

**REFORMING THE LAW RELATING TO DAMAGES IN SRI
LANKA; WITH SPECIAL EMPHASIS ON PARENTS'
FUTURE SUPPORT FROM CHILDREN**

by

SAMANTHA INDUNIL VITHANA



The Dissertation submitted to

**GENERAL SIR JOHN KOTELAWALA DEFENCE
UNIVERSITY
SRI LANKA**

PERMANENT REFERENCE

In partial fulfillment of the requirement for the award of the degree

of

Master of Laws

19th August 2023

ABSTRACT

It is a terrible event to lose a child. The parents may experience more suffering in addition to the trauma and lifetime sadness they have experienced. A person might be eligible to file a wrongful death claim against the person who killed their child. Claiming damages for the parents in case of a death of a child as a result of the negligence of a wrongdoer, the parents will lose future earnings and services from the deceased child. Hence, it is important to investigate whether the existing law in Sri Lanka is adequate to claim damages for the parents for the loss of prospects from the deceased child. However, some nations, including Sri Lanka, do not clearly define the position of parents seeking compensation for the loss of a child caused by a third party's negligence. The issue is demonstrated by the fact that Sri Lankan law itself does not offer or make recommendations on the recovery of damages for the loss of a child for the parents owing to the carelessness or neglect of the perpetrator. The future financial loss resulting from the death, and financial load on the parents' mental health are all typically covered by the wrongful death of a child claims. The parents think that their children will support them when the children are in better positions in society. In these circumstances, if a child died in his/her younger age due to negligence of a person, parents would lose their future support from the deceased child. This has made it difficult to determine how the legislation should be amended in order to account for the wrongdoer's damages to the parents of the lost child. This study contends that the best way to address this issue is by reforming the law relating to damages that must be endured by the lost child's parents because of the wrongdoer as there is currently no adequate law for claiming loss of future earnings and services as damages due to the wrongdoer's negligence for the loss of the parent's child. Hence whether the parents are entitled to damages for a child's death caused by the negligence of a wrongdoer using a doctrinal approach falling under the qualitative methodology with the aid of a comparative analysis of the legal provisions of the selected jurisdictions and case studies of the chosen jurisdictions of the United States of America (USA), the United Kingdom (UK), and Australia. The findings indicate that the best option for resolving the problem in order to amend and add new provisions to Section 3 of the Recovery of Damages for the Death of a Person Act, No. 2 of 2019, which enables the parents to claim damages for the loss of future support and services as a result of child's death caused by the carelessness of a wrongdoer.

Keywords; *Child, Damages, Death, Future Support, Parents, and Recovery.*