

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

[2020] FAI 17

LAN-B162-19

DETERMINATION

BY

SHERIFF NIKOLA C STEWART, ADVOCATE

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

into the death of

MARY LOGAN

Lanark, 21 February 2020

The Sheriff having considered the productions, the terms of the joint minute and the oral submissions presented at the inquiry finds and determines in terms of section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 that:-

- (1) In terms of section 26(2)(a) of the 2016 Act Mary Logan born 8 November 1956 died at approximately 2047 hours on 11 January 2019 within Queen Elizabeth University Hospital, Glasgow. This was the time when her life was formally pronounced extinct.
- (2) In terms of section 26(2)(b) of the 2016 Act the accident resulting in her death took place between 1640 hours and 1700 hours on 9 January 2019

on the A73 Abington to Cumbernauld road at or about Thankerton Camp Farm.

- (3) In terms of section 26(2)(c) of the 2016 Act the cause of death was head injury due to road traffic collision (driver).
- (4) In terms of section 26(2)(d) of the 2016 Act the accident was caused by the action of Ms Logan, who was driving her work vehicle, registration number SC62 SGY, in attempting to perform a turning manoeuvre within the roadway adjacent to the bell-mouth entrance to Thankerton Camp Farm. Whilst doing so, her vehicle crossed into the opposing lane, encroaching both lanes and was stationary or almost stationary at or about right angles to the roadway when it was struck by a vehicle travelling southbound.
- (5) Makes no findings in terms of sections 26(2)(e) and (f) of the 2016 Act.
- (6) In terms of section 26(2)(g) of the 2016 Act there are no other facts which are relevant to the circumstances of the death.

RECOMMENDATIONS

In terms of section 26(1)(b) of the 2016 there are no recommendations as to any of the matters mentioned in sub-section (4) which might realistically prevent other deaths in similar circumstances.

NOTE

The legal framework.

[1] A fatal accident inquiry was held under the Fatal Accidents and Sudden Deaths Etc. (Scotland) Act 2016 (“the 2016 Act”) into the death of Mary Logan who died on 11 January 2019. She was at the time of her death acting in the course of her employment as a Home Carer with South Lanarkshire Council, and her death was the result of an accident which occurred in the course of that employment. In terms of section 2(3) of the 2016 Act an inquiry was required to be held into the circumstances of her death.

[2] The Procurator Fiscal issued notice of the inquiry on 6 November 2019. The first order was granted on that date and a preliminary hearing was held within Lanark Sheriff Court on 8 January 2020. Ms Amanda Allan, Procurator Fiscal Depute, appeared throughout for the Crown. The only interested party represented at the inquiry was the deceased’s employer who was represented throughout by Ms Lesley Allan. The family were interested in the outcome and conduct of the inquiry but were not represented. The inquiry was held on 17 February 2020.

[3] It became clear at the preliminary hearing that all matters were capable of agreement and a Joint Minute of Agreement between the Crown and South Lanarkshire Council was thereafter tendered at the inquiry. Having had regard to its terms and to the terms of the productions lodged I was satisfied that the scope and extent of the inquiry could be thereby limited and no witnesses were called to give evidence.

[4] This inquiry is held under section 1 of the 2016 Act and governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017 (SSI 2017/103). The inquiry was initiated by the procurator fiscal, who represents the public interest, in accordance with her statutory duty to do so. The purpose of an inquiry under section 1(3) of the Act is (a) to establish the circumstances of the death and (b) consider what steps, if any, might be taken to prevent other deaths in similar circumstances. The inquiry is an inquisitorial process and, under section 1(4) of the Act, it is not its purpose to establish civil or criminal liability.

Summary and conclusion

[5] The mechanism and circumstances of the accident are not disputed. No oral evidence was led. The deceased, Mary Logan, was employed as a Home Carer by South Lanarkshire Council. Her role was to provide extended personal care to vulnerable adults, children and older people in their own homes. She worked split shifts from 0700 hours until 1230 hours and from 1600 hours until 2100 hours.

