



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2014 6329

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

| | |
|-----------------|--|
| Findings of: | JUDGE SARA HINCHEY, STATE CORONER |
| Deceased: | SUNIL BENIWAL |
| Date of birth: | 2 March 1978 |
| Date of death: | 14 December 2014 |
| Cause of death: | Multiple injuries |
| Place of death: | Hopkins Road, Truganina |

TABLE OF CONTENTS

| | |
|--|-----------|
| Background | 1 |
| The purpose of a coronial investigation | 9 |
| Matters in relation to which a finding must, if possible, be made | |
| - Identity of the deceased pursuant to section 67(1)(a) of the <i>Coroners Act 2008</i> | 10 |
| - Medical cause of death pursuant to section 67(1)(b) of the <i>Coroners Act 2008</i> | 11 |
| - Circumstances in which the death occurred pursuant to section 67(1)(c) of the <i>Coroners Act 2008</i> | 11 |
| Comments | 15 |
| Findings and conclusions | 16 |

HER HONOUR:

BACKGROUND

- 1 Sunil Beniwal (**Mr Beniwal**), was born in India on 2 March 1978. Mr Beniwal completed an undergraduate degree in Delhi before travelling to New Zealand for further study. He subsequently obtained New Zealand citizenship and moved to Australia in 2007, where his older brother was already a resident.¹
- 2 Deepshikha Godara (**Ms Godara**), was born in India on 4 June 1982. She completed undergraduate studies in physiotherapy and found employment in her field in Delhi.²
- 3 Mr Beniwal and Ms Godara married in New Delhi, India in May 2007. The marriage was arranged between their two families. Mr Beniwal was a resident and working in Australia at the time and Ms Godara joined him in August 2007, after her visa was approved.³ Both Mr Beniwal and Ms Godara found employment in Australia in their chosen professional fields of Information Technology and physiotherapy respectively.⁴
- 4 On 23 March 2011, Josh Beniwal was born and was the only child of Mr Beniwal and Ms Godara.
- 5 Commencing soon after their arrival in Australia, the evidence reveals a history of family violence within the marriage.⁵ Statements provided by Ms Godara's father and sister allege that in the first year of the marriage Ms Godara contacted them in India and disclosed that she was being "*tortured and harassed both mentally and physically by Sunil.*"⁶ According to Ms Godara's family, the initial discord within the marriage was the result of Mr Beniwal's family's demands for additional dowry. They also report that Mr Beniwal's infidelity and drinking subsequently caused ongoing conflict between the couple.

1 Coronial Brief, p.41.

2 Coronial Brief, p.20.

3 Ms Godara originally travelled to Australia as a dependent on Mr Beniwal's visa. Immigration records indicate that her most recent visa prior to her death was granted on 20 May 2014. The visa was a permanent skilled visa, and Ms Godara was listed as a dependent, with Mr Beniwal as the main applicant.

4 Coronial Brief, p.42.

5 Coronial Brief, p.20 – 21 and p.58.

6 Coronial Brief, p.20.

6 Ms Godara also contacted her father and sister in India and disclosed that Mr Beniwal was physically violent towards her.⁷ In June 2008, Ms Godara's father visited her in Australia. As a result of concerns for his daughter's welfare, he accompanied her to see a community lawyer where Ms Godara alleged that she had been subjected to abuse by Mr Beniwal. The lawyer provided Ms Godara with advice, both orally and in writing, about how to seek protection from Mr Beniwal and encouraged her to report the matter to police.⁸ In the same month, June 2008, Ms Godara made a statement to Victoria Police stating, *inter alia*:

When I moved to Australia everything was fine until January 2008 when his relatives visited from India. His relatives 10 to 12 of them came out for two months and stayed at our place. One night in January 2008 Sunil's uncle got drunk and verbally abused me and my family for not paying enough 'dowry' which is Indian currency after my marriage to Sunil. That night Sunil slapped me twice across the face because he was drunk and over the same issue about the "dowry". I wasn't injured from the slaps. In March 2008, the family left and Sunil has been bitter since they left about not enough 'dowry' being paid.⁹

7 While there were several periods of separation between Ms Godara and Mr Beniwal, Ms Godara returned to the marriage as she was very concerned about the implications for her family's reputation and honour if the marriage were to fail.¹⁰

