

Out of Love and Affection: A Medicolegal Paradox for Denying Gains Vs Pleading Claims

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ABSTRACT

The phrase “out of love and affection” signifies pure altruism in living organ donation to relatives, friends, or spiritual guides under India’s THOTA 1994, where donors explicitly deny commercial intent via affidavits. Yet, relatives of accident victims invoke identical language to claim monetary compensation for “deprivation of love and affection” under MV Act 1988, creating a stark medicolegal paradox. This article dissects judicial tensions from *Pranay Sethi* (2017) to *V. Pathmavathi* (2026 LiveLaw (SC) 132), where emotional loss is subsumed under consortium despite critiques. Forensic protocols verify donor consent sans coercion, paralleling accident dependency proofs. Reforms urge harmonized recognition of non-pecuniary “affection” across domains, preventing exploitation while honoring benevolence.

KEYWORDS

• Organ donation altruism • Love and affection paradox • THOTA consent • MV Act compensation • Forensic affidavit verification • Loss of consortium

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INTRODUCTION

“Out of love and affection” embodies selflessness when a living donor gifts organs to kin, friends, or gurus, renouncing any sale for profit as mandated by THOTA Section 19. Affidavits and psychiatric forensics affirm voluntariness, shielding against trafficking. Conversely, post-fatal accident, dependents quantify this same “love and affection” as compensable loss via insurance, seeking rupees for emotional void under MV Act Chapter XII.

The phrase “out of love and affection” evokes benevolence but invites medico-legal scrutiny in two domains: living organ donation without any monetary gains to the relatives, friends, or spiritual guides in need of urgent organ transplantation surgery, Versus the deceased relatives’ claims for emotional loss following fatal accidents. In organ donation, India’s Transplantation of Human Organs and Tissues Act, 1994 (THOTA),^[1] permits related donations based on “love and affection” affidavits, yet forensic experts must verify absence of coercion via psychological assessments and donor interviews. Post-mortem, relatives may donate deceased organs altruistically, but on the other side, when anyone causes accidental death of someone, who is the sole earner in family, insurance claims often invoke deprivation of familial bonds for monetary relief under the Motor Vehicles Act, 1988 (MV Act).²

Forensic protocols for organ donation affidavits, out of Love & Affection

Forensic protocols for organ donation affidavits in India, governed by THOTA 1994, emphasize verifying voluntary consent via notarized affidavits (e.g., Form 3 for non-relatives) on ₹10 non-judicial stamp paper, alongside psychiatric evaluations and Authorization Committee scrutiny to rule out coercion or commercial intent, especially in “love and affection” donations. These protocols include document forensics (e.g., family function photo analysis, family tree structure certificates), video interviews, and psych tests like MMPI for mental capacity. Post-donation, autopsies (Form B) and brain death certifications (Form 10) ensure forensic integrity for deceased donors.³⁻⁶

Affidavit Verification Flowchart

Start → Donor/Recipient File Form 3 (Notarized Affidavit: “**Love & Affection**” motive, no payment) + Next-of-Kin Affidavits

↓
HLA/Cross-Match Reports + Family Structure Cert (MRO/RDO attested)

↓
Psych Eval + Video Interview (Coercion Check)

↓ (If Doubt?)
MMPI Tests / Cooling-Off Period → Reject

↓ (Clear?)
Authorization Committee (Quorum: 4 incl. Health Sec/DHS) → Form 18 Decision (24 hrs)

↓ (Approved?)
Pre-Op Audit → Transplant → Post-Mortem if Deceased

↓
End (NOTTO Registry)

This flowchart adapts THOTA/NOTTO guidelines for living donor affidavits, preventing trafficking via forensic checks.^{7,8}

Forensic protocols for organ donation affidavits under India’s THOTA 1994 focus on verifying voluntary consent, detecting coercion, and ensuring no commercial intent, particularly for “*love and affection*” claims in non-near-relative donations.

Affidavit Requirements

Donors submit notarized affidavits (e.g., Form 3 for non-relatives) affirming donation stems from affection/attachment, without financial exchange. Recipients and next-of-kin provide supporting affidavits on ₹10 non-judicial stamp paper. Authorization Committees (state-level) scrutinize these alongside proof of relationship (photos, cohabitation evidence).

