

Appeal successful in Head v Culver Heating Co Ltd

By a decision handed down this afternoon, the Court of Appeal unanimously overturned the judgment of HHJ Melissa Clarke (reported at [2019] EWHC 1217 (QB)). In April 2019, the Judge had dismissed the lost years claim on the basis that Mr Head's income was derived from his successful family business and therefore would not be lost. The Court of Appeal held, however, that all of Mr Head's income should be treated as if it were earnings rather than investment income and was recoverable by his Estate in the 'lost years'.

This is a case where the Court of Appeal previously took the very unusual step of reopening the appeal pursuant to CPR 52.30 (see previous news item here) and the principle in *Taylor v Lawrence*, permission having initially been refused on the papers. Giving the lead judgment, Lord Justice Bean held that “.. *the overwhelming majority of Taylor v Lawrence applications are entirely unfounded but this one was a rare exception, perhaps the most striking one I have seen during six years' service in this court.*”

The case will now be remitted to the Senior Master for re-assessment of the lost years claim, applying the principles set down by the Court of Appeal. This is a landmark decision, which is likely to shape how lost years claims are decided for years to come. Further analysis will follow on the asbestos blog.

Harry Steinberg QC and Kate Boakes act for the Appellant, instructed by Peter Williams of Fieldfisher LLP.