8 Victoria Police records reveal a history of conflict and alleged incidents of physical assault within the marriage, with Ms Godara reporting that Mr Beniwal had on different occasions slapped her on the face, kicked her in the stomach, thrown empty glass beer bottles at her, and burnt her arm with hot tongs. Victoria Police records reveal that police officers attended five family violence incidents involving Ms Godara and Mr Beniwal between 7 July 2008 and 30 June 2012. They were:

(a) On 7 July 2008, after an alleged assault by Mr Beniwal and his cousin, Ms Godara fled the house and contacted a lawyer from a nearby 7/11 store. The lawyer contacted Victoria Police and Ms Godara was taken to the Prahran Police Station where she provided a statement in which she detailed four previous assaults by Mr Beniwal. Ms Godara alleged that on 7 July 2008, she returned from work and an argument ensued with Mr Beniwal during which he slapped and punched her to the face causing her nose to bleed and swell. Ms Godara also alleged that Mr Beniwal's cousin became involved on this occasion by

7 Coronial Brief, p.20 – 21 and p.24 – 26.

8 Coronial Brief, p.21.

9 Brief of evidence relating to charges against Mr Beniwal arising from reported assaults on Ms Godara in 2008.

10 Coronial Brief, p.25 – 26.

pushing her, pulling her hair and kicking her.¹¹ Ms Godara also alleged that the day before (6 July 2008) Mr Beniwal grabbed her arm, held it down and touched her forearm with the hot tongs he had been using to cook dinner, resulting in three burn marks to Ms Godara's forearm. Ms Godara also alleged that Mr Beniwal slapped her across the face, for the first time in January 2008 and then hit her again in June 2008. Victoria Police applied for an intervention order against Mr Beniwal by way of a complaint and warrant. A warrant was issued by an after-hours Registrar. Mr Beniwal and his cousin were arrested and interviewed in relation to the alleged assaults on Ms Godara in the early hours of the morning on 8 July 2008. They both denied all allegations.¹² Mr Beniwal was charged and bailed to appear at the Melbourne Magistrates' Court on 14 July 2008, the same day for the hearing of the intervention order application. His cousin was summonsed to appear on the same date.¹³ Mr Beniwal's bail conditions prohibited him from contacting, approaching, assaulting or harassing Ms Godara. On 14 July 2008, an interim intervention order was issued in the Melbourne Magistrates' Court.¹⁴ On 19 August 2008, a final order was issued which prohibited Mr Beniwal from assaulting, harassing, threatening or intimidating Ms Godara and from damaging or threatening to damage her property. However, it did not contain any clauses prohibiting contact between Mr Beniwal and Ms Godara.¹⁵ On 30 August 2008, Ms Godara made a further statement to police, in which she stated that she was sorting things out with her husband, that they were living together again, that she was proud of the Australian police officers for their efficient and caring actions, that she did not want them to taken any further action in relation to the reported incidents and that she had made the statement of her own free will.¹⁶ Despite Ms Godara's further statement, police officers proceeded with charges of intentionally causing injury, recklessly causing injury and unlawful assault against Mr Beniwal.

- (b) On 14 February 2009, at Ms Godara's request, police officers attended a verbal argument at the couple's home between Ms Godara and Mr Beniwal. Ms Godara told police officers that they were in the process of separating/divorcing and that Ms Godara had decided that it was time for Mr Beniwal to leave the house. With police present, Mr Beniwal packed his belongings and left.¹⁷ At this time the criminal charges against Mr Beniwal had not

11 Coronial Brief, p.299 – 301.

12 Brief of evidence relating to charges against Mr Beniwal arising from reported assaults on Ms Godara in 2008.

13 Brief of evidence relating to charges against Mr Beniwal arising from reported assaults on Ms Godara in 2008.

14 Coronial Brief, p.311 – 312.

15 Coronial Brief, p.313 – 314.

16 Brief of evidence relating to charges against Mr Beniwal arising from reported assaults on Ms Godara in 2008.

17 Coronial Brief, p.295 – 297.

been determined. While the attending police officers were aware that there was an intervention order in place prohibiting Mr Beniwal from assaulting, harassing, intimidating or threatening Ms Godara, they did not consider there was any evidence that constituted a breach of that order. On 17 February 2009, a police officer made a follow up call to Ms Godara during which Ms Godara advised that her husband had moved back in and that everything was good in the relationship. The police officer spoke to Ms Godara again about referrals to relevant agencies and reminded her that the intervention order was in place to protect her. Ms Godara was reported to be “*not interested*”¹⁸ and confirmed that there had been no breaches of the intervention order.¹⁹

