

Eversheds Mesothelioma Alert

A good day all round for insurers

Finally there has been some good news for insurers, following the Supreme Court's judgment in *Zurich v IEG* on 20 May 2015. Solvent employers in the UK will again be liable to contribute to mesothelioma claims on a pro rata basis, where there is a gap in their EL insurance cover.

Those in Guernsey benefit further because the Supreme Court confirmed that *Barker v Corus* still applies (and the Compensation Act 2006) does not. This means that in Guernsey, there is no joint and several liability for mesothelioma claims as there is in the UK. Each party in a mesothelioma claim is responsible only for its pro rata share of the claim. This will be of substantial benefit to insurers there.

The Supreme Court was clear that following the relaxation of the causation test in mesothelioma claims, insurers have generally been hard hit.

They were conscious of a need to balance the rights of the victim, the insured and the insurers.

Background

Zurich insured IEG for 6 of 27 years during which the claimant, Mr Carre, was exposed to asbestos. Mr Carre died due to mesothelioma and IEG settled his claim for £250,000. IEG then sought reimbursement from Zurich.

Zurich offered 6/27 but IEG requested the full amount. In 2013, the Court of Appeal held that Zurich had to fully reimburse IEG due to the wording of the insurance contract and recent case law regarding causation. The Court appeared unimpressed by the arguments regarding fairness, equity and insurers guidelines.

Thankfully the Supreme Court stepped in and the small window during which solvent companies may have benefitted, has now closed.

For further details about this case or advice about asbestos related claims generally, please contact Eversheds Corporate Claims.

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