Forensic Verification Steps

- **Medical Fitness Certification:** Registered practitioner (Form 4) confirms donor is not mentally challenged; refer to psychiatrist if doubt exists.
- **Psychiatric Assessment:** Mandatory clearance evaluates mental capacity, coercion risks, psychiatric disorders, and informed consent comprehension. Assesses donor’s rationale, family

dynamics (e.g., spiritual guides), and stress from process.^{8,7}

- **Committee Interviews:** Video-recorded sessions examine donor-recipient link, donation motives, and evidence of altruism. Reject if inconsistencies suggest payment (e.g. “affection” lacking credibility).

Organ Donor Protocols: generate & track NOTTO-ID

For accident victims, forensic intimation (Form B) precedes brain-stem death certification (Forms 8/10). Autopsy (CrPC 174 replaced by BNS 194) documents cause, organ viability; family consent (Form 8) verified sans coercion. NOTTO-ID tracks cases. Hospitals must generate NOTTO-IDs for donors and recipients via the NOTTO website, as these are mandatory for deceased donor organ allocation and required within 48 hours post-surgery for living donor transplants. This directive from NOTTO_Transplant_manual, 2023 (Link https://www.notto.mohfw.gov.in/WriteReadData/Portal/News/848_1_NOTTO_Transplant_manual-final_version.pdf), prompted by reports of malpractice and a rise in transplants involving foreigners, seeks to curb commercial organ dealings, particularly those with foreign nationals. State authorities are tasked with regular inspections of registered transplant/retrieval hospitals, on-site monitoring of transplantation quality, donor-recipient post-operative follow-up, and outcomes, alongside monthly data sharing with NOTTO on all cases—including those with foreigners—and ensuring Appropriate Authorities probe THOTA, 1994 violations, which may trigger investigations, penalties, and hospital registration suspensions.

For foreign nationals, authorisation committee approval is essential prior to organ/tissue removal or transplantation, with a senior embassy official from the donor’s country certifying the donor-recipient relationship via Form 21 of THOTA; absent an embassy, the donor’s government must provide this. Both the committee and officials must verify the donation stems from love and affection, absent any financial transactions, pressure, or coercion.

The National Organ and Tissue Transplant Organisation (NOTTO), established under the Transplantation of Human Organs

(Amendment) Act, 2011 and operating under the Ministry of Health and Family Welfare’s Directorate General of Health Services, promotes organ/tissue donation through awareness campaigns, a national donor-recipient registry, ethical oversight, and hospital support, bridging demand-supply gaps to save lives. Complementing this, THOTA (1994) regulates donations by prohibiting commercialization, mandating ethical practices, restricting removals to consented deceased donors or living close relatives, requiring Authorisation Committee approvals, and regulating transplant hospitals while establishing NOTTO for coordination—yet it grapples with India’s low donation rates relative to developed nations.

Coercion Detection Tools

Forensic psychologists use structured interviews, MMPI-like scales for undue influence. Courts (e.g., Madras HC, 2024) accept “love and affection” at face value absent evidence of consideration.

Protocol Element	Forensic Role	Key Forms/ Documents
Consent Validity	Psychiatric eval for voluntariness	Form 3/4, notarized affidavits
Relationship Proof	Document/photo analysis	Old photos, cohabitation records
Coercion Check	Video interviews, psych tests	Authorization Committee minutes
Post-Mortem	Autopsy for causation/ viability	Brain death cert (Form 10), Forensic Form B

These protocols prevent exploitation, with penalties for false affidavits.

DISCUSSION

Medicolegal aspects of “*love and affection*” in India primarily intersect organ donation laws, motor accident compensation, and contract validity, where emotional bonds are legally scrutinized to prevent exploitation or inflated claims.

Organ Donation Context

Under THOTA 1994, “*love and affection*” justifies non-near-relative living donations via notarized affidavits (Form 3), but forensic protocols demand psychiatric evaluations, video interviews, and Authorization

Committee review to exclude coercion or trafficking. Courts like in *B.L. Nagaraj v. Kantha* (2008) upheld such affidavits if backed by photo/document forensics proving genuine attachment, paralleling ethical safeguards against commercialization. Violations risk 5-10 years imprisonment under Section 19.

