

SHERIFFDOM OF SOUTH STRATHCLYDE DUMFRIES & GALLOWAY AT
LANARK

DETERMINATION

By

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Advocate, Sheriff

In Inquiry into the circumstances of the death of

MOHAMMED GHAFOR

In terms of section 6 of the Fatal Accidents and Sudden

Deaths Inquiry (Scotland) Act 1976

LANARK, 28 October 2008

The Sheriff, having resumed consideration of the Inquiry, DETERMINES as follows:

1. In terms of section 6(1) (a) of the Act that Mohammed Ghafoor, who was born on 12 November 1972, died at 14.30 hours on 7 September 2007 on the A702 at Dolphinton, as a result of having sustained injuries in a road traffic accident which occurred at that locus.

2. In terms of section 6(1) (b) of the Act, that the cause of death was multiple injuries due to a road traffic accident. The cause of the accident was the deceased's intoxication as a result of opiate misuse.
3. In terms of Section 6(1) (c) of the Act, that the accident and the death resulting therefrom might have been avoided had Mr Ghafoor refrained from driving whilst under the influence of opiates.

NOTE

Mohammed Ghafoor (hereinafter referred to as “the deceased”) died on 7 September 2007 having sustained an accident in the course of his employment with Mumtaz Food Industries Ltd, 386 – 410 Great Horton Road, Bradford, as a delivery driver. On that date he was dispatched to deliver goods from his employer's factory in Bradford to premises in Edinburgh and Glasgow. He was the driver and sole occupant of a Mercedes Sprinter motor vehicle registration number YD55 GYV leased by his employers. He left Bradford at or about 6.45 am and travelled northwards into Scotland. There was nothing in his demeanour or mood that morning to alert his wife or employers to anything which might impede his driving ability or cause concern about his state of mind. Neither his wife nor his employers were aware that he had previously or was at that time misusing opiate drugs.

Whilst his exact movements that morning are not clear, at or about 1 pm he was driving northwards on the A702. Travelling southwards on the A702 was a Mercedes Actros articulated vehicle registration number AY56 DHK driven by Darren Meredith. As Mr Meredith drove his vehicle into the village of Dolphinton he became aware of the deceased driving his van towards him on the southbound carriageway. Mr Meredith was driving his vehicle at or about 40 mph, as required by the restrictions in place. On seeing the deceased's vehicle coming directly towards him, he took immediate action to swerve his lorry into the northbound carriageway and to brake sharply, in an attempt to avoid a head-on collision. The deceased also swerved his car towards the northbound carriageway. The vehicles collided almost head-on. The deceased's vehicle overturned, trapping the deceased within. The deceased sustained multiple and serious injuries. He appeared to be dead when examined at the scene by ambulance crew at or about 13.35 hours. Life was pronounced extinct at the scene at 14.30 hours.

At post mortem he was found to have sustained multiple injuries including compound bilateral fractures of tibia and fibula, closed fracture of the right femur, fractured pelvis, compound fracture of the right proximal ulnar, fractured maxilla, fractured mandible and laryngeal cartilages and fractured left ribs with a haemopneumothorax. The mode of death was haemorrhagic shock. His injuries were entirely consistent with the account given by witnesses of a road traffic accident

Blood was taken for examination for alcohol and drugs. On analysis, no alcohol was found but samples screened positive for amphetamine, benzodiazepines and opiates. On

further analysis, he was found to have levels of morphine at almost seven times the therapeutic range, which is at a level sufficient to cause death. The findings are consistent with heroin use. The quantities are consistent with the administration of multiple injections of heroin in the 24 hours prior to death. The deceased has a history of chronic drug use, albeit he was not known to have returned to heroin abuse in the period prior to his death. The deceased was alive at the point of impact. The fact that he was able to tolerate such high quantities of heroin without succumbing fatally to it, suggests that he had built up a tolerance to it in recent times. He would however be affected physiologically by such high quantities of the drug, resulting in drowsiness, a loss of alertness and responsiveness and deteriorating ability to make decisions and control motor skills. As a result, his ability to safely drive his vehicle would be severely compromised. His opiate intoxication could explain why he was driving his vehicle on the wrong carriageway and towards an oncoming vehicle and was unable to react appropriately to the resultant danger of collision. It is the most probable explanation for his behaviour. The other drugs present were in insufficient quantities to affect the deceased adversely.

This accident would not have occurred if the deceased had not consumed large quantities of heroin and driven whilst under its effect. No mechanical defects were noted in either vehicle. Mr Meredith did all he could to avoid a collision. No blame for the accident can be attributed to him. Whilst Mr Meredith formed the impression that the deceased deliberately drove at him, there was no other evidence supportive of any suicidal intention. On the contrary, the deceased was described as being a friendly, happy chap

with a nice disposition who showed no signs of depression, by his employer. His wife echoed this. The evidence of the pathologist, Dr Mathe, cast doubt on the deceased's decision making and implementing capability, given his level of intoxication. Whilst there is nothing in the crash investigation officer's evidence which directly negates a deliberate act, his evidence was equally consistent with Dr Mathe's view that opiate intoxication was the cause of the bizarre driving in question. When this suggestion was put to him, the officer agreed that high levels of opiates could explain why he was driving on the wrong side of the road and in trying to avoid a collision, the deceased went the wrong way. In my view it is impossible to separate the high dosage of opiates in the deceased's system from the course of driving in question. The accident is causally connected thereto.

There was some exploration in the evidence as to whether or not a system of random drug testing by the employer could have prevented the accident and if so, whether it would be reasonable for such a precaution to be in place. Mumtaz Food Industries Limited is a relatively small company which employs only three drivers, of which the deceased was one. Most employees are Muslim and do not drink alcohol. There was no evidence that they had any reason to anticipate the use of opiates by their drivers. Testing for drugs involves a more elaborate procedure than testing for alcohol, PC Denholm told the court. Blood samples require to be taken and analysed in specialist laboratories. Whilst a few very large employers have initiated such a system, it is far from the norm, and he would not expect small companies such as the deceased's employers to have such a system in place. It is expensive and time consuming. Whilst it is possible that an anticipation that

he might be drug tested might have affected the deceased's decision to drive whilst under the influence of heroin, he was clearly not so affected by the fact that to do so was contrary to the law and could incur significant penalties. Dr Mathe describes the deceased as a "chronic user of heroin". As such his decision –making capabilities would be adversely affected by his addiction. It is, in my view, highly unlikely that a possibility of discovery through random drug testing would cut through his craving to use heroin to the extent that it would act as deterrence during working hours. In any event, it is in the circumstances not reasonably practicable to expect such a system to be put in place within an organisation of the size and scope of Mumtaz Food Industries Limited. I am not able to point to any defect in the system of work operated by the company.