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RELIEF FOR ASBESTOS VICTIMS IN LANDMARK RULING FROM HOUSE OF LORDS

Hundreds of employees suffering from asbestos-related cancer will now be able to pursue outstanding claims against negligent employers after a crucial House of Lords judgment issued today.

A controversial Court of Appeal judgment last December, in three cases known as Fairchild, Fox and Matthews, changed the way certain cases were dealt with. The result was, that where two or more defendants have negligently exposed someone to asbestos which later causes the incurable cancer mesothelioma, the victim cannot sue anyone for compensation because the scientific knowledge is not available to determine which defendant exposed the victim to the specific fibre which caused the illness.

But the House of Lords today produced their reasons for overturning this decision, finding that the needs of the innocent victim are paramount, and that it is fair to hold any defendant liable in such circumstances, provided it can be proven that he has been negligent in exposing a claimant to asbestos dust.

“The dangers of exposure to asbestos have been well documented for years,” said Frances McCarthy, immediate past president of the Association of Personal Injury Lawyers (APIL). “It is a triumph for our justice system that the House of Lords has decided that anyone who breaches their duty to protect people from asbestos should be held accountable.

“This is the best possible outcome for the hundreds of people, dying from mesothelioma, whose claims for compensation have been put on hold while battle has raged over the injustice of the Court of Appeal decision,” she went on.

“Hundreds of cases being brought by employees against former employers have been put on hold while these cases have been heard. Even the fact that the House of Lords made its judgment extraordinarily quickly failed to persuade many employers’ insurers to speed up their cases because they wanted the detailed reasoning behind the decision.

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“Now they have chapter and verse from the Lords, it is to be hoped that insurers will do everything they can to expedite matters and put at rest the minds of terminally ill people and their families.”

In his judgment, Lord Bingham of Cornhill said: “I am of the opinion that such injustice as may be involved in imposing liability on a duty-breaking employer in these circumstances is heavily outweighed by the injustice of denying redress to a victim. Were the law otherwise, an employer exposing his employee to asbestos dust could obtain complete immunity against mesothelioma....claims, by employing only those who had previously been exposed to excessive quantities of asbestos dust. Such a result would reflect no credit on the law.”

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