IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an application for Leave to Appeal under Section 5C of the High Court of the Provinces (Special Provisions) Act No.19 of 1990 as amended.

Jayasinghe Arachchige Evon Ruth Nirosha

Kabalewa, Deegalla

PLAINTIFF

Vs.

Jayalath Arachchige Daya Hemantha Jayalath

No. 216, Hemantha Plastic Workers,

Hettipola Road,

Kuliyapitiya

DEFENDANT

SC Appeal No. 68/2021

SC No. SC/HCCA/LA/33/2020

Kurunegala Civil Appeal No. NWP/HCCA/KUR/66/2017 (F)

DC Kuliyapitiya Case No: 1099/M

AND THEN BETWEEN

Jayalath Arachchige Daya Hemantha Jayalath

No. 216, Hemantha Plastic Workers,

Hettipola Road,

Kuliyapitiya

DEFENDANT-APPELLANT

Vs.

Jayasinghe Arachchige Evon Ruth Nirosha

Kabalewa, Deegalla

PLAINTIFF-RESPONDENT

AND NOW BETWEEN

Jayalath Arachchige Daya Hemantha Jayalath

No. 216, Hemantha Plastic Workers,

Hettipola Road,

Kuliyapitiya.

DEFENDANT-APPELLANT-PETITIONER

Vs.

Jayasinghe Arachchige Evon Ruth Nirosha

Kabalewa, Deegalla

PLAINTIFF-RESPONDENT-RESPONDENT

In the matter of an application for Leave to Appeal under Section 5C of the High Court of the Provinces (Special Provisions) Act No.19 of 1990 as amended.

Warnnalulasooriya Hashini Sara Nishadi

Kabalewa, Deegalla

PLAINTIFF

Vs.

Jayalath Arachchige Daya Hemantha Jayalath

No. 216, Hemantha Plastic Workers,

Hettipola Road,

Kuliyapitiya.

DEFENDANT

AND THEN BETWEEN

Jayalath Arachchige Daya Hemantha Jayalath

No. 216, Hemantha Plastic Workers,

Hettipola Road,

Kuliyapitiya.

DEFENDANT-APPELLANT

SC Appeal No. 69/2021

SC No: SC(HCCA)2A/34/2020

Kurunegala Civil Appeal No: NWP/HCCA/KUR/80/2017(F)

D.C. Kuliyapitiya Case No. 1100/M

Vs.

Warnnalulasooriya Hashini Sara Nishadi

Kabalewa, Deegalla

PLAINTIFF-RESPONDENT

AND NOW BETWEEN

Jayalath Arachchige Daya Hemantha Jayalath

No. 216, Hemantha Plastic Workers,

Hettipola Road,

Kuliyapitiya.

DEFENDANT-APPELLANT-PETITIONER

Vs.

Warnnalulasooriya Hashini Sara Nishadi

Kabalewa, Deegalla

PLAINTIFF-RESPONDENT-RESPONDENT

Before: **Justice A.L. Shiran Gooneratne**
Justice Sobhitha Rajakaruna
Justice M. Sampath K. B. Wijeratne

Counsel: Jagath Wickramanayake, PC with Keishara Perera instructed by Nelusha Dheerasekera for the **Defendant-Appellant-Petitioner**

Dr. Sunil F. A. Correy with Nilanga Perera instructed by Surekha Withanage for the **Plaintiff-Respondent-Respondent**

Argued on: 10/11/2025

Decided on: 05/02/2026

A.L. Shiran Gooneratne J.

FACTUAL BACKGROUND

By two separate Plaints dated 06/10/2011, the wife of the deceased, Warnakulasuriya Thompson Raj Manohar (hereinafter referred to as "the deceased"), and the next friend of the daughter of the deceased (hereinafter referred to as the "Plaintiff-Respondent"), filed Action Nos. 1099/M and 1100/M in the District Court of Kuliyapitiya, against the Defendant-Appellant-Appellant (hereinafter referred to as

the “Defendant-Appellant”) and sought to recover inter alia, damages in a sum of Rs. 7,500,000/- and Rs. 100,000,000/- respectively, together with interest against the Appellant.

