



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2022 002595

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	AUDREY JAMIESON, Coroner
Deceased:	Gaurav Malhotra
Date of birth:	17 April 1987
Date of death:	14 May 2022
Cause of death:	1(a) Injuries sustained in a train overrun
Place of death:	Mason Street, Northcote, Victoria, 3070

INTRODUCTION

1. On 14 May 2022, Gaurav Malhotra was 35 years old when he died after being struck by a train. At the time of his death, Gaurav lived in Northcote with his wife, Amrita.
2. Gaurav moved from India to Australia in 2005 to study accounting at Deakin University. He became an Australian citizen in 2013.
3. In 2015 he met Amrita and they began dating. They later married in 2021.
4. At the time of his death, Gaurav worked as a business analyst for a consulting firm. He enjoyed playing cricket in his spare time and had played for over 14 years with the Deakin Cricket Club.
5. According to Amrita, Gaurav had experienced depression before they had met, but not in recent times. He had never expressed any suicidality.

THE CORONIAL INVESTIGATION

6. Gaurav's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
7. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
8. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.
9. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Gaurav's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.

10. This finding draws on the totality of the coronial investigation into the death of Gaurav Malhotra including evidence contained in the coronial brief. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.¹

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

11. On 13 May 2022, Gaurav and Amrita met some friends in the city for a going away party. They had drinks at the Garden State Hotel before moving to the Carlton Club.
12. By midnight Gaurav was heavily intoxicated and stumbling. Amrita called an Uber to take them home, and Gaurav slept in the car during the trip.
13. Amrita immediately went inside once they arrived at home to use the bathroom. Gaurav's parents who were visiting from India asked where he was, as he had not come inside. They searched the house and around the local area while attempting to call and message him. Having been unable to locate him, they returned home at around 2:30am.
14. At 1:04am on 14 May 2022, train driver Laila was leaving Westgarth Station travelling outbound. After rounding the curve toward Dennis Station, she noticed what appeared to be orange, reflective material on the train tracks. Believing it to be material, she did not apply the emergency brakes. She did not feel any collision impact and the train's collision detection function did not activate; she continued the journey.
15. At around 1:32am on 14 May 2022, train driver Kerry was leaving Westgarth Station travelling outbound. As she rounded the curve toward Dennis Station, she noticed what appeared to be a human body laying between the track rails. She stopped the train, contacted the Controller and left the carriage to check, confirming it was a person, later identified to be Gaurav, and that he was deceased.

¹ Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

16. Police inspected several trains stopped along the Hurstbridge Line for signs of having struck a person. It was determined that the train leaving Westgarth at 1:04am had struck Gaurav.
17. Tests of the pedestrian crossing, automated gates and associated equipment at Westgarth Station show that they were operational. Signage was in place, visible and in good condition, and the pedestrian crossing had good lighting and a visible path.
18. It is unknown how Gaurav came to be on the railway tracks. The section of track in the vicinity of Mason Street and South Crescent near where he was struck does not have anti-trespasser fencing.

Identity of the deceased

19. On 18 May 2022, Forensic Odontologist Dr Jeremy Graham conducted a post mortem dental examination of the deceased and positively compared this to the ante mortem dental records of Gaurav Malhotra.
20. On 19 May 2022, Coroner Jacqui Hawkins considered the available evidence and determined that the cogency and consistency of all evidence relevant to identification of the deceased supported a finding that the deceased was Gaurav Malhotra, born 17 April 1987. Accordingly, she signed a Determination by Coroner of Identity of Deceased (Form 8).

Medical cause of death

21. Forensic Pathologist Dr Victoria Francis from the Victorian Institute of Forensic Medicine (VIFM) conducted an external examination of the body of Gaurav Malhotra on 16 May 2022. Dr Francis considered the Victoria Police Report of Death (Form 83) and post mortem computed tomography (CT) scan and provided a written report of her findings dated 6 June 2022.
22. The external examination and CT scan showed significant head, upper limb, lower limb and chest injuries.
23. Toxicological analysis of post mortem blood samples identified the presence of ethanol (0.27 g/100mL), and cocaine (~ 0.01 mg/L) and its metabolites benzoylecgonine (~ 0.03 mg/L) and ecgonine methyl ester (~ 0.02 mg/L).
24. Dr Francis provided an opinion that the medical cause of death was 1 (a) INJURIES SUSTAINED IN A TRAIN OVERRUN.

RECOMMENDATIONS

Pursuant to section 72(2) of the *Coroners Act 2008*, I make the following recommendation connected with the death:

1. With the aim of preventing like deaths and promoting public health and safety, I recommend that the Department of Transport and Planning and Metro Trains Melbourne consider installing anti-trespasser fencing along the railway line at South Crescent in Northcote.

FINDINGS AND CONCLUSION

1. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a) the identity of the deceased was Gaurav Malhotra, born 17 April 1987;
 - b) the death occurred on 14 May 2022 at Mason Street, Northcote, Victoria, 3070;
 - c) I accept and adopt the medical cause of death ascribed by Dr Victoria Francis and I find that Gaurav Malhotra died from injuries sustained by being overrun by a train;
2. AND, having considered the available evidence, I find that Gaurav Malhotra's death was due to misadventure while under the influence of alcohol and cocaine.

Pursuant to section 73(1A) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

I convey my sincere condolences to Gaurav's family for their loss.

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

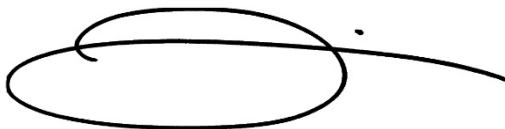
Amrita Simadri, Senior Next of Kin

Department of Transport and Planning

Metro Trains Melbourne

Senior Constable Mahesh Dalvi Coroner's Investigator

Signature:



AUDREY JAMIESON

CORONER

Date: 24 October 2024.



NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.