[6] To fulfil that role she was required to travel to and from the home address of each service user. She was provided with a work's vehicle in order to facilitate her travelling between various addresses within South Lanarkshire. On 9 January 2019 the work's vehicle used by the deceased was a dark blue Peugeot Bipper motor van, registration number SC62 SGY.

[7] She was working that day with fellow Home Carer Gemma Love. Having resumed their shift at 1600 hours, they attended the homes of two service users, leaving

the second service user's address at approximately 1640 hours and travelling northbound on the A73 towards their next appointment which was to take place at approximately 1700 hours. The deceased was driving the work's van and Ms Love was her passenger.

[8] In the course of their travel, they passed an animal in apparent distress. They returned to the scene but failed to spot the animal. The accident occurred as the deceased attempted to turn the vehicle in order to resume their journey towards their next service user.

[9] The A73 is a two-way undivided carriageway subject to the national speed limit which, for all the vehicles involved in this accident, was 60 mph. The deceased pulled into the bell-mouth entrance to Thankerton Camp Farm in order to perform a turning manoeuvre within the roadway. At a point in that turning manoeuvre when the deceased's vehicle had crossed into the opposing carriageway, was encroaching both northbound and southbound lanes and was almost or completely stationary on the roadway at right-angles to the roadway, it was struck to the front nearside passenger door by a Ford Focus motor vehicle, registered number SV08 ORN, travelling southwards and driven by Kevin McCarry. The collision caused the deceased's vehicle to be pushed southwards and rotate clockwise into the northbound lane where it travelled southwards along the grass verge before coming to a stop.

[10] The Ford Focus thereafter collided with a Jeep Renegade motor vehicle before both vehicles came to a halt on the roadway. The occupants of both cars exited their vehicles and approached the deceased's vehicle where the deceased was found

apparently unconscious and Ms Love was found to be conscious but trapped within the vehicle.

[11] Emergency services were summoned and police arrived at the scene at approximately 1705 hours. On examination within the vehicle by police, the deceased gave no response, her pupils were fully dilated and her breathing was laboured and briefly stopped. She resumed breathing on being removed from the vehicle and, following the arrival of paramedics, was airlifted to Queen Elizabeth University Hospital via the ambulance service helicopter. She did not recover consciousness at any point and on 11 January 2019 succumbed to her injuries within the hospital. In addition to sustaining the severe head injuries which resulted in her death, she was found to have also sustained a fracture of the right upper arm, a fractured rib and a fracture to the right side of the pelvis, possible shock bowel and haemothorax.

[12] Police Collision Investigators attended the scene of the incident at approximately 1943 hours on 9 January 2019. They prepared a Collision Investigation Report based upon their examination of the scene and of the cars involved, together with photographs of the scene and the results of mechanical examination of all cars and reconstruction of the accident. Skid testing concluded that the road surface played no part in the causing of the collision. Weather conditions were fine. There was no street lighting at the scene. The deceased had been wearing a seat belt at the time.

[13] They concluded as follows: that the Ford Focus motor car was well within the southbound lane at the point of impact and that the front of the Peugeot Bipper van was only 600 millimetres from the eastern verge; that as the Ford Focus had been travelling

south towards the collision scene Mr McCarry's view would have been limited to dipped beam headlights and further affected by the dipped beam headlights of the northbound Jeep Renegade motor car; that the Peugeot Bipper van would not have been visible to southbound drivers until picked up by the dipped beam headlights, which would have been too late to take any avoiding action; that the speed of the Ford Focus motor car had not been excessive; that the deceased, whilst sitting at the entrance junction to Thankerton Camp Farm would have had a good view to the north along a straight for over half a mile, unaffected by a slight undulation to the south of the layby; that the collision occurred as a result of the Peugeot Bipper van being across the roadway in the dark which would have made it difficult to see for a southbound motorist using dipped beam headlights.

[14] The conclusions of the Crash Investigators are supported by the terms of their report and the joint minute. I am satisfied, as submitted by the parties, that only findings in terms of paragraphs (a), (b), (c) and (d) should be made.