On or about 24/11/2009, the deceased, who was engaged in a vehicle dealership business in Kuliyapitiya and Vavuniya, visited the Defendant-Appellant's place of business to settle an outstanding payment. During this encounter, a dispute had arisen between the deceased and the Defendant-Appellant.

In paragraphs 4 and 5 of the respective Plaints, the Plaintiff-Respondent alleges that, without reasonable or justifiable cause, the Defendant-Appellant attacked the deceased with a sharp knife used for cutting stickers, inflicting a fatal injury to his neck, thereby causing his death.

In paragraphs 5 and 6 of the Plaint, the Plaintiff-Respondent stated that the death of the deceased was the direct result of the Defendant-Appellant’s deliberate and intentional act, committed with the knowledge and intention to cause his death.

In paragraphs 7 and 8 of the Plaint, in Action No. 1100/M, the Plaintiff-Respondent stated that at the time of the incident, the daughter of the deceased was approximately eight months old and wholly dependent on her father for protection, care, maintenance, and it is further stated that the deceased was earning in excess of Rs. 500,000/- per month from his business and other sources, and that the Plaintiff-Respondents, were entitled to a comfortable life, education, and future security under his care.

In paragraphs 8, 9, 10, and 11 of the respective Plaints, the Plaintiff-Respondent described the said act as a criminal offence and avers that the unlawful death of the deceased has deprived the Plaintiffs of a husband and father, as well as of his care, protection, and financial support. It is further pleaded that the Plaintiffs have thereby been denied the benefits of stability and prospects of a better future, and have been left in a state of helplessness and vulnerability.

In two separate Answers dated 25/06/2012, the Defendant-Appellant stated in paragraphs 7 and 9 thereof that, on the date of the incident, the deceased, together with several others, arrived at his place of business and assaulted him, thereby precipitating a situation of conflict. He further pleaded that the deceased was in arrears of monies due for services rendered by the Defendant-Appellant and that, upon being called to settle the outstanding amount, the deceased and his companions behaved in an aggressive and threatening manner. The Defendant-Appellant accordingly asserted that he acted in self-defence in the course of that confrontation, and that such conduct resulted in the death of the deceased.

The Defendant-Appellant pleaded for a dismissal of the action.

Having settled the issues, both parties agreed to have a consolidated hearing of Action Nos. 1099/M and 1100/M. After considering the pleadings, the evidence led in court, and the submissions made by the respective parties, the learned District Judge, by Judgment dated 04/01/2017, awarded damages to the daughter of the deceased and the wife in a sum of Rs. 10 million and 7.5 million respectively.

Being aggrieved by the said Judgment of the District Court of Kuliyapitiya, the Defendant-Appellant, by Petition of Appeal dated 03/03/2017, preferred Appeals to the High Court of the North Western Province exercising Civil Appellate Jurisdiction holden in Kurunegala (hereinafter referred to as "the Appellate Court"), by instituting two separate appeals. The respective parties agreed to consolidate both cases and have them disposed of in one judgment. The Appellate Court, having heard the submissions of learned counsel, by Judgment dated 10/12/2019, affirmed the Judgment of the District Court of Kuliyapitiya and dismissed both appeals.

Being aggrieved by the Judgment delivered by the Appellate Court dated 10/12/2019, the Defendant-Appellant filed two separate applications bearing Nos. SC/Appeal/No.68/2021 and SC/Appeal/No. 69/2021, respectively, before this Court.

Having considered submissions made by both parties, the Court decided to grant leave to appeal on the following questions of law.

1. Have Their Lordships of the High Court erred in law in failing to consider the fact that a man is not to be allowed to have recourse to a court of justice to claim a benefit from his own crime, and the courts should not recognize a benefit accruing to a criminal from his crime?

2. Have Their Lordships erred in law in failing to appreciate that the basis for calculation of the damages by the Learned District Judge was in any case wrong in law?

When the two actions were taken up for argument on 23/09/2025, the respective parties agreed that a single Judgment be delivered in both matters.

ANALYSIS OF FACTS

It was not in dispute before the District Court that the death of the deceased resulted from an act of the Defendant-Appellant. The action instituted by the Plaintiff-Respondent proceeded on the premise that such death was the direct consequence of an intentional act of the Appellant, committed with knowledge and intention to cause the death of the deceased. The defence taken up by the Defendant-Appellant in his Answer was confined solely to a plea of self-defence. This position is further fortified by Issues Nos. 20 and 21 raised by the Defendant-Appellant before the trial court.

