

[B12/14]

DETERMINATION
BY SHERIFF ANDREW BERRY

in

an Inquiry into the circumstances of the death of

Thomas Glenn Shearer

under the
Fatal Accidents and Sudden Deaths
Inquiry (Scotland) Act 1976

Wick, 27th May 2015.

The Sheriff, having heard evidence and having resumed consideration of the cause, finds and determines that in terms of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976:-

1. In terms of section 6(1)(a) of the Act as a result of an accident which occurred on Westray, Orkney on 24 June 2013 between 9.30am and 10am Thomas Glenn Shearer sustained injury and died as a consequence thereof at the Balfour Hospital, Kirkwall at 6.35am on 27 June 2013.
2. In terms of section 6(1)(b) of the Act the cause of death was:-

I (a) pulmonary thromboembolism, due to, or as a consequence of,
(b) left calf deep vein thrombosis due to, or as a consequence of,
(c) chest injury due to, or as a consequence of,
(d) fall from a quad bike.
3. In terms of section 6(1)(c) of the Act a reasonable precaution that could have been taken which may have avoided the accident would to have had regularly checked the quad bike's tyre pressures and ensured that they were at the correct level.
4. In terms of section 6(1)(d) of the Act a failure to fully maintain the quad bike and in particular to ensure that its tyre pressures were correct.

5. In terms of section 6(1)(e) of the Act there were no other facts which are relevant to the circumstances of the death.

Sheriff Andrew Berry

Note:-

[1] In this inquiry the crown were represented by Sue Foard, procurator fiscal. No other party was represented. Kerri Brown the daughter of Mr Shearer listened to the evidence.

[2] The evidence consisted of a number of affidavits, read out by the procurator fiscal, together with the evidence in person of PC Robert Christie and Ann Poyner, formerly of the Health and Safety Executive.

[3] The evidence by affidavit came from:-

a. Enid Valerie Heywood Shearer, the deceased's wife, who described him having left the house about 9.30am on 24th June 2013 to go out on his quad bike to check the animals on their farm on Westray, Orkney. When Mrs Shearer returned from taking their children to school she saw her husband who appeared to have come off the quad bike in a nearby field above the house. The bike was still running. Mrs Shearer immediately telephoned for assistance from her neighbours, Marie and Raymond Rendall;

b. Marie Jane Rendall and her son Raymond Mitchell Rendall who described attending at the farm between 9am and 10am. They were able to speak to Mr Shearer. He explained to Raymond Rendall having come off his quad bike and that the bike had come over and landed on him. They took Mr Shearer to the local surgery;

c. Doctor Nora Elizabeth Marjorie Rickets who described Mr Shearer, assisted by Mrs Rendall and her son, arriving at her surgery around 10am. Mr Shearer was later transferred by air ambulance to the Balfour Hospital in Kirkwall;

d. Kerri Marie Brown described visiting her father over several days after the accident when he confirmed that he had been going down a slope on his quad bike when it slipped. He had jumped off and landed "on his belly" and he thought that the bike had somersaulted and landed on top of him. He said the bike's engine had kept running;

e. Mark A Ashton, consultant pathologist, whose post-mortem report was also read, stating the cause of death as reflected above.

[4] From PC Robert Christie I heard that Mr Shearer was admitted to the Balfour Hospital in Kirkwall on the 24th June 2013 and was found to have a fractured left scapula and a fractured pelvis. While in hospital he was given a prophylactic dose of an anti-embolic drug and advised to mobilise as much as possible. At around 5.25am on 27 June 2013 Mr Shearer became unresponsive. Attempts at resuscitation were made but Mr Shearer was pronounced dead at 6.35am on the same date.

[5] From the witness Ann Poyner I heard that she had attended at Mr Shearer's farm on 10th July 2013 where she spoke with Mrs Shearer and her son. She examined the quad bike, photographed it and also the area where she was informed the accident had occurred.

[6] The results of her examination of the bike indicated that it was not as well maintained as it might have been but she did say that the tyres on the bike were in good condition and apparently quite new. She noted however that the brakes were not fully effective and that the tyre pressures were not in accordance with the manufacturer's recommendations and, more particularly, there were significant differences across the axles. Ms Poyner stated that the higher than recommended tyre pressure would affect the bike's ability to grip the surface as there would be less contact with it but also that the differences across the axles would affect its stability particularly while using it on a slope.

[7] Ms Poyner further advised that she had ascertained that the deceased did not apparently have access to a low pressure gauge. She stated that that these are often lost and in their place people tend to use gauges suitable for vehicles with a much higher tyre pressure requirement as a result of which readings for quad bikes were sometimes inaccurate.

[8] Additionally, not only were the recommended tyre pressures on the warning sign for this obscured on the bike, Ms Poyner ascertained that the deceased had not been provided with a manual for the quad bike when he purchased it. Such a manual would have provided extensive information about the maintenance and use of this particular quad bike.

[9] Ms Poyner also stated that accidents on quad bikes are not uncommon and she advised of the most common reasons for them. The Health and Safety Executive has published an information sheet on the safe use of quad bikes/all terrain vehicles which is available.

[10] The purpose of an inquiry such as this is to determine from the facts of the individual case those matters I have set out at the beginning of this determination. It is not to find fault. An inquiry is necessary in this instance as, at the time of the accident, Mr Shearer was engaged in the course of his self-employment.

[11] From the evidence it is clear that on 24th June 2013 Mr Shearer was attending to the welfare of livestock on his farm employing the use of a quad bike. Given that he survived initially I have the benefit of knowing what he said to a number of people as to what had occurred. It is further clear that on a slope the bike slipped and Mr Shearer jumped off, landing face down. Thereafter, the bike somersaulted and landed on him.

[12] These are the circumstances that led to the death of Mr Shearer.

[13] Following upon the accident Mr Shearer was attended to by his wife and neighbours without delay and all steps were taken to ensure that he received early medical assistance.

[14] It would appear that the quad bike had not been as well maintained as it might ideally have been and that, in particular, the appropriate tyre pressures were not in place on the vehicle. Additionally, there was not available the necessary tyre pressure gauge for a vehicle of this kind, in general, and of the particular model.

[15] I am very grateful to Ms Foard for her careful presentation of the evidence in this matter and her succinct submissions. The order in which the evidence was led mirrored the chronology of what occurred between 24th and 27th June 2013 which was particularly helpful.

[16] As is so often the case, tragedy can strike those engaged in farming and related activities. It can occur at a moment's notice as in this instance. The very essence of farming exposes hard working, experienced, decent, caring people to dangers that do not exist in the daily toil of most people in our communities. This includes the use of many and varied vehicles and other equipment as well as exposure to all manner of weather conditions and of course the ever changing combination of both.

[17] Mr Shearer was tending to his livestock as he would have done on countless occasions, utilising a vehicle that he would safely have used many times without incident. It is difficult to imagine the likelihood of the vehicle somersaulting and landing on him after he had jumped off. That however is what happened.

[18] I offer my sincere condolences to Mr Shearer's wife and children and to all others touched by this tragedy.