

BMW of N. Am., LLC, 26 NY3d 801, 808 [2016]; *cf. Matter of New York City Asbestos Litig. [Juni]*, 148 AD3d 233, 236 [1st Dept 2017]). Moreover, because the asbestos-laden dust was created by plaintiff's use of defendant's grinder and defendant knew its grinder would be used on asbestos-containing products, defendant had a duty to warn plaintiff of the latent danger arising from the foreseeable use of its product (see *e.g. Rastelli v Goodyear Tire & Rubber Co.*, 79 NY2d 289, 297 [1992]).

We find the damages award, as reduced by the trial court and stipulated to by plaintiff, to be appropriate. Moreover, based on the evidence adduced at trial, the jury properly apportioned 86% of the fault to defendant (see CPLR art 16).

We have considered defendant's remaining arguments and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: OCTOBER 5, 2017


CLERK