

Successful asbestos claims

Most asbestos compensation claims are based in negligence. The basis of a claim is that an employer, occupier of premises or manufacturer of asbestos products failed to warn or take steps to protect you against the known risk of asbestos-caused disease.

Case study 1

Leigh knew that asbestos was dangerous when one of his former workmates died of an asbestos caused disease in the late 1990's. When they started their apprenticeships in the early 1960's they had worked together pulling lagging from steam pipes in factories throughout Melbourne. At that time they were not told that asbestos dust was a dangerous carcinogen.

Naturally, Leigh was concerned that, like his workmate, he would be affected by his exposure to asbestos. His concerns were heightened when he noticed a nagging chest pain. At first he thought he had just strained a muscle, but when he developed shortness of breath he visited his local doctor.

He was sent for x-rays and referred to a specialist. He had tests performed which confirmed that he had developed mesothelioma. At the time of his diagnosis Leigh was 59 years old and had plans to expand his plumbing business. He had no plans to retire.

Leigh wanted someone to take responsibility for his work-related illness and was concerned that he would not be able to bring a claim because his former employer had long since gone out of business. He contacted Maurice Blackburn and met with Andrew Dimsey who advised him that it would be possible to bring a claim against his former employer, even though the company had closed down. Andrew explained that the claim would be straightforward as the risks of asbestos were known to government and industry many decades before Leigh's unprotected work with asbestos.

After discussing with his wife, a claim was commenced and within four months it was settled at a settlement conference. Leigh received compensation in excess of \$600,000. While the compensation Leigh received did not diminish his anger at the dangerous work practices which lead to his being exposed to asbestos, it did give him some satisfaction to know that his former employer was forced to take responsibility for his exposure to asbestos dust in the workplace.

Case study 2

Bruce was a healthy and fit 55 year old whose shortness of breath – one of the first signs of asbestos disease – occurred 40 years after he was exposed to the deadly fibres.

The problems started while he was chopping firewood at home and quickly got worse. Bruce soon visited his doctor, who ordered a CT scan that showed he'd developed fluid on the lung.

His doctor referred Bruce to hospital to have the fluid drained and tested, where the specialist asked Bruce if he'd ever worked with asbestos. A teacher most of his life, Bruce's first response was that he'd never worked with asbestos. A biopsy proved otherwise – Bruce was suffering from mesothelioma, a cancer whose only known cause is asbestos exposure. Bruce and his wife, Carol, were devastated, particularly when the doctor told them the disease was incurable and the average life expectancy is 12-18 months.



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After a few weeks of taking stock, Bruce called Jane McDermott, Principal of Maurice Blackburn's asbestos litigation team. Jane visited Bruce at home and the two considered possible asbestos exposure. Bruce recalled a time as a teenager when he helped his older brother build a sleep-out at the family home, using a power saw and drill to work the asbestos cement sheeting they used as cladding.

Apart from this short exposure Bruce couldn't remember any other time he'd been exposed to asbestos dust. Jane advised Bruce he had a strong claim against the manufacturer of the asbestos cement sheeting, who had been negligent in not warning product users of the risk – well known at the time – of asbestos dust inhalation. After finding the manufacturer, through the hardware store the asbestos sheets had been purchased from all those years ago, Maurice Blackburn started Bruce's claim. Within six months the claim was resolved at a settlement conference in Bruce's favour, without having to go to court.

The financial settlement doesn't help Bruce's illness, but it does provide him and his family with financial peace of mind. He also has the satisfaction of seeing justice done – the manufacturer has been brought to account for its actions.

Case study 3

Ronnie, aged 67, thought he had hurt his shoulder chopping wood when he attended his local doctor in relation to his persistent shoulder pain. After a series of medical investigations, Ronnie was diagnosed with mesothelioma, a terminal lung cancer caused by exposure to asbestos.

Ronnie, born in Manchester in the UK, had worked his entire life from age 16 as a carpenter and builder and immediately realised that he had been exposed to asbestos most of his working life.

Ronnie completed his carpentry apprenticeship in the UK, and moved to Australia when he was 21 as his father had got work in the La Trobe Valley. Ronnie later moved to Adelaide for about 10 years where he worked as a carpenter building new homes before returning to Victoria where he did the same sort of work. In both Victoria and South Australia he had always worked with Hardie's asbestos cement building products and had never been warned about the dangers of using asbestos.

At the time Ronnie was diagnosed with mesothelioma, his doctors told him that he should contact a lawyer to bring a legal claim as his condition could only be caused by his past exposure to asbestos in the building trade. Initially, Ronnie and his wife Carol thought it would probably be too difficult to bring a claim as he had worked in a couple of Australian states as well as the UK, and they decided to leave it alone with all that they were going through.

After a few months, Ronnie's daughter Sally contacted Maurice Blackburn, a law firm with a lot of experience and expertise in this field, and spoke with Jane McDermott a Principal of the firm. Jane explained that although Ronnie had been exposed to asbestos in different places his claim was uncomplicated as the risks of asbestos exposure were well known by the time Ronnie worked with asbestos. Shortly after, Ronnie, Carol and Sally met with Jane who explained how straightforward these claims could be, even if he had been exposed in two States, as well as in the UK.

Given Ronnie's exposure history, he was entitled to Statutory compensation from the UK, as well as Common law compensation in Victoria. Within six months Ronnie had received \$330,000 compensation without having to go to trial.

For further information on these cases or anything relating to Asbestos disease, please contact:

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