

**SHERIFFDOM OF SOUTH STRATHCLYDE, DUMFRIES AND GALLOWAY AT
DUMFRIES**

[2020] FAI 16

DUM-B245-19

DETERMINATION

BY

SUMMARY SHERIFF COLM P DEMPSEY

UNDER THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC
(SCOTLAND) ACT 2016

into the death of

MOHAMMAD ASHGAR

Dumfries, 18 February 2020

The Sheriff, having considered the information presented at an inquiry under section 26
of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016

("the Act") determines:

1. In terms of section 26(2)(a) of the Act that Mohammad Ashgar, born on 31 January 1964, who resided in Blackburn, Lancashire, died within his motor vehicle at the A74(M) approximately one quarter of a mile south of the Woodhouse Overbridge, Kirkpatrick Flemming, Dumfries and Galloway. He was formally pronounced dead on 24 October 2018 at 22.58 hours.
2. In terms of section 26(2) (b) of the Act, the accident which resulted in the death of Mohammad Ashgar occurred at the A74(M) approximately one quarter of a mile south of the Woodhouse Overbridge, Kirkpatrick Flemming, Dumfries and Galloway, on 24 October 2018 at around 22.10 hours.
3. In terms of section 26(2)(c) of the Act that the cause of death was: 1a neck and chest injuries due to 1b road traffic collision (driver).

4. In terms of section 26(2)(d) of the Act the cause of the accident which resulted in the death was a road traffic collision caused by the deceased's vehicle striking a piece of wood which had been deposited on the carriageway. This caused the deceased to lose control of his vehicle, leave the carriageway, cross a grass verge and strike a tree.

NOTE

Introduction

[1] This inquiry was held under section 1 of the Act. It was a mandatory inquiry in terms of section 2(1) of the Act as Mr Ashgar was at the time of the accident which resulted in his death, engaged in his occupation.

[2] Two parties were represented at the inquiry. Mr Faure, procurator fiscal depute, appeared for the Crown. Mr Couper, solicitor, Edinburgh, appeared for Transport Scotland. Mr Ashgar's widow did not enter appearance in these proceedings.

[3] No oral evidence was led at the inquiry. A joint minute was entered into by the parties, both of whom invited me to make only formal findings in terms of section 26(2)(a), (b), (c) and (d) of the Act.

Findings

[4] Mr Ashgar was born in Pakistan on 31 January 1964.

[5] At the date of his death, Mr Ashgar resided in Blackburn, Lancashire, with his wife and their four children.

[6] At the date of his death, Mr Ashgar was a second hand car dealer. He bought cars from around the United Kingdom and sold them from his premises in Blackburn, Lancashire.

[7] On Wednesday the 24 October 2018 at about 10.10pm the deceased was the sole occupant in a motor vehicle, a BMW 7 series saloon EF56DYC. He had recently purchased the motor vehicle in the Glasgow area. He was driving back to Blackburn. He was travelling south on the A74(M), approximately one quarter of a mile south of Woodhouse Overbridge, Kirkpatrick Fleming, Dumfries and Galloway. This section of motorway is three lane with a speed limit of 70mph. The driving conditions were good given it was dry, the road surface was dry and in good condition. The outside temperature was approximately 10 degrees Celsius. At that particular stretch of the A74(M) there was a slight sweeping bend and the road ahead was visible for some 850 yards in daylight.

[8] Whilst driving at this location the deceased's motor car struck debris on the carriageway, specifically a piece of wood which caused the deceased to lose control of his motor car, leave the carriageway, cross a grass verge and strike a tree.

[9] The deceased was not the first to strike debris in the carriageway at that stretch of motorway on the 24 October 2018. Christopher Newton, a machinist, was also driving south on the A74(M) at that stretch of motorway. He was not the sole occupant of his car. His wife and two young children were with him. He struck what he recalls as a "breeze block shape" that was lying in the carriageway. His car was damaged. His car was still driveable. He pulled off the motorway safely. He telephoned a roadside

recovery firm. He did not see the fatal collision. His collision was approximately ten minutes before the fatal collision.