At the time the Defendant-Appellant formulated and raised issues before the District Court, he was fully aware that he stood indicted in Case No. 120/10 before the High Court of Kuliyapitiya, where the Attorney General had indicted the Defendant-Appellant under section 296 of the Penal Code for causing the death of the deceased. Upon the conclusion of that trial, the Defendant-Appellant was convicted of culpable homicide not amounting to murder in terms of Section 297 of the Penal Code. In Issue

No. 24, the Defendant-Appellant has expressly relied on the plea of self-defence advanced by him in the said criminal proceedings. However, by Judgment dated 29/06/2016, the learned High Court Judge unequivocally rejected the plea of self-defence and proceeded to convict the accused based on sudden fight, in terms of the fourth limb of Section 294 of the Penal Code. No appeal was preferred against this Judgment. The relevance and legal effect of the said conviction on the present action will be considered in detail at a later stage of this Judgment.

LEGAL POSITION

In Roman-Dutch law, a delict is distinguished from a crime by its remedial character, the object being not the punishment of the wrongdoer but the compensation of, or protection afforded to, the injured party. In the context of civil delictual liability, including claims founded on Aquilian action, liability arises only where wrongful injury (*dolus*) has been inflicted either intentionally, as in the *actio injuriarum*, negligently (*culpa*), as in the *actio legis Aquiliae*, or in respect of actionable nuisance. As correctly pointed out by the learned President's Counsel for the Defendant-Appellant, the core question in the present case turns on the application of *dolus*, namely, whether the Defendant-Appellant's wrongful intention caused the death of the deceased.

SUSTAINABILITY OF THE DEFENCE OF 'SELF-DEFENCE'

As discussed earlier in this Judgment, the Defendant-Appellant has admitted that the death of the deceased was a result of an act of the Defendant-Appellant. In that context, where a plea of self-defence is raised, the Court must necessarily determine whether the impugned act was committed in self-defence, if so, this action does not lie. If the plea of self-defence fails, the intentional act resulting in death cannot be

mitigated of its wrongful character, and the element of *dolus* stands established for the purposes of civil delictual liability.

When it is admitted that the resulting harm was caused due to his act, the Defendant-Appellant has to prove that it was not an action of intentional and wrongful infliction of harm but an act in the exercise of self-defence. For liability to arise under the Aquilian action, the plaintiff must establish that the defendant's conduct was not only wrongful but that he acted with wrongful intention (*dolus*). The evidence must show that the defendant foresaw or intended the wrongful harm inflicted upon the plaintiff's legally protected interest and proceeded with that wrongful act.

Even though the Plaintiff-Respondent was not a witness to the incident which caused the death of the deceased, an analysis of the testimony of the Plaintiff-Respondent reveals that not a single question was put in cross-examination, suggesting that the Defendant-Appellant was acting in self-defence. It is also noteworthy that the Defendant-Appellant denied the use of a sharp cutting instrument or the infliction of any injury or to explain his act, which caused the death of the deceased, thereby contradicting an admitted fact.

The position adopted by the Defendant-Appellant is that, on the day of the incident, the deceased, together with his nineteen-year-old son, approached the table at which the Defendant-Appellant was seated, seized him by the neck, and assaulted him, causing bleeding from his forehead, and that he was thereafter unaware of what transpired. Far from justifying his conduct based on self-defence, the Defendant-Appellant, in effect, pleads ignorance of having committed any act that resulted in the fatal injury to the deceased.

The learned President's Counsel for the Defendant-Respondent relied on McKerron "*The Law of Delict*" (at page 44) to explain the concept of *dolus* in its wider sense as wilful and conscious wrongdoing. In relation to an Aquilian action, this concept encompasses three essential elements: an intentional act, knowledge that such an act would cause harm to the plaintiff, and the existence of a duty to refrain from

committing the act. An Intentional Act, in this context, is one where the consequences were foreseen and desired.

Sri Lankan Courts, applying Roman-Dutch principles, have consistently recognised the concept of *dolus* in civil delictual liability.