- (c) In May 2009, Ms Godara wrote to Victoria Police and requested that no further action be taken in relation to charges against Mr Beniwal. Ms Godara provided evidence that she intended to be in India at the time of the contested mention hearing. She stated that she and her husband were now happily living together, that she was making the request of her own free will, that her memory of the events was vague, and that she was herself quite disturbed and stressed out at the time of the incident.²⁰ A case conference was organised and attended by Mr Beniwal, Mr Beniwal’s cousin, Ms Godara, the Victoria Police informant and a Victoria Police Family Violence officer. During the case conference a number of matters were discussed including the seriousness of the charges, the fact that the relationship between Mr Beniwal and Ms Godara had reconciled and that counselling was available. This conference also addressed Ms Godara and Mr Beniwal’s cultural (Indian) background and the Victoria Police representatives explained Victoria’s violence law and policies.²¹ On 13 August 2009, the charges against Mr Beniwal and his cousin were withdrawn.
- (d) In the early hours of 19 August 2009, at Ms Godara’s request, police officers attended a family violence incident at the couple’s home. Ms Godara reported that they had been arguing about Mr Beniwal spending time with certain members of his family that she did not like. Ms Godara alleged that the argument escalated and Mr Beniwal slapped her on the face and kicked her in the stomach while she lay on the couch. Mr Beniwal denied the allegation.²² By the time police officers had arrived Mr Beniwal had made alternative accommodation arrangements for the evening. As the previous intervention order had

18 Coronial Brief, p. 177.

19 Coronial Brief, p.176 – 177 and p.296 – 297.

20 Brief of evidence relating to charges against Mr Beniwal arising from reported assaults on Ms Godara in 2008.

21 Brief of evidence relating to charges against Mr Beniwal arising from reported assaults on Ms Godara in 2008.

22 Coronial Brief, p.291 – 293.

expired at midnight on 18 August 2009, a Family Violence Safety Notice was issued to Mr Beniwal, with an intervention order hearing listed for the following day at the Melbourne Magistrates' Court. Formal referrals to community organisations were made for both Mr Beniwal and Ms Godara. At the time, Ms Godara would not make a statement to the attending police officers.²³ A 12 month, Family Violence Intervention order was made against Mr Beniwal the following day which prohibited him, amongst other things, from approaching, telephoning, contacting, following Ms Godara or from being within a designated distance of the home that they had previously shared.²⁴ When police officers spoke with Ms Godara and Mr Beniwal following the order being made, they both advised that they had had no contact since the incident.²⁵ Three weeks later, on 9 September 2009, by consent, an order was made in the Melbourne Magistrates' Court varying the intervention order that was in place so that, while Mr Beniwal was still prohibited from committing family violence towards Ms Godara, communication and contact between the couple was permitted.²⁶ Victoria Police continued to follow up with Ms Godara about the reported assault which occurred on that date for the purpose of charging Mr Beniwal. Ms Godara advised that she was living at a new address at that time and that she had no further contact with Mr Beniwal. She made a statement of no complaint. The matter was assessed as requiring no further risk management.²⁷

- (e) Victoria Police has no records of family violence involvement with Ms Godara and Mr Beniwal for the remainder of 2009, 2010 and 2011.

