

IN THE CORONERS COURT
OF VICTORIA
AT WARRNAMBOOL

Court Reference: 958 / 2011

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, Jonathan Klestadt, Coroner having investigated the death of Angus William Wilson

without holding an inquest:

find that the identity of the deceased was Angus William Wilson

born on 8/9/1999

and the death occurred on 14/3/2011

at 718 Chatsworth-Bolac Rd, Woorndoo VIC 3272

from:

1 (a) Chest injury including chest compression

Pursuant to section 67(2) of the **Coroners Act 2008**, I make findings with respect to **the following circumstances:**

Angus Wilson was 11 years old when he met his death at his family's property on the 14th of March 2011. He was a slightly built youth and was both active and healthy at the time of his death, but for a fibreglass cast on his left arm which he had broken in a fall from a horse in early February.

In common with many children growing up in rural Victoria, Angus was familiar with motorised vehicles used for farm work and had been taught to ride both a motorcycle and a four wheeled quad bike by his father. In his statement to me Angus's father gives a comprehensive account of the emphasis that was placed on safety, and the manner in which Angus was progressively allowed to operate quad bikes with increasing levels of autonomy since he was about 8 years old.

On Monday the 14th of March 2011, Angus returned home at about 5.00pm and, after doing his chores, he asked if he could use the family's quad bike to take his dogs for a run. Permission having been given, he put on his motorcycle helmet and left the vicinity of the house at between 5.10 and 5.15. After a matter of minutes it became apparent that no sound of the quad bike was audible and Angus's father left the house to try and locate his son.

After an increasingly desperate search Angus's body was found approximately 1.5 kilometres from the house at about 6.00pm. He was lying under the quad bike which had flipped onto its side trapping his chest between its running board and the ground. He was unresponsive to stimuli, and his father and mother commenced and continued attempts to revive him until ambulance officers arrived at the scene. Despite all attempts he was unable to be resuscitated.

At autopsy it was noted that the deceased had superficial injuries to his face, neck, and upper chest with injuries to his lungs and airways suggesting direct compressive trauma to the chest. The pathologists who conducted the examination state:

“[T]he circumstances suggest that he was pinned under the bike and was unable to lift the heavy bike off his chest. This can result in a mechanical asphyxiation process as the heavy bike would obstruct normal chest expansion which is essential for proper respiration...”

The quad bike involved in this incident is a 2005 Suzuki “Kingquad” LT-A 700 four wheel drive quad bike which was road registered. The manufacturer's specifications suggest it is powered by a 697cc single cylinder, four-stroke engine producing “abundant low to mid range torque”. It has a dry weight of 273 kilograms and thus falls at the upper end of both the size and power range for this type of vehicle. The quad bike also has attached to it a number of warning and safety notices including the following placed conspicuously on the left side of the handlebars.

“Operating this ATV if you are under the age of 16 increases your chance of severe injury or death. **NEVER** operate this ATV if you are under the age of 16.”

An inspection of the vehicle by police after the incident found the vehicle to be in below average condition due principally to excessive wear in the suspension components and worn tyres with incorrect tyre pressures. However, there was no mechanical fault found which would have caused the incident.

The area where the deceased was found was essentially a flat, moderately well grassed grazing paddock. No natural features were present which provide an obvious cause for loss of control or stability, which might have caused the quad bike to overturn.

In his report to me dated 30th June 2011, Acting Sergeant Leigh Booth of the Victoria Police Mechanical Investigation Unit makes the following comment

“I believe the overall causal factor in this collision is most likely the age of the rider. A younger person would generally not have sufficient body weight to initiate a ‘rider active’ control of the vehicle. “

He goes on to expand on the concept of ‘rider active control’ as being the application of force through the movement of the body to counteract the tendency of a turning vehicle to lift its inner

side, thus stabilising the vehicle. In the circumstances of this case two factors persuade me that this view is correct.

The first is that while the cause of the vehicles overturning remains unclear it seems unlikely that it was travelling at any great speed when the incident happened. The fact the deceased's external injuries were superficial, and that he was trapped under the vehicle rather than being thrown clear supports this, as does the lack of any significant damage to the quad bike. Secondly it is undoubted that the deceased was of relatively small size which would have reduced his capacity to "muscle" the quad around if it was lacking in stability.

In an inquest conducted by coroner John Olle over a number of years the use and safety of Quad Bikes was exhaustively investigated. In his finding delivered on the 17th of April 2009¹ Coroner Olle made the following comments and recommendations which I endorse.

Untrained Operators are unsafe

The eight deceased persons, whose deaths have been investigated in this series of inquests, spanned the full spectrum of human existence.

