step, which is to adopt and adapt your legal solution or your objective to the audience. So the audience is seeking a more academic view on a certain issue, you need to be able to understand that, digest it, and present an academic view. Some lawyers who are judging you in an academic setting may want a more case law or a more judge's perspective, so understanding that perspective would require you to have learnt more cases, to have learnt more issues surrounding judicial activism for you to answer the question. So it depends on, first of all, to know your audience, and secondly, to adapt and answer accordingly.

What makes a good oral legal argument in a professional setting?

Depending on the time you've been given, judges really don't have much time for academic points of view. It's very interesting on appeal, it's very interesting to look and read at them, but they're really not there to engage in an academic debate. So, time and costs are really an issue when it comes to court procedure, so your job as a lawyer in a professional setting is to reach your conclusion as quickly and as succinctly as possible. Now, that may mean that you may have to spend more time to digest your case, to understand it really, but that would actually mean that you have the higher chance of convincing the judge to listen to you. Given the short attention span judges

have and humans have generally, it's in your beneficial interest to concisely and succinctly present your case so the judge understands.

What do you think a judge is looking for when they are hearing oral legal arguments?

I would say judges are looking for two things. First, he's looking for the answer to his questions. Usually, not always, but usually, the judge has read the case before he attends court, so he has a general idea of what the arguments are for each side. He has a general understanding of what the facts of the case are, so the first issue for a judge is, he's always having certain questions or queries in his mind which he likes counsel to clarify. Now, if you're able to clarify those queries, it helps the judge to listen to you more, to be persuaded by your case, and you get an audience in which he's having a one-to-one conversation. And the second thing a judge is looking for is whether or not you're able to be reasonable. Lawyers exist in an adversarial system for the reason that no case is one hundred per cent winnable on each side. It's probably a fifty-fifty split, a sixty-forty, a seventy-thirty... At the end of the day, there is a split down the line, so the issue for the judge is when he presents certain issues which would go against your case, he's looking to see whether you're going to be reasonable enough to concede the point, save the time and costs, rather than argue it for another couple of days in court. So he's looking for two things: reasonableness and answers to his queries.