Compensation Claims

In Motor Vehicles Act 1988 claims, “loss of *love and affection*” from fatal accidents (potentially enabling deceased donations) is subsumed under “consortium” (typically ₹25,000), not a distinct head, per *V. Pathmavathi v. Bharthi AXA* (2026 LiveLaw (SC) 132). Tribunals apply multipliers to income loss, adding conventional sums, but reject separate awards to avoid double-counting emotional damages already covered in filial consortium.

Contractual Validity

Section 25(1) of the Indian Contract Act deems agreements enforceable if made “*out of natural love and affection*” between near relations, registered, and voluntary—e.g., gift deeds. Courts distinguish motive from consideration, invalidating if coercion taints the bond, as in family settlements. This reinforces THOTA’s affidavit standards, ensuring “affection” withstands forensic scrutiny. Indian courts recognize “*natural love and affection*” as a valid exception under Section 25(1) of the **Indian Contract Act, 1872**, allowing agreements without monetary consideration—such as gift deeds—between near relatives if written, registered, and voluntary.

Key Case Laws

- **Bhiwa v. Shivaram (1899, Bombay HC):** Brothers settled property dispute via written agreement out of love to restore harmony; court enforced it under Section 25(1) as affection substituted consideration, emphasizing registration and proximity.
- **N.P. Saseendran v. N.P. Ponnammam (2025, SC INSC 388):** Gift deed reserving donor’s life interest qualified as irrevocable settlement due to *love and affection*; unilateral revocation denied post-acceptance.
- **Smt. Varinder Kaur v. Smt. Daljit Kaur (2025, Delhi High Court: DHC 8641-DB (LPA 587/2025, CM APPL. 58201/2025):**

Gift to daughter-in-law canceled under Senior Citizens Act; affection implies duty of care, absent which tribunal can revoke, prioritizing elder protection.

Legal Principles

These rulings distinguish gifts (gratuitous, immediate transfer) from settlements (affection as “deeming consideration,” irrevocable if life interest reserved). Courts scrutinize for coercion via document forensics, paralleling THOTA affidavit checks in organ donation. Invalid if affection feigned or relations distant.

Medicolegal Dimensions of Organ Donation “Out of Love and Affection”

Living donations under THOTA Section 19 require donor-recipient affinity affidavits affirming “love and affection,” excluding commercial intent. Forensic challenges arise in verifying voluntariness: psychological evaluations detect coercion, especially toward spiritual guides where guru-shishya dynamics mimic undue influence. Courts, as in *Sudha Mathesan v. Authorization Committee* (Madras HC, 2024),⁹ mandate independent medical boards to assess donor competence, mirroring thorough scrutiny for Altruism Very Much Present in Humans; Organ Donor’s Statement Regarding Donation *Out of Love* for recipient must be taken at its face value: as observed by Madras HC. Similarly, Kerala High Court in *Uvais Muhammad K.C. v. State of Kerala* (Kerala HC, 2025) 2025/KER/195: Quashed committee rejection; mandated thorough psych assessment for altruistic intent, rejecting financial disparity assumptions.¹⁰

Case Overview

Uvais Muhammad K.C. v. State of Kerala is a 2025 Kerala High Court judgment (dated January 6, 2025, cited as 2025/KER/195) where the court directed approval for a kidney transplant from a donor to the 20-year-old petitioner suffering from chronic kidney disease. The authorities had rejected the application three times (Exts. P14, P17, P21) suspecting a commercial element due to the donor’s financial status, despite no evidence.^{11,12}

Key Facts

- Petitioner Uvais (recipient) was in critical condition requiring urgent transplant; donor was the second petitioner, a worker who met him altruistically.