In ***Silva v. Silva*** **(2002),** 2 Sri L.R. 29 (the Court of Appeal), although not directly on Aquilian liability, this case illustrates the civil law approach to delictual fault (*animus injuriandi*) and the requirement to establish wrongful conduct on a balance of probabilities, which is parallel to *dolus* principles in civil actions.

Although arising in the criminal context, Sri Lankan Courts have repeatedly affirmed that intention involves foresight and acceptance of consequences, and that a denial of memory (unable to recall facts) or knowledge does not displace intention where the objective facts point irresistibly to deliberate conduct. These principles have been applied *mutatis mutandis* in civil delictual claims when determining wrongful intention.

Accordingly, where the evidence establishes that the defendant intentionally committed the act complained of, foresaw the harm that would result, and was under a duty to refrain from such conduct, the requirement of *dolus* in an Aquilian action is satisfied. A plea of ignorance or an inconsistent denial based on 'unable to recall facts' cannot coexist with a finding of intentional conduct, nor can it displace an inference of wrongful intention drawn from the totality of the evidence.

The act that caused the death of the deceased was the infliction of a deep cut injury to the neck by means of a sharp cutting instrument. The intention underlying such conduct is that any reasonable person would necessarily foresee the fatal consequences likely to ensue. The learned Counsel for the Defendant-Appellant concurs with this position, as reflected in his written submission that;

"Whenever an act is voluntarily done with the exception that a consequence will follow, that consequence is intended. The simple rule says Lord de Villiers C.J. in Dippenaar v. Hauman (1878 Buch. 139 at 143) is that we judge of a man's intention by what he does and says, and if the necessary consequence in what he does and says is to injure another, the law presumed he intended it".

Wrongful intention (*dolus*) can be assessed by drawing reasonable inferences from the nature of the act, the weapon used, and the part of the body targeted. South African courts, applying Roman-Dutch law, have consistently held that intention may be inferred where conduct is inherently dangerous and directed at a vulnerable part of the body.

In ***Minister of Justice v. Hofmeyr*** [1993 (3) SA 131 (A)], the Appellate Division held that in civil delictual liability, *dolus* is established where the defendant foresaw the harmful consequences of his act and reconciled himself to those consequences. The Court emphasised that intention is commonly proved by inference from the objective facts, rather than by direct evidence of state of mind.

Where a defendant uses a lethal weapon against a vital part of the body, South African civil courts have held that the intention to cause serious harm or death is the natural inference, unless rebutted by credible justification such as lawful self-defence.

The use of a sharp cutting instrument to inflict a wound to a vital part of the body such as the neck is conduct from which the intention to cause serious harm, if not death, may properly be inferred. Where an act is inherently dangerous and its fatal consequences are foreseeable to any reasonable person, the law is entitled to attribute wrongful intention notwithstanding the defendant's denial. In such circumstances, the plea of self-defence that death was unintended is unsustainable.

It is of vital importance to note that the Defendant-Appellant, having pleaded self-defence in an attempt to displace *dolus*, cannot simultaneously maintain a plea of ignorance or advance an inconsistent denial based on 'unable to recall facts' having

committed the act that caused the fatal injury to the neck of the deceased. These positions are mutually destructive and cannot coexist.

In the Judgment dated 29/06/2016, marked X, the learned Judge of the High Court concluded that the fatal injury to the neck of the deceased was inflicted by the paper-cutter which was in the hand of the Defendant-Appellant at the time of the incident, and further held that the conduct of the Defendant-Appellant could not, in any circumstances, be accepted as an act of self-defence;

