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## Court's decision causes insurance chaos

Dying people and grieving families will enter "a lottery" when trying to claim damages, following a controversial decision by the Court of Appeal.

The Court of Appeal decided on Friday that some employer's liability insurance policies would no longer protect asbestos victims from the date they were first exposed to the dangerous substance. Instead, judges found that in some cases the responsibility lay with the insurers at the onset of symptoms, which in many cases is many years later when the company may have ceased trading, and when there is in fact no insurance in place to meet the claim.

It means in many claims for damages the exact words in the insurance contract will be studied and many asbestos victims could be left without compensation. It will be a matter of chance for claimants as to whether the employer against whom they are claiming has an effective insurance policy to meet the claim. If their employer is no longer in existence or is insolvent claimants will go uncompensated.

Karl Tonks, an industrial disease specialist solicitor and a member of the executive committee of APIL, said: "The Court of Appeal's decision means an obscene windfall for some insurance companies. It will cause chaos and uncertainty in many claims, particularly those relating to mesothelioma. It leaves some insurers who have received premiums able to get out of meeting claims on a technicality.

"Dying people and grieving families have been given the added anxiety of not knowing whether they will be compensated – if ever.

"The decision has left many in a state of utter confusion. Asbestos victims will effectively have to enter a lottery when trying to claim damages. Claims will be delayed; there will be additional costs and a deep unfairness felt by injured people, insurance companies and businesses alike.

"If insurance policies are now ineffective, then injured people are once again unable to claim damages and left inadvertently subsidising the insurance industry.

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"It increases the need for an employer's liability fund of last resort. Those who lose this unfortunate compensation lottery must get damages from elsewhere to provide the vital support needed in the latter part of their shortened lives.

"What is needed is during this chaos for the Association of British Insurers to ask its members not to take advantage of the new ruling until any outcome of an appeal to the Supreme Court is known.

"The needs of injured people must come before that of insurance companies. We hope that the right decision on behalf of injured people can be made by the Supreme Court."

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Note to editors:

- APIL (Association of Personal Injury Lawyers) is a not-for-profit organisation, whose members are dedicated to campaigning for improvements in the law to help people who are injured or become ill through no fault of their own.

- For more information or a full copy of APIL's response, please contact Chris Birkle, press and communications officer, t: 0115 938 8715, e: [chris.birkle@apil.org.uk](mailto:chris.birkle@apil.org.uk), or Jane Hartwell, assistant press and communications officer, t: 0115 938 8702, e: [jane.hartwell@apil.org.uk](mailto:jane.hartwell@apil.org.uk).

- Visit the association's website at [www.apil.org.uk](http://www.apil.org.uk).