

SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE AT CUPAR

<i>INQUIRY HELD UNDER FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRY (SCOTLAND) ACT 1976 SECTION 1(1)(a) SECTION 1(1)(b)</i>	CERTIFIED COPY DETERMINATION by GEORGE J EVANS, Esquire, Advocate, Sheriff of the Sheriffdom of Tayside, Central and Fife following an Inquiry held at Cupar on Eighteenth January Two Thousand and Eight into the death of MALCOLM DOWDS (born 30 April 1958) of 24 Riverside Way, Leven, Fife
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CUPAR, 18 January 2008

The Sheriff, having considered all the evidence adduced,
DETERMINES:

- a) The death of Malcolm Dowds (born 30 April 1958) formerly residing at 24 Riverside Way, Leven, Fife occurred at about 2.08 am on Sunday 26 November 2006 as a result of a road traffic accident (involving only the deceased) which occurred sometime after 1.50 am that morning while the deceased was employed by A & J Taxi's, Bonnygate, Cupar, Fife. In the course of his employment as a taxi driver, when he was driving a licensed taxi cab, viz a red Skoda registration number SP05 TGX, his vehicle left the A914 Pitlessie to Cupar road approximately one mile of its junction with the Clushford Toll crossroads, veering across to the other side of the road in a clockwise spin and thereafter ploughing into a field causing it to spin over several times.
- b) (i) the cause of death was multiple injuries occurring as a result of blunt force trauma following a single vehicle impact. The left thigh bone was fractured and there were severe facial injuries. The skull was fractured and there was spinal injury. There were numerous fractured ribs, bruising to the lungs and lacerations to the heart resulting in extensive haemorrhage within the chest cavity.
(ii) the cause of the accident was probable inattention or tiredness that led to the deceased over-steering slightly to the left when rounding the bend at the locus as a

result of which the front nearside wheel collided with the kerbstones on the west side of the road of the A914 as the deceased drove towards Cupar. In consequence of that, the deceased most probably made a sudden steer to the right which then started the clockwise rotation causing the vehicle to cross the carriageway and eventually come to rest in the field upside down.

- c) The deceased was not wearing his seatbelt at the time of the accident and had clipped a spare seatbelt buckle into the seatbelt holder on the driver's seat so as to silence the seatbelt warning indicator. Had he worn his seatbelt, he might well have avoided fatal injuries. It would have been a reasonable precaution for him to have done so.
- d) There were no defects in the system of work which contributed to the deceased's accident and subsequent death.
- e) There are no other facts relevant to the circumstances of the death.

NOTE:-

The inquiry was conducted by the Depute Fiscal, Miss Ward and no other party was represented at it. It was clear from the evidence led by Miss Ward that the deceased had died from his injuries once his taxi veered across the road and crashed into a field, spinning clockwise and overturning several times in the process. He was thrown from the vehicle and died almost immediately of his injuries. The accident happened during the course of his shift as a taxi driver just after 1.50 am on that particular Sunday morning when he was alone in the taxi and travelling towards Cupar. The road surface, while damp, was not in a dangerous condition, the taxi was mechanically sound (apart from the nearside front wheel which was worn below the permitted limit but the evidence was that the state of this tyre did not contribute to the accident) and the deceased was not suffering from any serious physical condition, such as a heart problem, nor were there any traces of alcohol in his body, nor was he travelling at an excessive speed. I accept from the expert evidence of PC Roderick Benzie (vide his report No 6 of Process) that:-

“It is my opinion that human error in some form, either inattention caused by distraction or tiredness has caused the now deceased to over-steer slightly left

when rounding the bend and this has caused the front nearside wheel to collide with the kerbstones on the west side of the road. A sudden steer to the right, perhaps caused by the now deceased being aware of the mistake, has then started the clockwise rotation causing the vehicle to cross the carriageway and enter the field with the resultant consequences.”

What made matters worse for the deceased was that he had made a conscious decision not to use his seatbelt during the course of his shift. As PC Benzies found,

“A spare seatbelt buckle had been clipped into the seatbelt holder on the driver’s seat effectively silencing the seatbelt warning indicator. The driver’s seatbelt was hanging loose in the stowed position and had not been worn.”

While this witness could not say that wearing a belt would have prevented the death, his evidence was that it would have greatly increased the deceased’s chances of survival and would have meant that he could not have been thrown from the taxi. The front of the taxi remained reasonably intact and this would have protected the deceased had he been wearing his seatbelt. The general public are required to wear a seatbelt at all times, but not so a licensed taxi driver. As far as I am aware, the regulations obliging drivers to wear seatbelts do not apply to drivers of a licensed taxi. Under paragraph 6(g) of the *Motor Vehicles (Wearing of Seatbelts) Regulations 1993*, drivers of a licensed taxi are exempt from the requirement to wear a seatbelt. Such a requirement does not apply to:-

- “(g) the driver of –
 - (i) a licensed taxi while it is being used for seeking hire, or answering a call for hire, or carrying a passenger for hire ...”

There was no evidence at the inquiry to explain what the deceased was doing as far as taxi fares are concerned just before his accident. He had of course no passenger but he may well have been answering a call for hire and thus not required to wear a seatbelt. It may be that Fife Council already insist on taxi drivers wearing a seatbelt when driving

unaccompanied and that would certainly be a wise requirement, especially for taxi drivers driving in rural areas at night, who may have to go longer distances in the dark on more difficult side roads while on their own than their urban counterparts. Perhaps the exemption should be lifted during the hours of darkness in country areas. As there was no evidence about this at the inquiry, I cannot usefully comment further on this particular aspect.

George Evans, Esquire

Sheriff of Tayside, Central and Fife at Cupar

Certified a true copy by me

Sheriff Clerk