"[...] මෙම සිදුවීම් අවසානයේ මරණකරුගේ බෙල්ලේ කැපිමක් එම කඩයෙන් එළියට එන විට තිබුණු බවත් එම තුවාලය හේතුවෙන් ක්ෂණිකයින් මරණකරු මිය ගිය බව දෙපාර්ශවය පොදුවේ ගෙන ඇති ස්ථාවරය වේ. පර්වේෂණයන් පොදුවේ සලකා බැලීමේදී වෛද්‍ය සාක්ෂියද සැලකිල්ලට ගැනීමේදී මෙම මරණකරුගේ මරණය විත්තිකරු අත තිබූ පැ1 දරණ ආයුධයෙන් කැපීම හේතුවෙන් සිදු කර ඇති බවත් එම තුවාලය සිදු කරන අවස්ථාවේ අවම වශයෙන් මරණකරුට ශාරීරික පාඩුවක් කිරීමේ අදහසින්ම මෙම තුවාල විත්තිකරු විසින්ම සිදු කල බවත් විත්තිකරු එසේ සිදු කිරිමට අදහස් කරුණු ලැබූ ශාරිරික පාඩුව ස්වභාවික කටයුතු අතරේ මරණය ගෙන දීමට ප්‍රමාණවත් වන බවද සාධාරණ සැකයෙන් ඔබ්බට පැමිණිල්ල ඔප්පු කර ඇති බව තීරණය කරමි.

මෙම නඩුවේදී විත්තිය ගැනීමට උත්සාහ කලේ පුද්ගලික ආරක්ෂාවේ අයිතිය අනුව මරණ බව හේතුවෙන් ඔහු කටයුතු කල බවය. [...] පෙර විශ්ලේෂණය අනුව එනම් මෙම විත්තිකරුත් මරණකරුත් අතර පෙර දැන හැදුනුම්කමක් තිබීමත් මෙම කථාබහ මුදල් ගනුදෙනුවක් සම්බන්ධයෙන් විමත් මරණකරු කිසිදු ආකාරයකට ආයුධ සත්තදව නොසිටිමත් යන කරුණුද සමඟ මේ සිද්ධියට දින දෙක තුනකට පෙර මරණකරුගේ නිවසට විත්තිකරු සුහදශීලිව යාම ඊම් කර තිබිම පර්දෙශණයන් පොදුවේ සලකා බැලිමේදී පහරදීමක් අසාධාරණ ලෙස වුවද මරණකරු සිදුකිරීමකදී මරණය සිදු කිරීමේ බියක් ඇති වූ බවට ගෙන ඇති ස්ථාවර පිළිගත නොහැකි විය නොහැනි ස්ථාවරක් බව තීරණය කරමි ඒ අනුව ආත්ම ආරක්ෂාවේ අයිතිය අනුව කටයුතු කල බවට විත්තිය ගෙන ඇති විත්ති වාචකය කිසි සේත්ම පිළිගත නොහැකි විය නොහැකි ස්ථාවරයක් බවට තිරණය කොට බැහැර කරමි. [...]"

The learned Judge of the High Court arrived at a firm conclusion that the plea of self-defence advanced by the Defendant-Appellant cannot be sustained in law or on the facts. The evidence clearly establishes that the altercation arose in connection with a financial transaction and that the deceased was unarmed at the time of the incident.

The Defendant-Appellant's assertion that he feared for his life is unsupported by any credible evidence. The High Court observed that the plea of self-defence requires proof of necessity and proportionality, neither of which has been demonstrated by the Appellant. The infliction of a fatal wound to the neck by a sharp cutting instrument of an unarmed man proves an intentional wrong which cannot be justified as a defensive act.

In the foregoing circumstances, the principle "*omne majus continet in se minus,"* the greater includes the less, applies with equal force to the present case. The conviction of the Defendant-Appellant for culpable homicide not amounting to murder, having been established on the stringent standard of proof beyond a reasonable doubt, necessarily encompasses the lesser requirement of establishing an intentional wrongful act on a balance of probabilities.

Justice A. H. M. D. Nawaz, in an article titled *"Relevance of Criminal Convictions in Civil Proceedings"* published in the *Junior Bar Law Journal* (2023, Vol. XIV, p. 3), after an exhaustive survey of the case law both preceding and following the enactment of the Evidence (Amendment) Act No. 33 of 1998, summarized the legal position governing the relevance of criminal convictions in civil proceedings at pages 11–12 of the said article.

It was observed that the long-standing prohibition against admitting prior judgments was materially altered by the enactment of the Evidence (Amendment) Act No. 33 of 1998, which introduced further exceptions to the exclusionary rule. In particular, the insertion of Sections 41A (1) and 41A (2) into the Evidence Ordinance;

> ***41A. (1)*** *Where in an action for defamation, the question whether any person committed a criminal offence is a fact in issue, a judgment of any court in Sri Lanka recording a conviction of that person for that criminal offence, being a judgment against which no appeal has been preferred within the appealable period or which has been finally affirmed on*

appeal, shall be relevant for the purpose of proving that such person committed such offence, and shall be conclusive proof of that fact.

