



HIGH COURT OF AUSTRALIA

14 December 2011

Matter No S219/2011

AMACA PTY LTD (UNDER NSW ADMINISTERED WINDING UP)

v

JOHN WILLIAM BOOTH & ANOR

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v

JOHN WILLIAM BOOTH & ANOR

[2011] HCA 53

Today the High Court held that there was sufficient evidence to justify a finding by the Dust Diseases Tribunal of New South Wales that brake linings containing asbestos manufactured by Amaca Pty Ltd and Amaba Pty Ltd caused Mr John Booth's malignant pleural mesothelioma.

Mr John Booth is a retired motor and brake mechanic suffering from malignant pleural mesothelioma. This disease is caused by the inhalation of asbestos fibres. Mr Booth had three brief exposures to asbestos between 1943 and 1959, two as a child and youth when helping his father with home renovations and another when he spent about 20 minutes loading bags containing asbestos onto a truck in 1959. In addition, Mr Booth was exposed to asbestos in brake linings during his career as a motor and brake mechanic between 1953 and 1983 with a three-year interregnum. His work included the replacement of brake linings made from asbestos. The frequency of the replacement tasks varied from twice a month to three times a week.

Amaca manufactured brake linings containing asbestos between 1953 and 1962. Amaba manufactured brake linings containing asbestos from 1962 to 1982. Seventy per cent of the asbestos fibres to which Mr Booth was exposed occupationally were released from brake linings manufactured by Amaca and Amaba.

In July 2008, Mr Booth commenced proceedings in the Dust Diseases Tribunal of New South Wales against Amaca and Amaba in negligence. Mr Booth alleged that Amaca and Amaba had failed to warn about the dangers of use of their brake linings. The primary judge held that exposure to asbestos dust liberated from brake linings manufactured by Amaca and Amaba materially contributed to Mr Booth's contraction of mesothelioma. The Court of Appeal of the Supreme Court of New South Wales dismissed Amaca and Amaba's appeals.

Amaca and Amaba appealed to the High Court by special leave. Special leave was limited, in effect, to the question of the sufficiency of the evidence to support the primary judge's finding that exposures to asbestos in the brake linings manufactured by Amaca and Amaba had each been a cause of Mr Booth's mesothelioma.

The High Court held by majority that the evidence was sufficient to support the Tribunal's conclusion that Amaca's and Amaba's products were a cause of Mr Booth's mesothelioma.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*