

Reimagining the Law of Delict in Sri Lanka: The need for a coherent common law tradition

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Sri Lanka's law of delict, though rooted in Roman Dutch law, has evolved under the influence of English and South African authorities as well as local traditions. This layered development has produced a fragmented and uncertain body of doctrine, often marked by inconsistency in the reception and application of foreign sources. A coherent and locally grounded framework is therefore needed to maintain clarity and predictability in civil justice. This paper argues for a principled approach that reflects Sri Lankan values and institutional realities, supported by a consistent judicial method. Using Aquilian liability as its focus, it adopts a qualitative doctrinal method with selective comparative analysis of English and South African sources. It contrasts the restrictive approach in *Priyani Soyya v Arsecularatne* with the more progressive *Karunanayake v Mannapperuma*, which affirmed the adaptability of the *lex Aquilia*. These cases highlight both the potential and the limits of judicial development in the absence of structured doctrine. The study proposes a framework organized around the elements of wrongful conduct, fault, causation, and damage, with defines and justifications clearly defined. Fault remains the general basis of liability, while strict liability should be confined to carefully delimited categories. Harm should include patrimonial loss, limited non-pecuniary damages, and pure economic loss subject to principled constraints, with causation assessed through foreseeability and fairness. For reform, the paper recommends a pragmatic middle path that combines partial codification with restatement-style guidance and stronger doctrinal scholarship. Priority areas include clarifying the boundary between fault and non-fault liability, expanding damages for non-pecuniary loss in professional negligence, and providing structured principles for the quantification of damages. Taken together, these measures would foster a principled, coherent, and context-sensitive law of delict while preserving continuity with Roman-Dutch foundations.

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