



## HIGH COURT OF AUSTRALIA

Public Information Officer

21 October 2005

CSR LIMITED AND MIDALCO PTY LTD v JARRADD EDDY AS ADMINISTRATOR AD  
LITEM REPRESENTING THE ESTATE OF THE LATE JOHN LEONARD THOMPSON

A person who has suffered personal injury cannot recover special damages on account of a loss of capacity to care for a disabled family member, the High Court of Australia held today.

Mr Thompson claimed that he had developed malignant mesothelioma as a result of exposure to asbestos dust and fibre while working in a factory owned by CSR and Micalco in Adelaide between 1960 and 1963. CSR ran the factory while Micalco supplied asbestos from the Wittenoom mine. The companies admitted liability. Mr Thompson was diagnosed in 2002 and died in November 2003, aged 61.

He sued the two companies in the New South Wales Dust Diseases Tribunal, which in April 2003 awarded him damages of \$465,899.49, including \$165,480 for Mr Thompson's loss of capacity to care for his disabled wife, Beverley May Thompson. Mrs Thompson suffered from osteoarthritis and was unable to undertake heavy domestic duties. Mr Thompson performed these tasks until he became too debilitated. The \$165,480 was a head of damages known as *Sullivan v Gordon* damages and was the subject of the appeal by CSR and Micalco. The NSW Court of Appeal rejected CSR and Micalco's application for leave to re-argue *Sullivan v Gordon*, a 1999 NSW decision, and upheld this aspect of the damages. The companies appealed to the High Court.

The Court unanimously allowed the appeal and held that *Sullivan v Gordon* should be overruled. The Court held that *Sullivan v Gordon* losses should be covered by general damages rather than as a head of special damages.

- *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.*