(2) *Without prejudice to the provisions of subsection (1), where in any civil proceedings, the question whether any person, whether such person is a party to such civil proceedings or not, has been convicted of any offence by any court or court martial in Sri Lanka, or has committed the acts constituting an offence, is a fact in issue, a judgment or order of such court or court martial recording a conviction of such person for such offence, being a judgment or order against which no appeal has been preferred within the appealable period, or which has been finally affirmed in appeal, shall be relevant for the purposes of proving that such person committed such offence or committed the acts constituting such offence.*

Illustration (a) referred to therein is as follows:

(a) *B injures C while driving A's car in the course of B's employment with A.*
B is convicted for careless driving.
In an action for damages instituted by C against A and B, B's conviction is relevant.

His Lordship asserts that the legal position now crystallises around Section 41A (2) of the Evidence Ordinance, which reflects the spirit of Section 11 of the English Civil Evidence Act of 1968, renders a criminal conviction, whether following a contested trial or a plea of guilt, relevant in subsequent civil proceedings to prove the commission of the offence or the acts constituting it.

Therefore, in the present case, the conviction of the Defendant in the High Court for culpable homicide not amounting to murder is plainly relevant to the fact in issue in

the civil proceedings, namely, whether the Defendant committed the delict of intentional harm (*dolus*) against the deceased, whose dependents have instituted the present action. In terms of Section 41A (2) of the Evidence Ordinance, such conviction is admissible and relevant for that purpose.

Even before the statutory amendment, Sri Lankan jurisprudence had recognised this principle. In ***Herath and Others v. Tilakaratna alias Soysa,*** (1990) 2 Sri LR 341, Ananda Coomaraswamy J. held that where defendants had pleaded guilty to culpable homicide not amounting to murder based on exceeding the right of self-defence, such conviction was relevant in a subsequent civil action for damages arising out of the same death. Although the learned Judge did not expressly employ the terminology of *dolus* in this case, the decision implicitly recognised a civil cause of action founded on wrongful and intentional conduct. This principle now stands statutorily affirmed by Section 41A (2) of the Evidence (Amendment) Act No. 33 of 1998.

Is the Conviction Conclusive on Damages?

A final criminal conviction for culpable homicide not amounting to murder is relevant and admissible to establish the commission of the wrongful act and the existence of intentional conduct (*dolus*) for civil liability, such conviction is not conclusive on the issue of damages. The District Court must independently assess the quantum of damages payable to the dependents of the deceased on the evidence placed before it.

While recognising intentional causing of death as a species of *dolus*, notwithstanding that the conviction was for culpable homicide not amounting to murder, ***Herath and Others v. Tilakaratna alias Soysa*** **(Supra)** correctly held that such conviction is not conclusive on the question of damages.

In ***Gaffoor v. Wilson and Another*** [1990] 1 Sri L.R. 142, Amerasinghe J. recognised that where death is caused by a wrongful act, the cause of action survives

for the benefit of the dependants of the deceased, not as a claim for the value of life lost, but as a claim for the pecuniary loss suffered by those who were dependent on the deceased for maintenance and support**.** The Court stressed that judicial discretion must be exercised reasonably and not arbitrarily, but also that a mathematical precision is neither required nor possible.

Sri Lankan courts have repeatedly relied on ***Gaffoor v. Wilson and Another*** (Supra) to uphold claims by spouses, minor children, and parents, where the evidence demonstrated a reasonable expectation of continued support, even if the deceased had not yet reached peak earning capacity, where the Court Held;

"Despite the lack of actuarial assistance in the assessment of damages, the Court is not absolved from the duty of assessing damages. The fact that the deceased had good prospects of attaining a better income will affect the multiplier in the calculation of damages."

In the South African case of ***Gildenhuys v. Transvaal Hindu Educational Council*** 1938 WLD 260, 263, cited with approval in ***Gaffoor v. Wilson and Another*** **(Supra)**, Schreiner J. expressed the view that in actions by minor children and spouses of the deceased, there was *"a prima facie duty to support which needs no further allegations"* as to means, [---].