- (f) On 12 June 2012 at 5.16 pm, police officers responded to a report of a family violence incident at Ms Godara and Mr Beniwal's home. Ms Godara reported that in the course of an argument earlier that day Mr Beniwal had slapped her on the face. By the time police officers arrived, Mr Beniwal had made alternative accommodation arrangements. Given that Mr Beniwal left the address while police were in attendance, it was determined that there were no immediate concerns for Ms Godara or her son's safety. However, for the purposes of ensuring her on going safety, the police officers applied, by way of complaint and summons, for a family violence intervention order. The matter was listed for 9 July 2012.²⁸

23 Coronial Brief, p.173 – 175 and p.291 – 293.

24 Coronial Brief, p.305 – 307.

25 Coronial Brief, p.292 – 293.

26 Coronial Brief, p.308 – 309.

27 Coronial Brief, p.292 – 293.

28 Coronial Brief, p.171 – 172 and p.288 – 289.

(g) On 30 June 2012, at Ms Godara's request, police officers attended a further report of family violence involving Ms Godara and Mr Beniwal. Ms Godara reported that they were involved in an argument because she believed Mr Beniwal was seeing other women. It was alleged that during the argument, an alcohol affected Mr Beniwal threw empty glass beer bottles at Ms Godara which smashed on the ground. Ms Godara also reported that Mr Beniwal assaulted her by slapping her on the face. Ms Godara reported that she ran from the home and contacted police.²⁹ Ms Godara told police officers that she was concerned that if Mr Beniwal remained at their home, she would be further assaulted. The attending police officers shared these concerns and made a second application for a family violence intervention order, this time by way of complaint and warrant. A warrant was promptly issued and executed on Mr Beniwal, and he was bailed to appear at the Sunshine Magistrates' Court on 2 July 2012. Police officers accompanied Mr Beniwal to obtain personal belongings from the home and then arrangements were made for him to stay with his brother.³⁰ Formal referrals were made for both Mr Beniwal and Ms Godara. The attending police officers recorded that Ms Godara was very reluctant to provide any details to them and requested Mr Beniwal be allowed to remain at the home. Ms Godara was also unwilling to provide a statement.³¹ Ms Godara did not have any visible injuries and declined medical treatment.³² On 2 July 2012, Mr Beniwal appeared before the Sunshine Magistrates' Court and the two intervention order applications were adjourned to 10 December 2012. The Court records indicate that no interim order was made at this time.³³ On 10 December 2012, a two year family violence intervention order was made where Mr Beniwal was the Respondent and Ms Godara was the affected family member. The order prohibited Mr Beniwal from committing family violence against Ms Godara and from damaging her property or threatening to do so.³⁴ No breaches of the order were reported. The order expired three days before Mr Beniwal killed Ms Godara.

7 Victoria Police records indicate that, following police attendance at family violence incidents involving Mr Beniwal and Ms Godara, referrals were made to specialist family violence organisations for both parties on at least three occasions beginning in June 2008, August 2009 and June 2012. In 2012, police referrals for Ms Godara were made to Women's Health West.

29 Coronial Brief, p.283 – 285.

30 Coronial Brief, p.169 – 170 and p.292 – 293.

31 Coronial Brief, p.284.

32 Coronial Brief, p.287 – 289.

33 Email from DSC Brockwell dated 17 September 2015.

34 Extract of Final Intervention Order 10 Dec 2012.

The records of that organisation indicate that attempts were made to contact Ms Godara by telephone on 5, 6 and 16 July 2012. Messages were left on her message service, but she did not return the calls. The file was closed as '*unable to make contact*'.³⁵

- 8 In June 2014, Ms Godara met Clinton Harper at her place of work and commenced a relationship with him. According to Mr Harper, Ms Godara told him that she and Mr Beniwal had in fact been separated since February 2014, although they continued to reside under the same roof.³⁶
- 9 In September or early October 2014, Ms Godara moved out of the home she shared with Mr Beniwal and rented new premises with Mr Harper nearby. Ms Godara and Mr Beniwal agreed to share custody of their son.³⁷
- 10 Although Mr Beniwal initially appeared to accept the separation, he began to plead with Ms Godara to return to the marriage and threatened that he was going to kill himself. Mr Beniwal contacted Ms Godara's family in India making similar threats and seeking their assistance to persuade Ms Godara to return to the marriage.³⁸
- 11 On 21 November 2014, Mr Beniwal and Ms Godara travelled to India together with their son for Mr Beniwal's cousin's wedding. The trip had been booked many months earlier and was initially to be until 14 or 15 December. However, after their separation, the trip was shortened with a planned return date of 2 December 2014.³⁹ Clinton Harper understood that Ms Godara felt obliged to go on the trip "*because of the Hindu religion.*"⁴⁰ Ms Godara also told a boarder that resided with Mr Beniwal that she would never reconcile with Mr Beniwal and that the trip to India was for their son's sake and that they did not want their families to know that they had separated. However, the evidence reveals that both Ms Godara and Mr Beniwal's families were aware that the marriage was in crisis.⁴¹ Mr Beniwal's father stated that he knew that the couple were living separately in Australia.⁴² Despite evidence to the contrary, there was a belief amongst some family members that the trip to India was a chance for Mr Beniwal and Ms

