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South Australian asbestos victim awarded record compensation after James Hardie found to have put “thirst for profit” ahead of customer safety

Former asbestos producer James Hardie has been ordered to pay exemplary damages for the first time in any Australian jurisdiction, with the South Australian District Court ruling the company was driven by a “thirst for profit” when it continued to sell asbestos products despite knowing they could kill.

Retired surveyor Anthony Latz, 70, from Stonyfell in South Australia, was this morning awarded a total of \$1.062 million — the largest amount ever awarded to a South Australian asbestos victim — following his diagnosis last October with incurable lung cancer mesothelioma, caused by exposure to asbestos fibres.

But in a precedent-setting decision, Amaca Pty Ltd, which was formerly known as James Hardie & Co Pty Ltd, was also ordered to pay exemplary damages due to the “reckless indifference” shown by continuing to sell asbestos products — without warnings — despite knowing they could kill users.

Mr Latz, who has three daughters and three grandchildren, was exposed to asbestos fibres in the 1970s when he used James Hardie “Super Six” asbestos cement sheets to construct a fence beside his newly-built home in the southern Adelaide suburb of Glenalta.

In addition to awarding compensation for pain and suffering, medical expenses, and future care, the decision was also the first asbestos case in South Australia to compensate a retired victim for economic loss, with Mr Latz awarded \$500,000 to cover the pension entitlements he would have received if his life were not cut short.

In his findings, District Court Judge Brian Gilchrist said that by the time Mr Latz bought the asbestos sheets, James Hardie was “well aware” that users of the product were “at some risk of dying”.

“James Hardie was fully informed about the dangers of asbestos. It knew it could kill end users. It failed to warn Mr Latz of the potential harm he might suffer by using its product,” Judge Gilchrist found.

“It failed to give him any warnings or advice about precautions and its failure to do so was motivated by its thirst for profit which it valued ahead of his safety.”

Mr Latz, who is currently travelling with his partner Joan Taplin, described today’s decision as an “amazing outcome”.

“The last year has been an absolute rollercoaster,” he said.

“Finding out that my decision to buy a product I thought was safe, and as a result I have contracted an incurable cancer that will rob me of the chance to see my grandchildren grow up, was devastating.

“While compensation can’t get my life back, it does ensure my partner, children and grandchildren will be looked after, as well as sending a powerful message to any company considering putting people’s lives at risk to make a quick buck.”

Mr Latz’s solicitor, Turner Freeman partner Annie Hoffman, said the case was hugely significant for current and future asbestos victims.

“Not only is this the largest compensation payment ever awarded to a South Australian asbestos victim, but the awarding of exemplary damages sets a major precedent for people across Australia who were exposed to asbestos contained in James Hardie products,” Ms Hoffman said.

“The finding that James Hardie should pay exemplary damages due to the reckless indifference they showed to their customers when they chose to sell a product they knew was deadly, without warnings or safety instructions, is a significant victory for all current and future asbestos victims.

“Also significant is the recognition that Mr Latz is entitled to compensation for economic loss, with his early death reducing the pension entitlements he would otherwise receive. This decision will potentially benefit many other asbestos victims who are only diagnosed following retirement.”

Mr Latz is available for media interviews over the phone. A photo of Mr Latz, as well as a copy of the judgement, are also available.

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