



JUDICIARY OF
ENGLAND AND WALES

IN THE MATTER OF THE PHURNACITE WORKERS GROUP LITIGATION

JONES

-V-

THE SECRETARY OF STATE FOR THE DEPARTMENT OF ENERGY & CLIMATE CHANGE

HIGH COURT (QUEEN'S BENCH DIVISION)

23 OCTOBER 2012

SUMMARY FROM MRS JUSTICE SWIFT

1. Today I am handing down judgment in the Group Action brought by former employees and the families of former employees at the Phurnacite Plant, Aberaman, in South Wales. Until its closure in 1990, the Phurnacite Plant was operated by successive subsidiaries of the National Coal Board and later of the British Coal Corporation. The Action is brought against one of those subsidiaries, Coal Products Limited, and against the Department of Energy and Climate Change, which took over the liabilities of the British Coal Corporation after the latter ceased to exist.
2. A total of 183 claims have been brought for various forms of respiratory disease and cancers which are alleged to have been caused by the exposure of men working at the Plant to harmful dust and fumes. Eight 'test' or 'lead' claims were selected for trial. At that trial, which was held partly in Cardiff and partly in London, there was available to me a huge amount of evidence about working conditions at the Phurnacite Plant, about the chemical composition and properties of the dust and fumes produced there, about the concentrations of harmful substances to which employees working in various parts of the Plant would have been exposed and about the medical effects of that exposure. The evidence covered a period of almost 50 years and included a good deal of highly technical material. It also involved an examination of the circumstances in which each of the employees involved in the lead claims had worked and of their individual medical histories.

3. Not surprisingly, my judgment is extremely lengthy. In summary, I have found that, from the very early years of its operation, there were serious concerns about the dust and fumes produced by the Phurnacite manufacturing process and emitted from the Plant into the surrounding atmosphere. Those concerns, which persisted throughout the life of the Plant, were initially raised by residents who lived nearby and by the local council but of course the dust and fumes of which they complained affected those working at the Plant to an even greater extent.
4. I have described in my judgment the large quantities of dust that were constantly in the atmosphere of the briquetting buildings (where the Phurnacite ovoids were formed and pressed) and the hot and fume-laden conditions experienced by men working around the ovens (where the ovoids were carbonised). Conditions in those and other areas of the Plant were very unpleasant. In the pitch bay where, until the late 1970s, solid pitch was broken up by hand, the conditions were described by a former member of management as “pretty dreadful”, an assessment with which I agree. The dust and fumes to which men were regularly exposed contained substances which were known to be harmful, indeed carcinogenic.
5. Conditions in most parts of the Phurnacite Plant remained very poor right up to the time of its closure in 1990. Some improvements were made over the years and I have no doubt that there were individual managers who did their best to effect changes to the working conditions at the Plant. However, overall, I found that the attitude of the management to the safety of its workforce appears to have been reactive, rather than proactive.
6. I decided that the operators of the Plant were in breach of statutory duties owed to their employees throughout the period of its operation. There were many measures that they could have taken to minimise or eliminate altogether the risks to their workforce had they chosen to do so. Thus, I found that the claimants had succeeded in establishing liability on the part of the defendants.
7. Each of the lead claimants faced the additional hurdle of proving that the medical condition(s) from which they suffered had been caused by their exposure to dust and fumes at the Phurnacite Plant. Since respiratory disease and cancers can

occur without any such exposure, the issue of causation involved careful examination of epidemiological and other medical evidence. In the event, I concluded that the claimants had succeeded in establishing the necessary causal link between exposure to dust and fumes at the Phurnacite Plant and the development of lung cancer, chronic bronchitis and chronic obstructive pulmonary disease. However, I decided that they had failed to establish on a balance of probabilities that bladder cancer and a certain, very common, type of skin cancer known as basal cell carcinoma could be caused by their exposure. In the event, I am told that only 9 of the 175 claimants who have been awaiting the outcome of the lead claims have claims for bladder cancer or basal cell carcinoma alone. The claims of the other 166 claimants will now be examined to ascertain whether they will be entitled to an award of damages.

8. Of the eight lead claims, four (those involving the late Mr Ernest Noel Carhart, the late Mr Raymond Davies, Mr Frederick John Richards and the late Mr Michael Douglas Robson) were successful. The claims involving the late Mr John Griffiths, the late Mr Ronald Lyndhurst Jenkins, Mr David Samuel Jones and Mr David Middle failed on the issue of medical causation. The successful claimants will receive awards of damages ranging from almost £120,000 down to £4,500.
9. I hope very much that it will be possible for the outstanding claims to be resolved speedily on the basis of the findings contained in my judgment.

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This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document.