35 Coronial Brief, p.182.

36 Coronial Brief, p.65.

37 Coronial Brief, p.66.

38 Coronial Brief, p.27, p.43, p53 – 54 and p.59.

39 Coronial Brief, p.50.

40 Coronial brief, p.66.

41 Coronial Brief, p.27, p. 43, p.53 – 54 and p.61.

42 Coronial Brief, p.43.

Godara to work on their relationship.⁴³ The evidence reveals that Mr Beniwal too, harboured this hope.

- 12 Shortly, after arriving in India, Mr Beniwal broke Ms Godara's mobile phone to prevent her from communicating with Mr Harper. Mr Beniwal begged both Ms Godara and her parents to give him a further chance. Ms Godara's sister's statement indicates that Ms Godara was still conflicted about the impact that the separation would have on her family's honour. However, despite Mr Beniwal trying to persuade her to reunite, Ms Godara was resolute that she would not return to him.⁴⁴
- 13 During the trip the return date was extended from 2 to 9 December 2014. Mr Beniwal's brother took this as an indication that Ms Godara and Mr Beniwal were having a good time.⁴⁵ On the contrary, Mr Harper understood that Mr Beniwal unilaterally cancelled the return flights and that this had placed Ms Godara's employment in Australia at risk.⁴⁶
- 14 Ms Godara and Mr Beniwal arrived back in Australia on 11 December 2014 and Ms Godara had to go straight back to work that day. Mr Beniwal told the two boarders who were renting a room at his house that he and Ms Godara had sorted things out and they were going to reunite, moving back in together at her house.⁴⁷ However, there was no evidence to support this statement and Ms Godara returned to the house she shared with Mr Harper.
- 15 Mr Harper found Mr Beniwal to be very polite when he came to their house on Friday 12 December 2014 to collect things from a suitcase Ms Godara had brought back from India,⁴⁸ However, Ms Godara and Mr Beniwal continued to argue via phone and text.
- 16 Mr Harper states that Ms Godara told him that Mr Beniwal had previously threatened to kill her and bury her "*up the bush*".⁴⁹ Ms Godara also told him that the reason why she never involved the police about the threat was because she was Hindu and if a marriage doesn't work out, then the family becomes an outcast.

43 Coronial Brief, p.43, p.57 and p.59.

44 Coronial Brief, p.27.

45 Coronial Brief, p.51 and p.57.

46 Coronial Brief, p.66 – 67.

47 Coronial Brief, p.92 and p.96.

48 Coronial Brief, p.67 – 68.

49 Coronial Brief, p.66

- 17 Mr Beniwal's medical records document a long history of anxiety and depression for which he had been intermittently treated with medications and cognitive behavioural therapy since university. In 2014, Mr Beniwal consulted both a psychiatrist and psychologist. A theme of all of the consultations was that Mr Beniwal struggled to find satisfaction in his marriage because he was somewhat fixated on the fantasy of a better looking partner. The evidence reveals that Mr Beniwal had previously expressed suicidal thoughts, in particular to his brother Anil Beniwal, and had specifically stated that he had considered driving his car into the path of an oncoming truck.⁵⁰
- 18 Ms Godara's medical records document a history of anxiety and depression for which she was prescribed amitriptyline hydrochloride under the label 'Endep'. These records detail that Ms Godara stated that issues with her marriage were a contributing factor to her anxiety. In September 2013, Ms Godara was referred, under a Mental Health Plan, to a psychologist. The referral listed the underlying issue as "*anxiety and depression due to relationship issues.*" Medical records indicate that Ms Godara consulted twice with the psychologist before failing to attend further appointments.⁵¹

THE PURPOSE OF A CORONIAL INVESTIGATION

- 19 Mr Beniwal's death constituted a '*reportable death*' under the *Coroners Act 2008* (Vic) (**the Act**), as his death occurred in Victoria and it resulted directly from injuries sustained in a motor vehicle collision.⁵²
- 20 The jurisdiction of the Coroners Court of Victoria is inquisitorial.⁵³ The purpose of a coronial investigation is independently to investigate a reportable death to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which death occurred.
- 21 It is not the role of the coroner to lay or apportion blame, but to establish the facts.⁵⁴ It is not the coroner's role to determine criminal or civil liability arising from the death under investigation, or to determine disciplinary matters.

