



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2023 007105

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Coroner Simon McGregor
Deceased:	Shanjing Xing
Date of birth:	6 January 1975
Date of death:	22 December 2023
Cause of death:	1a: Cervical spine injury sustained in a motor vehicle incident
Place of death:	Robinvale-Sea Lake Road & Chinkapook-Nyah W Road, Chinkapook Victoria 3546
Keywords:	Motor vehicle accident

INTRODUCTION

1. On 22 December 2023, Shanjing Xing was 48 years old when she died in a motor vehicle accident. At the time of her death, Shanjing lived at 13 Buckingham Street, Amaroo, Australian Capital Territory with her boyfriend, Kai Lun Chok.
2. Shanjing was born and raised in China but moved to Australia with her husband in 2014. The couple settled in Canberra but subsequently separated. While in Canberra, Shanjing worked hard to improve her English, and also worked various other jobs in restaurants, food delivery and Uber driving to make ends meet.¹
3. In 2018, Shanjing met Kai, and they moved in together in 2019.²
4. Aside from minor back pain and some recent treatment for endometriosis, Shanjing was in good health.³

THE CORONIAL INVESTIGATION

5. Shanjing'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.
6. 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.
7. 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.
8. Victoria Police assigned an officer to be the Coronial Investigator for the investigation of Shanjing's death. The Coronial Investigator conducted inquiries on my behalf, including

¹ Statement of Terri Mo, Coronial Brief.

² Statement of Lee Hieok Ng, Coronial Brief.

³ Statement of Terri Mo, Coronial Brief..

taking statements from witnesses – such the eyewitness, friends, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.

9. This finding draws on the totality of the coronial investigation into the death of Shanjing Xing 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.⁴
10. In considering the issues associated with this finding, I have been mindful of Shanjing’s human rights to dignity and wellbeing, as espoused in the *Charter of Human Rights and Responsibilities Act 2006*, in particular sections 8, 9 and 10.

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

Circumstances in which the death occurred

11. On 22 December 2023, Shanjing and Kai departed by car from their residence in Canberra for a 7 to 10-day holiday in Adelaide, with a plan to possibly then travel further north.⁵ Their exact time of departure and subsequent route are unknown. Kai did not have an Australian driver’s licence. The pair were travelling in Shanjing’s white 2019 Mercedes GLE300D sedan.⁶
12. At approximately 5:25 pm, Kai was driving, with Shanjing in the front passenger seat, as they travelled west along the Chinkapook-Nyah West Road, just past Chinkapook in north-western Victoria.
13. At the same time, Mr Trevor Neilson was driving a Kenworth Prime Mover truck, towing a single trailer fully loaded with carrots, south towards Melbourne along the Robinvale-Sea Lake Road, travelling at the marked speed limit of 100 km/h.⁷

⁴ 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.

⁵ Statement of Terri Mo, Coronial Brief.

⁶ Statement of Terri Mo, Coronial Brief.

⁷ Statement of Trevor Neilson, Coronial Brief. Mr Neilson’s vehicle was speed limited to 100 km/h.

14. For an unknown reason, Kai failed to give way at the Robinvale-Sea Lake Rd intersection and collided with Mr Neilson's truck in the middle of the intersection, causing major damage to both vehicles and the semi-trailer to tip onto its passenger side.⁸
15. As Mr Neilson approached the intersection, he observed the white Mercedes 'maybe a couple hundred metres back from the intersection' and assumed that the driver had seen him. He observed that the Mercedes was also travelling at approximately 100 km/h. Mr Nielson's attention was then necessarily focused on navigating his own truck around the bend in Robinvale Road, which curves away from the intersection at this point.⁹
16. The intersection of the two roads is controlled by a give way sign on the Chinkapook-Nyah West Road side, giving priority to the busier Robinvale-Sea Lake Road, designated as Route C251 but commonly referred to as the Mallee Highway.¹⁰ Although nothing turns on the precise dimensions, at this point, the highway is a dual lane bitumen surface with wide bitumen shoulders.¹¹
17. Unfortunately, the white Mercedes did not slow down or give way to the priority route, and was struck in the middle of the driver's side of the car with great force by the oncoming southbound truck in the middle of route C251.¹² There were no other witnesses, but Mr Neilson, who cooperated with police investigations, said 'I didn't have time to do anything'.¹³
18. In the aftermath investigation, there were found to be no skid marks from either vehicle prior to the collision point that would indicate braking in the lead-up to the collision.¹⁴
19. The force of the impact caused the truck to roll up and over the Mercedes, before tipping onto its passenger side and sliding down the road and gravel shoulder, losing its steer axle in the process, before coming to rest across both lanes. The damage to the Mercedes was even more extensive, leaving my investigators with a difficult task to initially ascertain the orientation of the vehicle.¹⁵

⁸ Statement of Trevor Neilson, Coronial Brief.

