

THE DILEMMA OF PURE ECONOMIC LOSS: A CRITICAL LEGAL ANALYSIS

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ABSTRACT

Patrimonial loss, which involves physical injury or damage to property, is typically redressed by law. However, pure economic loss, which occurs without any accompanying physical harm, is often not compensated. This type of loss arises from wrongful acts or omissions by individuals, entities, or authorities, particularly in financial contexts. In recent years, Sri Lanka has faced significant economic challenges, with both the nation and its citizens experiencing substantial financial losses. Despite a comprehensive legal framework, the redress for pure economic loss in delict remains untouched. This paper examines the legal treatment of pure economic loss within the context of delictual and tort liability, focusing on the question of whether such losses should be compensable. A comparative analysis is conducted between Sri Lankan law, South African law, and English law, with reference to both primary and secondary legal sources. Relevant international legal instruments are also considered. The study argues that the substantive economic rights of individuals should be protected in cases where pure economic loss arises due to the wrongful conduct of others. This paper evaluates the policy considerations that underpin the recognition of pure economic loss claims in selected jurisdictions and suggests potential reforms to the Sri Lankan legal framework.

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