⁵⁰ Coronial Brief, p.54.

⁵¹ Coronial brief pp.81, 87, 88 and 91.

⁵² Section 4 *Coroners Act 2008*.

⁵³ Section 89(4) *Coroners Act 2008*.

⁵⁴ *Keown v Khan* (1999) 1 VR 69.

- 22 The “cause of death” refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
- 23 For coronial purposes, the circumstances in which death occurred refers to the context or background and surrounding circumstances of the death. Rather than being a consideration of all circumstances which might form part of a narrative culminating in the death, it is confined to those circumstances which are sufficiently proximate and causally relevant to the death.
- 24 The broader purpose of coronial investigations is to contribute to a reduction in the number of preventable deaths, both through the observations made in the investigation findings and by the making of recommendations by coroners. This is generally referred to as the ‘prevention’ role.
- 25 Coroners are also empowered:
- (a) to report to the Attorney-General on a death;
 - (b) to comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice; and
 - (c) to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety or the administration of justice.
- These powers are the vehicles by which the prevention role may be advanced.
- 26 All coronial findings must be made based on proof of relevant facts on the balance of probabilities. In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.⁵⁵ 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 that they caused or contributed to the death.

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

Identity of the Deceased pursuant to section 67(1)(a) of the *Coroners Act 2008*

- 27 On 17 December 2014, the Deceased was visually identified by his brother, Anil Beniwal, to be Sunil Beniwal, born 2 March 1978.

⁵⁵ (1938) 60 CLR 336.

28 Identity is not in dispute in this matter and therefore requires no further investigation.

Medical cause of death pursuant to section 67(1)(b) of the *Coroners Act 2008*

29 On 15 December 2014, Dr Michael Burke, a Senior Forensic Pathologist, practising at the Victorian Institute of Forensic Medicine, conducted an autopsy of Mr Beniwal's body. Dr Burke provided a written report, dated 5 January 2015, which concluded that a reasonable cause of death was '*multiple injuries.*'

30 Toxicological analysis of the post mortem blood samples taken from Mr Beniwal's body did not identify the presence of any common drugs, except for the anti-depressant drug Mirtazepine.

Circumstances in which the death occurred pursuant to section 67(1)(c) of the *Coroners Act 2008*

31 On Saturday, 13 December 2014, Ms Godara received a notice to vacate her rental premise because her direct debit had not gone through for the rent and they had not been able to contact her in India because of her broken phone. Mr Harper observed that Ms Godara was furious about this.⁵⁶

32 Later that evening, at approximately 8.40pm, Ms Godara told Mr Harper that she was going to Mr Beniwal's house to collect Josh and would be back in 15 minutes. When she had not returned by 10.30pm he began to text and call her but received no response. At midnight, when she had still not returned, Mr Harper drove past Mr Beniwal's house and observed Ms Godara's car, a silver Toyota Yaris, in the driveway and Mr Beniwal standing out the front drinking a beer and smoking. Mr Beniwal rang Mr Harper soon after to advise that Ms Godara had gone with her sister-in-law and left her phone behind. Mr Beniwal also sent him three identical texts between 12.19 am and 12.31 am stating that Ms Godara was not at his home.⁵⁷

⁵⁶ Coronial Brief, p.67.

⁵⁷ Coronial Brief, p.67 – 68.