⁹ Statement of Trevor Neilson, Coronial Brief.

¹⁰ Statement of SC Toby Gilmour, Coronial Brief.

¹¹ Exhibit 1 – Scene photographs, Coronial Brief.

¹² Statement of Trevor Neilson, Coronial Brief.

¹³ Statement of Trevor Neilson, Coronial Brief.

¹⁴ Summary of SC Toby Gilmour, Coronial Brief.

¹⁵ Statement of SC Toby Gilmour, Coronial Brief.

20. Passers-by pulled over and the drivers immediately offered assistance,¹⁶ but it is likely that Shanjing and Kai died immediately in the catastrophic impact.¹⁷
21. Mr Neilson suffered minor injuries and subsequently tested negative for the presence of any alcohol or drugs.¹⁸ This was a regular delivery run for him, so he had travelled the route many times and was not fatigued. The collision occurred one hour into his driving shift and he had enjoyed his typical amount of sleep the night before.¹⁹
22. At the time of incident, the weather was fine, with clear skies, a light wind, and a temperature of approximately 32 degrees.²⁰
23. Subsequent review of the relevant road surfaces and signage revealed that they were compliant with domestic standards, and no other apparent cause for the collision was identified other than a momentary lapse of concentration by Kai. Sun glare was unlikely at this time of day and time of year, as the sun was high in the sky, but possible.
24. Without going so far as to be satisfied that the presence of ‘rumble strips’ on either side of the intersection with Route C251 would have prevented this collision, in my view, such an addition is a worthy prevention initiative, given the proximity of the Chinkapook township to the busy Mallee Highway route.

Identity of the deceased

25. On 3 January 2024, Shanjing Xing, born 6 January 1975, was identified via DNA comparison. Identity is not in dispute and requires no further investigation.

Medical cause of death

26. Forensic Pathologist Dr Yeliena Baber from the Victorian Institute of Forensic Medicine conducted an external examination on 26 December 2024 and provided a written report of her findings dated 5 March 2024.

¹⁶ Statement of Trevor Neilson, Coronial Brief.

¹⁷ Statements of Mark Burns & Peter Carnegie, Coronial Brief.

¹⁸ Exhibit 4 – Toxicology certificate of approved analyst re Trevor Neilson; Statement of Michael Neuschafer, Coronial Brief.

¹⁹ Statement of Trevor Neilson, Coronial Brief.

²⁰ Statement of SC Toby Gilmour, Coronial Brief.

27. Examination of a postmortem CT scan showed dislocation of cervical (neck) vertebrae 2 and 3, significant bleeding, multiple jaw fractures, multiple pubic ramus fractures, an 'open book' fracture of the pelvis, as well as posterior rib fractures on both sides of her body.
28. The physical examination revealed no other independent cause of death
29. Toxicological analysis of post-mortem samples showed a therapeutic dose of a cough medicine called pholcodine, and did not identify the presence of alcohol or any other common drugs or poisons.
30. Dr Baber provided an opinion that the medical cause of death was 1(a) cervical spine injury sustained in a motor vehicle incident.
31. I accept Dr Baber's opinion.

FINDINGS AND CONCLUSION

32. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a) the identity of the deceased was Shanjing Xing, born 6 January 1975;
 - b) the death occurred on 22 December 2023 at Robinvale-Sea Lake Road & Chinkapook-Nyah W Road, Chinkapook, Victoria 3546, from 1(a) cervical spine injury sustained in a motor vehicle incident.
 - c) the death occurred in the circumstances described above.
33. Having considered all of the evidence, I am satisfied that:
 - a) Mr Neilson did not have an opportunity to avoid the collision; and
 - b) the collision that caused Shanjing's death was the tragic result of Kai's failure to give way to oncoming traffic as he entered the intersection.

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

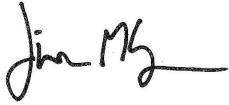
Pursuant to section 73(1A) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

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

Quing Mei Li and Wen Sheng Xing, Senior Next of Kin

Sergeant Tobias Gilmour, Coronial Investigator

Signature:



Coroner Simon McGregor

Date: 22 January 2025

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.