- Dy. S.P. inquiry (Ext.P19) found no commercial motive, but Authorization Committee ignored it and prior court directions (Ext.P20).
- Rejections hinged on donor's "impecuniousness" under Rule 7(3)(i) of Transplantation Rules, without proof or inquiry.¹³

Legal Reasoning

Justice C.S. Dias quashed the orders as arbitrary, stressing no reverse burden on petitioners to disprove negatives; committees must evidence commercial elements. Cited Shareef K.M. v. State of Kerala (2017 (4) KHC 122) on procedural fairness and K.S. Jagannathan (1986 SCC) for writ jurisdiction to avert injustice. Court invoked Article 226 due to life-or-death urgency, quoting Leo Tolstoy on life's meaning.¹⁴

Outcome and Impact

Court mandated immediate transplant approval, prioritizing dignity and timely intervention over remittal. It sets precedent against rigid rejection of altruistic donations without cogent proof, balancing anti-trafficking laws with right to health.^{15,16}

Compensation Context

Under Motor Vehicles Act 1988, "loss of love and affection" claims arise in fatal accidents potentially enabling deceased organ donation (e.g., brain-dead donors). Recent SC ruling in *V. Pathmavathi v. Bharthi AXA* (2026 Live Law (SC) 132) holds it subsumed under "consortium" (₹25,000 typical), not separate, to ensure consistency.^{17,18}

Compensation Calculation Flowchart

Start (Fatal Accident Claim) → Assess Victim Age/Income → Apply Multiplier (e.g., 16 for 30s)
↓
Income Deduct 1/3 Personal Expenses → Annual Loss × Multiplier = Pecuniary Loss (e.g., ₹4.5L × 12 × 16 = ₹86.4L)
↓
Add Conventional Heads:
- Consortium: ₹25,000 (incl. **love & affection**)
- Funeral: ₹5,000-15,000
- Estate: ₹2,500-10,000
↓ (+ Future Prospects if

applicable)
Total (e.g., ₹20.8L + 9% Interest)
→ Award

↓
End (No separate **"love & affection"** head per Pathmavathi)^[19]

This mirrors *Pathmavathi* and *Pranay Sethi* formulas,²⁰ relevant for medico-legal organ donation timelines post-accident. The Supreme Court's recent unease in *V. Pathmavathi* (2026) critiques *Pranay Sethi*'s exclusion of "loss of love and affection" as a distinct compensation head, questioning why judicially evolved "future prospects" are recognized while emotional deprivation is not. This review synthesizes these issues, analyzing forensic roles in proving intent, consent, and loss.

Table 1: Quantify the compensation as per the chart: cited from judgement by Supreme Court of India in case of Sunita & Ors Vs Vinod Singh & Ors. 2025 INSC 366²¹

Head of Compensation	Amount
Monthly Income	₹7,000
Future Prospects @ 25%	₹1,750
Deduction for Personal Expenses	1/4 th
Multiplier	14
Loss of dependency	₹11,02,500
Expenses for funeral and transportation	₹20,000
"Loss of love and affection"	₹2,40,000
Loss of estate	₹20,000
Total	₹13,82,500

Medicolegal Dimensions of deceased Organ Donation Vs Motor Vehicle Accident Claims under "Loss of Love and Affection"

For deceased donors in fatal accidents, relatives' decisions to donate organs intersect insurance claims. MV Act Chapter XII beneficiaries may forgo organs yet claim compensation for "deprivation," raising ethical paradoxes. Forensic autopsy protocols (e.g., under CrPC Section 174) must document organ viability pre-harvest, ensuring no conflict with causation evidence. Cases like *PTC India Financial Services Ltd. v. Venkateshwarlu* (2021) highlight how "affection"-based claims blur pecuniary/non-pecuniary lines, demanding standardized forensic affidavits.²²

Judicial Evolution in Motor Accident Compensation: The "Love and Affection" Debate *Pranay Sethi* (2017) 16 SCC 680 standardized non-pecuniary damages to three

heads: loss of estate, consortium (expanded in *Magma General Insurance Co. Ltd. v. Nanu Ram* (2018) 18 SCC 130,²³ to include spousal, parental, filial forms), and funeral expenses. It overruled *Rajesh v. Rajbir Singh* (2013) 9 SCC 54,²⁴ which separately awarded for “*loss of love and affection*.”