[10] After Mr Newton's collision, Mr Lee Davis, a mechanic was driving down that stretch of the A74(M) en route to South Wales. He was alone in the van. He saw what he believed to be three breeze blocks in lane three. He struck one of them. His vehicle suffered a puncture. Mr Davis pulled off onto the hard shoulder. He began to repair the puncture. He heard a loud bang type noise. He saw Mr Asghar's motor vehicle leave the carriageway, mount a grass verge and collide with a tree. He attended the collision site and rendered first aid. He left after the emergency services arrived.

[11] Police Constables Christopher Parker and Ashley Broatch both traffic officers, attached to the Road Policing Unit, Lockerbie Police Station, Lockerbie received a radio message that there was debris on the carriageway at 10:10pm. They responded to the call immediately. En route they were updated by another radio message stating there had been a road traffic collision. On arrival they found Mr Asghar's motor vehicle on its side with Mr Asghar trapped inside. There were other civilians at the scene. They both saw a piece of wood lying in the carriageway between lanes 2 and 3. This piece of wood showed signs of recent damage. Both officers rendered what assistance they could until other emergency services arrived with specialist equipment.

[12] Keith McWhan and Robert Lowe both of the Scottish Ambulance Service responded to an emergency call received at 10:18pm to a man trapped inside a motor car. They arrived at the scene at 10:46pm. The deceased had just been freed by the Scottish Fire and Rescue team. They moved the deceased to the back of the ambulance.

His medical condition was assessed. They, paramedics McWhan and Lowe, noted after further examination there were no signs of life present. He was pronounced dead at the scene by Paramedic Robert Lowe at 10:58pm.

[13] Police Sergeant Robert McNay attended the scene and took charge as the senior police officer. He directed the motorway to be closed off. He instructed collision investigators to commence an investigation including a full reconstruction. He instructed a search for the offending vehicle to be commenced all the way down to the border. He instructed police colleagues from Northumbria Police Service to continue the search for the offending vehicle south of the border. He instigated a press release through various media platforms. He attempted to find more witnesses and for the driver of the offending vehicle to come forward. No further witnesses came forward.

[14] Police Constables David Nish and Christopher Parker conducted a collision investigation. Their report dated 6 December 2018 concluded that the collision occurred as a result of the deceased's motor vehicle striking a piece of wood on the carriageway. As a result the deceased's motor vehicle suffered damage to front and rear offside tyres. The deceased lost control of his motor vehicle. He left the carriageway, crossed a verge and struck a tree. The collision investigation report is Crown Production 5. It is a true and accurate report.

[15] On the 29 October 2018 at the Queen Elizabeth University Hospital, Glasgow doctors Marjorie Turner and Julie McAdam, both forensic pathologists, conducted a post mortem examination and concluded the cause of death to be at 1a. Neck and chest

injuries due to 1b Road traffic collision (driver). The post mortem examination report is produced as Crown Production 1. It is a true and accurate report.

[16] Blood and urine post mortem samples were tested by forensic toxicologists Dr Hazel Torrance and Ms Denise McKeown. Their joint report dated the 4 December 2018 concludes both samples produced negative results for alcohol, benzodiazepines and paracetamol and “other basic drugs”. The toxicology joint report is produced as Crown Production 2. It is a true and accurate report.

[17] On the 1 November 2018 police officers John Parry and Thomas Kirkpatrick both attached to the Road Policing Unit at Lockerbie Police Station, Lockerbie examined Mr Asghar’s motor vehicle at a yard in Carlisle where it had been taken after the collision. They concluded “no mechanical defects on the vehicle that would be considered a contributory factor to the collision”. The collision report is produced as Crown Production 5. It is a true and accurate report.

[18] On 19 November 2019 Neil Brannock an operations manager employed by Auto Link attended the scene of the collision. He completed a report after the site visit. He opined that no action was required in relation to the road surface, the gradient or ingress from verge vegetation. The site examination report is Crown Production 7. It is a true and accurate report.

Conclusion

[19] Given the circumstances of Mr Ashgar’s death, I am satisfied, as submitted by all parties, that only findings in terms of paragraphs (a) (b) (c) and (d) of section 26(2) of the

Act should be made in this case. Mr Ashgar's death was due to injuries caused as a result of a road traffic collision, as described in the post-mortem examination report. No other findings are warranted on the evidence.

[20] All the parties at the inquiry expressed their condolences to Mr Ashgar's widow and all others bereaved by his loss, and to these I add my own condolences.