

Pure Economic Loss: A Trouble Child

Authors : Isabel Mousinho de Figueiredo

Abstract : Pure economic loss can be brought into the 21st century and become a useful tool to keep the tort of negligence within reasonable limits, provided the concept is minutely reexamined. The term came about when wealth was physical, and Law wanted to be a modern science. As a tool to draw the line, it leads to satisfactory decisions in most cases, but needlessly creates distressing conundrums in others, and these are the ones parties bother to litigate about. Economic loss is deemed to be pure based on a blind negative criterion of physical harm, that inadvertently smelts vastly disparate problems into an indiscernible mass, with arbitrary outcomes. These shortcomings are usually dismissed as minor byproducts, for the lack of a better formula. Law could instead stick to the sound paradigms of the intended rule, and be more specific in identifying the losses deserving of compensation. This would provide a better service to Bench and Bar, and effectively assist everyone navigating the many challenges of Accident Law.

Keywords : accident law, comparative tort law, negligence, pure economic loss

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