

FORM 38

Rule 60(2)

FINDING INTO DEATH WITHOUT INQUEST

Section 67 of the Coroners Act 2008

In the Coroners Court of Victoria at Warrnambool

I, Jonathan Klestadt, Coroner having investigated the death of:

Details of deceased:

Surname: Gabbe
First name: Christopher
*Address: 13 Whittens Lane, Winslow VIC

without holding an inquest:

find that the identity of the deceased was Christopher Martin Gabbe
and the death occurred on or about 7/1/2010
at Commercial Rd, Koroit
from Injuries sustained in a motor-cycle collision (rider)

***Pursuant to Section 67(2) of the Coroners Act 2008, an inquest into the death was not held and the deceased was not immediately before the person died, a person placed in custody or care; but there is a public interest to be served in making findings regarding the following circumstances:**

On the afternoon of Thursday the 7th of January 2010 Raymond Leo Irving was riding his "Ibosa" brand pedal assisted electric bike east in Commercial Road Koroit. The area is a 60 kilometre per hour zone, but changes to 80 kilometres per hour approximately 75 metres to the east of McVicar street.

He was wearing protective clothing including a fluorescent jacket and vest and an approved bicycle helmet. As was apparently his practice he was riding around the streets of Koroit without any particular destination or plan.

The Ibosa is a lightweight scooter style of cycle, with a battery powered motor in the hub of the rear wheel which can be supplemented by pedal power if necessary. It has a steel frame with plastic or fibreglass bodywork giving minor protection from the weather, and enclosing the battery and electrical components under the seat. Advertising of the brand suggests it had a maximum speed of 30kilomtres per hour.

No drivers license is required to operate it on public roads, and no more protective clothing is mandated other than an approved bicycle helmet. Mr.Irving had fitted his scooter with a fluorescent pennant on a fibreglass rod to enhance its visibility.

Mr.Irving had left his home in Anzac Avenue, Koroit at about 3.00pm and had ridden through various streets until he entered Commercial Road and travelled in an easterly direction, passing the Murray Goulburn butter factory on the eastern outskirts of Koroit at about 22 minutes past 3. This can be ascertained by reference to CCTV footage of the area in the vicinity of the gates to the factory.

Very shortly after Mr.Irving had passed the gates of the butter factory a motorcycle ridden by Mr.Chrisopher Gabbe, an employee of Murray Goulburn, passed through the gates of the factory and turned to the right to travel east in Commercial Road towards his home in Winslow. Mr.Gabbe's bike was a Yamaha YZF R1, a 1000 cc sports bike weighing approximately 200 kilograms and with a full fairing. The Motorcycle was fitted with an "aftermarket" exhaust/muffler system, which would have presumably been louder than the stock item. Mr.Gabbe was wearing full protective riding gear including boots, gloves and a full face helmet.

A witness opposite the gates of the butter factory noticed the motorcycle ridden by Mr.Gabbe leave the factory and states that it did not accelerate heavily or make any untoward noise. He paid it no further attention until he heard the collision.

Another witness who was in her car in the Koroit business area some seven hundred metres to the west of the butter factory observed Mr.Irving's bike travelling east approaching McVicar Street, travelling towards the centre of the roadway. She then saw Mr. Gabbe leave the factory and travel up behind Mr. Irving. She then says that she heard Mr.Gabbe's bike "drop his gears... and rapidly accelerate", which contradicts the evidence of the closer witness.

Whatever the speed of Mr.Gabbe's motorcycle it is clear that it closed quickly on the cycle ridden by Mr. Irving as they both approached McVicar Street. The witness observing the scene from central Koroit then observed Mr.Gabbe's bike begin to move to the right, apparently to overtake Mr.Irving when, without indication or other warning, Mr.Irving veered to his right apparently to turn into McVicar Street. The witness states- "At this point it was too late for the motorbike rider to take any form of evasive action or brake, he just had nowhere to go and crashed into the rear of the moped rider."

An examination of the scene by police has established the point of impact between the two machines to have been just to the left of the centre of Commercial road, and a very short distance before the intersection with McVicar Street. Damage to the machines suggest that the front forks of the Yamaha ridden by Mr.Gabbe struck the rear of Mr.Irving's bike, slightly to its right side, propelling it 17.5 metres to south east of the point of impact. The body of Mr. Irving was found a further 17.5 metres to the east of his machine on the south side of the road. When witnesses attended a matter of moments after the collision he had already succumbed to his injuries.

After impact Mr.Gabbe's machine travelled approximately 55 metres before coming to rest on the northern side of Commercial road. Damage to the bike suggests that it either cart-wheeled or rolled several times. Mr.Gabbe came to rest 52.8 metres from the point of impact and died from his injuries shortly after witnesses attended and attempted to assist him. Although his helmet had stayed in place he suffered severe head injuries which suggest a very hard impact between the helmet and the road surface after the collision.

In all the circumstances I am satisfied that the collision was caused by Mr.Irving commencing his right turn into McVicar Street without signalling his intention to do so, thereby denying Mr.Gabbe the opportunity to avoid his cycle. I am not satisfied that Mr.Gabbe was travelling at an excessive speed in the circumstances.

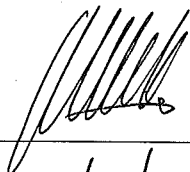
After the impact the bicycle helmet worn by Mr.Irving was found some distance from his body and was severely damaged. It is clear that it was not adequately secured. Ironically Mr.Gabbe sustained the more serious head injuries, despite wearing a "proper" motorcycle helmet, which remained in situ throughout the collision and subsequent impacts.

***RECOMMENDATIONS:**

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

The increasing availability and use of electric cycles of the "scooter" type and the lack of licensing or other regulations may deceive some users as to the real dangers of riding them on the road. It is recommended that VicRoads and the Department of Transport conduct an analysis of injuries sustained by people using non-registrable electric or pedal-assisted electric cycles and scooters in order to establish an evidence based case for reviewing the laws with respect to the licensing and safety requirements associated with their use.

Signature:



Date:

21/10/2018

**Delete if inapplicable*