

# Acquitted Kerang driver faces civil suits

Lauren Wilson

THE legal battles of Christian Scholl, the truck driver who in 2007 ploughed into a V/Line passenger train at Kerang, killing 11 people, are not over despite his acquittal on all criminal charges.

The 50-year-old father of two, from Wangaratta, broke down in tears after a Victorian Supreme Court jury on Saturday found him not guilty of 11 counts of culpable driving causing death and eight counts of negligent driving.

"Although this terrible case is now over I will never forget the impact of that day on the lives of so many. My thoughts remain with those families. I am so sorry," Mr Scholl said outside the Bendigo courthouse.

But Mr Scholl, who has been driving trucks for more than 30 years, cannot put the Kerang level crossing tragedy behind him



Scholl

representing four passengers from the first carriage of the V/Line train.

Mr Maffia is investigating the option of launching a damages suit against Mr Scholl through the Transport Accident Commission. He said Saturday's not-guilty verdict will have no bearing on the outcome of a civil suit if it goes to trial.

"The evidential burden in a criminal case is much higher, you have to prove fault beyond reasonable doubt, whereas in a civil case fault is found on balance of probability," Mr Maffia said.

As a professional driver Mr

yet. He faces two civil lawsuits from Kerang victims and their families.

Don Maffia, a transport accident lawyer with Slater & Gordon, has been representing

Scholl is indemnified by the TAC, but a successful civil suit could mean the commission will be forced to pay millions in compensation to victims said to suffer a range of physical and psychological injuries.

Mildura-based lawyer Shane Ryan is also reportedly representing the families of four people who died in the level-crossing accident, who are seeking compensation for damages.

Mr Maffia and Mr Ryan have both flagged that other parties may be found at fault, including the state government.

Throughout the three-week trial the court heard evidence that the Kerang level crossing was a "time bomb" and known to be particularly dangerous on bright sunny days, such as June 5, 2007, when the fatal accident occurred.

V/Line general manager of safety, security and environment

Laurence Foley said in his evidence that before the crash there been a concerted campaign within V/Line to upgrade the crossing.

"No crossing in the state generated the correspondence or concern that this crossing had," Mr Foley told the court.

Mr Scholl's barrister Terry Forrest QC said the government had been repeatedly made aware of the deficiencies at this level crossing but had "handballed" responsibility for its upgrade.

"V/Line — the voice of train drivers — begged the state government to upgrade that crossing," Mr Forrest said.

"For month after month the state government brushed them off with considerable dispatch."

Mr Scholl has maintained he did not see the warning lights of the crossing flash, until he was about 110m from the train.