Their life experiences, ages, personal skills and circumstances were disparate. However, they shared important characteristics. They were each, loved family members. They shared a link to the land. None of the deceased persons, in the case of the deceased children, none of their parents or guardians had completed a certified training program. The responsibility is borne by all stakeholders. All stakeholders hold responsibility to ensure that a comprehensive training package is created and made available to all operators. Associate Professor Fragar succinctly catalogued areas in which quad bike safety could be enhanced in a farm setting. In particular, I endorse her notation of the importance hazard elimination, choice of vehicle other than quad bike for weed spraying tasks, consideration of engineering/design solutions, attention to critical maintenance safety, rider training, safe operating practice and personal protective equipment.

Consumer Affairs

Consumer Affairs should investigate the safety of quad bikes being sold to persons who have not completed certified training.

Distributors

Distributors must not allow the sale of quad bikes to persons who have not received formal training. It is unsafe to operate a quad bike with having completed an authorised training course.

FarmSafe

Distributors identify training as the key plank in the quad bike ride safety system. Farmers are the largest single user of quad bikes. FarmSafe has a significant

¹ Coroners Case No.483/02; Peter Vaughn Crole.

role to assist the process of ensuring that its members, their families and staff undergo an authorised training program prior to operating a quad bike.

WorkSafe

Quad bikes must not be operated on work places, including farms, by riders who have not completed a certified training course. It behoves FarmSafe and WorkSafe to highlight work place OH&S responsibilities. WorkSafe must ensure that workplaces, in particular, farms, do not permit the operation of quad bikes by persons who have not completed a certified training program. The submission of the Victorian Workcover Authority in support of its application for leave to appear, referred to its concern as to public health and safety issues arising out of the use of quad bikes and specifically to the Equipment (Public Safety) Act 1994 (and Regulations). In particular 'prescribed equipment and its application to quad bikes.'

The submission addressed the authority's functions and powers under the Occupational Health & Safety Act 1985 (the OH&S Act). I endorse the submission that quad bikes on farms are machinery covered by the definition of plant in the OH&S Act and that farms are workplaces under the OH&S Act.

Further, I accept the submission of the authority that it has a statutory obligation in respect to the operation and use of ATVs (quad bikes) in Victoria.

Clearly, the statutory obligations apply to WorkSafe's Tasmanian counterpart.

SEND THE RIGHT MESSAGE

Despite its robust appearance, a quad bike requires skill to operate safely. Skill must be acquired through an accredited training course which addresses all aspects of quad bike operation. A quad bike is not a go-anywhere, all terrain vehicle. There are many and varied scenarios in which a quad bike is manifestly incapable of traversing.

If untrained, a rider will err. Due to the design of quad bikes, rider error will likely result in rollover. Horrific injuries and/or death have resulted from quad bike incidents.

Manual and Decal warnings are Mandatory. They are described as 'Prohibitions'

Distributors submitted the requirement to wear helmets was 'mandatory'. It submitted that carrying a passenger on a quad bike ignored a 'prohibition'. It follows that:

1. Riding a quad bike under load on terrain that was not level and flat was a Prohibition;
2. Riding a quad bike without proper instruction was prohibited.

Mr McDonald announced the appalling statistic that one solitary farmer had undertaken certified training. Mr McDonald was not questioned about the appropriateness of selling quad bikes to untrained, novice farmers, who intended to carry or tow spray equipment on their hilly farms.

There is no doubt he would have loudly denounced the proposed undertaking.

ROLLOVERS OCCUR WHEN RIDDEN SAFELY

*Rollovers occur when ridden by safety conscious operators who are **not** being stupid. The most alarming lesson from these inquests, is that careful, safety conscious individuals lost their lives whilst performing innocuous farming tasks on familiar terrain.*

It cannot be assumed that all purchasers of quad bikes will read manuals. It is imperative that prospective purchasers are informed with crystal clarity that quad bike incidents resulting in death or serious injury are not uncommon. Further, that significant skill is required to ride the machine safely and that the completion of a certified training course is the minimum requirement.

Purchasers must be informed at the point of sale that there is an appreciable risk of rollover if a quad bike is ridden on hills. These inquests have highlighted the inappropriateness of carrying or towing load on terrain which is not level and flat.

Baseline quad bikes:

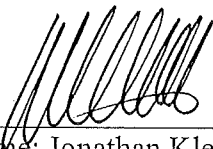
- 1. do not have ROPS;*
- 2. are prone to rollover;*
- 3. require significant skill and knowledge to operate;*
- 4. are widely used and increasingly popular;*
- 5. are unable to negotiate a wide range of terrain;*
- 6. are dangerous if ridden by operators who have not completed a certified training program;*
- 7. must not carry or tow load on terrain that is not level and flat;*
- 8. are particularly dangerous if ridden by beginners who have not completed a certified training course;*
- 9. are unsuitable for many farming applications.*

The tragic death of Angus Wilson should not be regarded as an isolated incident or just bad luck. Experience shows that unless steps are taken to ensure that safe practices are followed when using quad bikes more deaths will follow.

*Pursuant to rule 64(3) of the Coroners Court Rules 2009, I order that the following be published on the internet:

*I direct that a copy of this finding be provided to the following:

Signature:



Coroner's name: Jonathan Klestadt
Date: 8/12/2011