- 33 One neighbour heard what sounded like a female's voice whimpering at approximately 10.30pm and then again about half an hour later.⁵⁸ Another neighbour heard crying or whimpering coming from the house at approximately 11.00pm which sounded like a child crying.⁵⁹ Another neighbour heard what sounded like a conversation between a man and a woman, not in English, between 11.30pm and 12.30am.
- 34 Mr Beniwal's two boarders returned to the house at approximately 1.00am on Sunday 14 December 2014, having been out since early the previous afternoon. They observed Ms Godara's Toyota Yaris car in the driveway. Having misplaced his keys, one boarder entered through his bedroom window before opening the front door to the other boarder. One of the boarders recalls hearing the television on in Mr Beniwal's room with an Indian program playing and the light in the bedroom was off. Neither of the boarders spoke to, nor saw, Mr Beniwal, Ms Godara or their son Josh at this time. Within an hour of returning home, they heard moans coming from Mr Beniwal's bedroom, which they described them as coming from a woman. Neither thought the sound was cause for alarm, but rather assumed that Mr Beniwal and Ms Godara were engaged in sexual intercourse. A single bump was heard to emanate from Mr Beniwal's bedroom.
- 35 The boarders noticed nothing further until approximately 6.00am when they heard Josh cry. Again they did not consider this cause for alarm. They had no indication that anything had occurred until they were awoken by police officers attempting to enter the house at approximately 7.40am.⁶⁰
- 36 The evidence reveals that at some point after the boarders returned home, Mr Beniwal left his home by himself in Ms Godara's Toyota Yaris. Shortly before 4.00am, Mr Beniwal was travelling north on Hopkins Road Truganina, approximately 300 metres south of Greigs Road, when he deliberately crossed the dividing double lines directly into the path of an oncoming produce truck with trailer. The impact caused the Toyota Yaris to become airborne and spin off onto the western side of the road. The truck collided with a light pole, and was flipped onto its side before landing in a paddock on the eastern side of the road.⁶¹

58 Coronial Brief, p.109.

59 Coronial Brief, p.113.

60 Coronial Brief, p.93 – 94 and p.98 – 99.

61 Coronial Brief, p.78 – 79, p.82 and p.119 – 120.

- 37 The collision was witnessed by two other drivers, who had been travelling in vehicles behind the truck. They immediately contacted emergency services and by 4.10am fire, ambulance and police services attended.⁶² Mr Beniwal was trapped within the wreckage of his vehicle and it was determined that he was deceased. The driver of the truck, sustained broken ribs, a swollen knee and minor cuts to his hands and face but remained conscious and breathing and was able to walk free from his truck, with the aid of two firemen, and was thereafter conveyed to hospital by ambulance.
- 38 There was no obvious document or other like material accessible in the wreckage of the Toyota Yaris to identify Mr Beniwal.⁶³
- 39 At approximately 5.00am a Law Enforcement Assistance Program (**LEAP**)⁶⁴ check was conducted on the registration of the vehicle which indicated that it was registered to Mr Beniwal. The check provided further information about Mr Beniwal's licence number and a previous incident of family violence involving Ms Godara. Despite these checks, it was not until Mr Beniwal's body was removed from the vehicle and his identity confirmed that Victoria Police considered they were in a position to make arrangements for contacting next of kin.⁶⁵
- 40 Significantly, once Mr Beniwal's body was extracted from the vehicle at 7.10am, his wallet was located in his pocket and a handwritten, folded note was found in which the author:
- (a) confessed that he had strangled his wife in a fit of rage and then later, observing her swollen face, panicked and repeatedly stabbed her in the neck;
 - (b) stated Clinton Harper stole his wife and turned her against him such that she was unrelenting in her hatred and persecution of him; and
 - (c) declared that he had no option but to take his own life.⁶⁶

62 Coronial Brief, p.118.

63 Coronial Brief, p.133.

64 On 1 March 1993, Victoria Police implemented the Law Enforcement Assistance Program (LEAP) state-wide. The LEAP database is relational and stores particulars of all crimes brought to the notice of police as well as family incidents and missing persons. The database is accessible by police officers online and updated constantly, 24 hours a day.