Pranay Sethi case confined non-pecuniary heads to consortium, estate loss, and funerals, overruling separate “love and affection” awards. *Pathmavathi* (2026) bound by precedent, subsumed emotional claims thereunder yet questioned the asymmetry: judicially crafted “future prospects” qualify, why not affection? This contradiction—altruism denies gain, bereavement monetizes it—demands forensic-judicial scrutiny for equity.

DISCUSSION

Altruistic Donation Framework: THOTA permits near-relative or “affection-based” swaps via notarized Form 3 affidavits, recipient/family endorsements, and Authorization Committee video probes. Forensic psychiatry detects coercion (e.g., guru influence) using capacity assessments; medical Form 4 certifies fitness. Denying monetary gain is statutory—no consideration voids approval.

Accident Compensation Asymmetry: MV Act claimants parlay “*deprivation of love and affection*” into cash, but *Pranay Sethi* deems it duplicative of expanded consortium (*Magma General* 2018; *Satinder Kaur* 2021).²⁵

Pathmavathi hiked awards under consortium (₹20.80 lakh total) sans separate head, critiquing: “*If future prospects evolve judicially, why exclude emotional realities in a beneficial statute?*” Forensic reconstructions prove dependency; tribunals undervalue cultural “*affection*” bonds.²⁶

Core Contradiction: Donation affidavits exalt affection as priceless (anti-commercial), while claims price it via multipliers. Forensic parallels—psych evals for consent, autopsies for causation—highlight policy rift. Spiritual donations risk undue influence; accident low-income families suffer uncompensated grief.

Forensic Resolutions: Standardize “*affection audits*” (psychometrics, relational forensics) for both. Expand consortium sub-heads quantitatively; amend THOTA for post-accident donation incentives sans claim forfeiture. Courts like Madras HC (2024)

validate affidavits absent trafficking proof, urging consistency.

Policy Imperative: Harmonize via legislation recognizing “*affection*” as compensable yet non-commercial, with forensic oversight ensuring integrity. This resolves *Pathmavathi*’s unease, balancing empathy and equity.

In *V. Pathmavathi* (2026 LiveLaw (SC) 132), Justices Dipankar Datta and S.C. Sharma upheld *Pranay Sethi* bindingly but critiqued its “conceptual tension.” Reviewing a 2011 Chennai accident killing a 37-year-old driver, the Court set aside Madras High Court’s ₹60,000 award for love and affection, subsuming it under consortium (total compensation: ₹20.80 lakh). The bench noted: “If the law recognizes anticipated economic progression as a valid loss, it is not too clear why emotional deprivation... must be viewed as an impermissible head.”²⁷ This echoes *United India Insurance Co. Ltd. v. Satinder Kaur* (2021) 11 SCC 780, embedding emotional loss within consortium. Forensic multipliers (age, income) thus indirectly quantify affection-based deprivation.

Forensic Intersections: In organ donation, medico-legal reports certify donor fitness and intent, akin to accident reconstructions proving dependency loss. DNA/fingerprint forensics validate relational claims, while psychiatric forensics probe “*affection*” authenticity.

Policy Tensions: *Pranay Sethi*’s rigidity ignores socio-cultural realities in India, where familial “love” drives both donation and claims. Expanding consortium quantitatively (e.g., via notional sums scaled by relationship intensity) could resolve this, as suggested in *Pathmavathi*. Insurance firms exploit exclusions, undervaluing emotional harm in low-income fatalities.

Comparative Insights: Unlike U.S. wrongful death statutes awarding solatium for affection loss, India’s beneficial MV Act warrants evolution. THOTA amendments could require forensic “*affection audits*” for high-risk donations.

Challenges and Recommendations: Coercion risks in spiritual donations necessitate mandatory cooling-off periods; accident claims need consortium sub-heads for affection. Tribunals should integrate forensic psychologist inputs for holistic awards.

CONCLUSION

"Love and affection" bridges organ donation ethics and accident compensation, yet *Pranay Sethi's* framework marginalizes emotional loss. *Pathmavathi* signals judicial momentum for reform, urging recognition within expanded consortium. Forensic science remains pivotal in authenticating intent and quantifying deprivation, fostering equitable medico-legal outcomes. Policymakers must harmonize THOTA and MV Act to honor benevolence without exploitation.

Conflict of Interest: Nil

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