The Plaintiff-Respondents claimed compensation for the loss of dependency, maintenance, and future prospects caused by the wrongful death of their husband and father.

A cause of action is pleaded from the wrongful death of the deceased caused by the Appellant, which extinguished his ability to provide care, protection, and financial support to his dependents. The District Court and the Appellate Court recognized that the Respondents' claim is not a benefit accruing to the Appellant, but a lawful remedy against his wrongful conduct. To deny such a claim, the court held, would amount to perpetuating injustice against the dependents of the deceased. It is important to note

that the Defendant-Appellant did not at any stage of the trial raise an issue, suggest to any of the witnesses of the Plaintiff, or testify to the fact that the damages claimed were excessive.

As discussed earlier in this Judgment, where death has been caused by a wrongful and intentional act (*dolus*), the civil liability of the wrongdoer to compensate the dependants of the deceased is firmly established in law. The assessment of such damages is essentially compensatory and lies within the discretion of the trial judge. An appellate court will interfere with that assessment only where the trial judge has acted upon a wrong principle, misapprehended material evidence, or made an award so inordinately high or low as to constitute an erroneous estimate of the dependants' loss. In the absence of such error, the appellate court will not interfere to substitute its own assessment merely because it might have arrived at a different figure.

Where civil liability arises from a wrongful and intentional act resulting in death, the liability of the wrongdoer to compensate the dependents of the deceased is aggravated in nature. The purpose of awarding damages in such cases is not punitive, but remedial, that is to make good the pecuniary loss suffered by the dependents because of the wrongful deprivation of life.

In assessing damages payable to dependents, as correctly recognized by the Appellate Court, the trial court is required to consider, inter alia, the age of the deceased, the nature and stability of his employment, his earning capacity, the extent of his contribution to the dependents, the reasonable expectation of future support, and the period over which such dependency would likely to have continued. Where the death is caused by a deliberate act, the wrongful character of the conduct (*dolus*) strengthens, rather than diminishes, the obligation to fully compensate those who have suffered loss by reason of the death.

Therefore, it is important to determine whether the computation of damages for causing the death of the deceased was, in any event, wrong in law. The assessment of

damages would rightly require consideration of the deceased's earnings, patrimonial loss, gravity of the offence, and prospects of advancement.

The District Court came to the firm conclusion that the evidence on record clearly establishes that the deceased was engaged in a profitable business, generating an income in excess of Rs. 500,000/- per month**,** and that his wife and infant daughter were wholly dependent on such earnings for their sustenance and future security.

Prior to assessing compensation, the learned District Judge took into careful consideration that the deceased was 42 years of age at the time of his death and adopted a reasonable life expectancy of 60 years. The Court further evaluated the deceased's earning capacity, the degree of dependency of the Respondents, and the likelihood of continued financial support, thereby identifying the extent of patrimonial loss occasioned by the wrongful death**.**

Upon a holistic consideration of these factors, the District Court awarded damages commensurate with the loss of dependency suffered**,** applying a rational and evidence-based approach rather than a speculative or arbitrary assessment.

The Appellate Court has correctly affirmed the said award, holding that it was neither excessive nor erroneous**,** and that it was firmly supported by the evidence adduced. In doing so, the Appellate Court acted well within the settled principle that an appellate court will not interfere with a finding on quantum unless the award is manifestly excessive, wholly inadequate, or based on a misdirection in law or fact**.** No such infirmity is discernible in the present case.

Accordingly, I do not see any justification in the argument that the calculation was wrong in law or is unfounded. Therefore, I agree with the reasoning of the Judges of the Appellate Court that a proper and lawful basis was adopted in assessing the quantum of damages.

For the foregoing reasons, I answer both questions of law Nos. (1) and (2) in the negative. Accordingly, the Appeal Nos. SC/Appeal/68/21 and SC/Appeal/69/21 are dismissed, and the Judgment of the Civil Appellate High Court of Kurunegala is affirmed.

Appeal dismissed. Parties shall bear their own costs.

Judge of the Supreme Court

Sobhitha Rajakaruna, J.
I agree

Judge of the Supreme Court

M. Sampath K. B. Wijeratne, J.
I agree

Judge of the Supreme Court