65 Coronial Brief, p.133 – 134.

66 Coronial Brief, p.134 and p.185 – 186.

- 41 Upon locating this note, the attending police officers declared the collision site a secondary crime scene and arranged for other police officers to attend Mr Beniwal's home to conduct a welfare check on Ms Godara.
- 42 When police officers arrived at Mr Beniwal's home they located Josh on the couch in the lounge room area and Ms Godara deceased in the ensuite of Mr Beniwal's bedroom.⁶⁷ A black handled carving knife was located under Ms Godara's body and seized.⁶⁸
- 43 The investigation into the motor vehicle collision involving Mr Beniwal revealed the following:
- (a) The weather conditions were excellent, the road way was dry and, although it was still dark, visibility was clear.⁶⁹
 - (b) The road was sealed by asphalt and described by Detective Acting Sergeant Miles of the Major Collision Unit as in fair condition.⁷⁰
 - (c) A mechanical inspection of the car undertaken by Senior Constable Heatherton did not reveal any mechanical fault which would have caused or contributed to the collision.⁷¹
 - (d) Mr Beniwal did not appear to be wearing a seatbelt at the time of the collision.⁷²
 - (e) Tyre marks on the road indicated some braking by the truck but no evidence of any braking by Mr Beniwal's vehicle, nor of any steering inputs immediately prior to the collision.⁷³
 - (f) Two of the witnesses to the collision (including the driver of the truck) observed Mr Beniwal's vehicle to swerve into the path of the truck in what appeared to be a clear move, rather than a loss of control or a slow drift. Thereafter they did not observe him to brake or take any evasive action.⁷⁴

67 Coronial Brief, p.147.

68 Coronial Brief, p.163.

69 Coronial Brief, p.125.

70 Coronial Brief, p.141.

71 Coronial Brief, p.146.

72 Coronial Brief, p.126.

73 Coronial Brief, p.142 – 143.

74 Coronial Brief, p.78 and p.82.

(g) Detective Acting Sergeant Miles of the Major Collision Unit concluded that he could attribute no blame for the collision to the driver of the truck.⁷⁵

44 The handwritten note found in Mr Beniwal's wallet was analysed by David Black of the Document Examination Unit of the Victoria Police Forensic Services Department. Analysis revealed that it was most likely to have been written on a page of an exercise book titled "housekeeping" later located at Mr Beniwal's home.⁷⁶

COMMENTS

45 Pursuant to section 67(3) of the *Coroners Act 2008*, I make the following comments connected with the death:

- (a) Ms Godara and Mr Beniwal were both born and raised in India to Hindu families and their parents and most of their extended families continue to reside in that country. Their familial, social, and cultural background appear to have impacted significantly upon the dynamics of their relationship. It is clear from the evidence that both Ms Godara and Mr Beniwal were conscious that any decision they made about their relationship would have broader implications for their families.
- (b) A finding of suicide can impact upon the memory of a deceased person and can reverberate throughout a family for generations. Such a finding should only be made on the basis of compelling evidence, rather than by indirect inferences or speculation.
- (c) In considering the circumstances of Mr Beniwal's death, I place weight on the handwritten note written found by police officers in his wallet stating that he felt he had no option but to take his own life. Having considered the evidence before me, I am comfortably satisfied, to the coronial standard of proof that Mr Beniwal wrote the note found in his wallet. I am also comfortable satisfied, to the coronial standard of proof, that Mr Beniwal intended to take his own life by deliberately causing a collision between the vehicle he was operating and the truck.
- (d) I am also satisfied, having considered all of the available evidence, that no further investigation is required.

⁷⁵ Coronial Brief, p.143.

⁷⁶ Statement of David Black page 5.

- (e) In the course of my investigation I did not identify any prevention matters arising from the circumstances of Mr Beniwal's death.

FINDINGS AND CONCLUSIONS

46 Having investigated the death, without holding an inquest, I make the following findings pursuant to section 67(1) of the *Coroners Act 2008*:

- (a) that the identity of the deceased was Sunil Beniwal, born 2 March 1978; and
- (b) that Sunil Beniwal died on 14 December 2014, from multiple injuries as a result of a motor vehicle collision on Hopkins Road, Truganina, in the circumstances set out above.

47 I convey my sincerest sympathy to Mr Beniwal's family and friends.

48 Pursuant to section 73(1) of the *Coroners Act 2008*, I order that this Finding be published on the internet.

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

- (a) Mr Sunil's family.
- (b) Detective Senior Constable Cara Brockwell, Coroner's Investigator.
- (c) Detective Inspector Michael Hughes, Homicide Squad, Victoria Police.

Signature:



JUDGE SARA HINCHEY

STATE CORONER

Date: 8 August 2016

