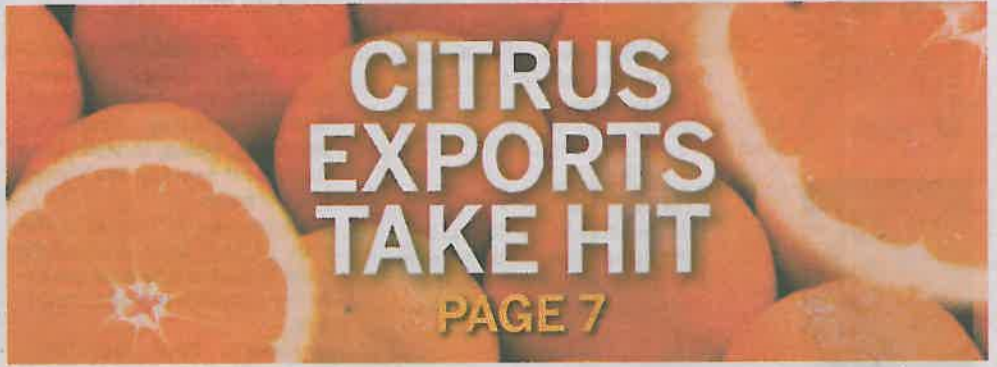




neqtar

WAS NEQTAR INSOLVENT?

PAGES 2-3



CITRUS EXPORTS TAKE HIT

PAGE 7

DRIVER DID IT

Jury finds mystery person was negligent in Shaw death

By Allan Murphy

AN unknown driver contributed to the death of a man in Mildura almost four years ago, a jury has found.

The Supreme Court jury late yesterday found the mystery driver was negligent when he was in charge of a car from which Luke Ryan Shaw fell and sustained critical injuries in 2005.

In finding in favour of a civil claim for damages by Mr Shaw's mother Jennifer Shaw against the Transport Accident Commission, the jury awarded her \$250,000.

Mrs Shaw's counsel Terry Casey, QC, said outside court he was pleased with both the verdict and damages awarded.

"I'm happy with that result," Mr Casey said.

'The money was nothing, we needed a driver to be at fault and that's what was found'

Mrs Shaw, her husband Glenn and other family members hugged and cried after the jury handed down its verdict after almost four hours of deliberation.

They also embraced their legal counsel inside the courtroom.

The jury began deliberations just before 11.30am yesterday, returning a verdict at 4.45pm, just 10 minutes short of being retired overnight to resume again today.

They had returned to the court room 90 minutes earlier to question trial judge Justice Philip Cummins about whether the evidence of specialist witnesses could be accepted as fact.

Justice Cummins said that while a suitable qualified person could express an opinion, that opinion was evidence



RELIEVED: Jennifer Shaw embraces her grandson Anthony watched by her husband Glenn outside the Mildura Courthouse yesterday.

Picture: Sarah Simmons

and it was up to the jury to decide the facts.

Members of the Shaw family waited patiently throughout the afternoon as the hours passed, hopeful they would not have to return for a ninth day today.

A clearly relieved Mrs

Shaw said the result at last firmly placed a driver and vehicle at the scene of her son's death.

"That's what we've been fighting for all this time," Mrs Shaw said.

"The money was nothing, we needed a driver to be

at fault and that's what was found," she said.

"I know one boy who will be very happy tonight."

Mrs Shaw said the family still held hope the driver would now give themselves up.

"I hope they feel more guilt

now," she said.

"We were never going to give up on Luke and we never will.

"I still think about it every day and we still hope we will find out who did this."

The eight-day trial was told that despite extensive

police investigations and widespread media appeals for information about the incident, the driver of the car has not come forward and the vehicle involved in the accident has not been found.

Continued Page 4

Driver blamed

From Page 1

Mr Casey had argued that evidence presented at the trial showed Mr Shaw was more likely than not to have fallen from the rear of a moving utility or tray truck in the early hours of October 21, 2005, and that the driver of the vehicle was at least in part negligent.

The jury was not required to find the driver wholly responsible, however, it was a requirement of Mrs Shaw to prove, on the balance of probabilities, that the driver was negligent to some degree.

Expert witnesses told the trial that two items of bone material embedded on the road surface at the scene of the accident indicated Mr Shaw, 21, had forward motion and the severity of his head wound from a single blow suggested he had fallen from some height.

However, defence counsel Ross Middleton, SC, for the TAC, said there were many imponderables including whether the victim fell, was pushed or caught his foot while entering or exiting the vehicle.

Mr Middleton, in his closing address to the jury, said the driver of the car may not have even known that Mr Shaw was in the rear of the utility and, "unknown to the driver", fell as he was attempting to get out.

After hearing the evidence of 18 witnesses, including Mrs Shaw, the jury found that it was more probable that the driver was aware that



HAPPY: Jennifer and Glenn Shaw with Elisabeth Ryan, a member of their legal team.

Picture: Sarah Simmons

Mr Shaw was in the rear of the vehicle, unrestrained and affected by alcohol.

The trial was told the last known sighting of Mr Shaw was about 3am on Friday, October 21, 2005, when a friend, who was stopped in Deakin Avenue at the Ninth Street traffic lights, offered the deceased man a lift.

Less than 30 minutes later a security guard found the body of Mr Shaw lying in a pool of blood in Ninth Street between Magnolia and San Mateo Avenues.

The trial was told Mr Shaw drove his father's Mazda utility to his cousin's house in Thirteenth Street where he was to stay the night after attending a Crusty

Demons promotion at O'Malley's Irish Tavern.

The trial had been told that while it was accepted that a vehicle and driver were involved

'It would have been a most extraordinary thing for the driver of the vehicle to have been unaware that Mr Shaw had fallen onto the roadway'

in Mr Shaw's death, the circumstances surrounding the fatal injuries were disputed until

yesterday's jury verdict.

Mr Casey this week said it would have been a "most extraordinary thing" for the driver of the vehicle to have been unaware that Mr Shaw had fallen onto the roadway.

He described as "callous" that it was likely the driver either stopped briefly before leaving Mr Shaw on the road or drove off without stopping but with the knowledge the deceased man had fallen.

Mr Casey said people could be callous "when they've done something wrong and don't want to be caught".

He said if the driver had nothing to hide and had not been negligent they would have come

forward.

Mr Middleton, however, argued that there was much speculation and many possibilities as to how Mr Shaw sustained his injuries and one became no more likely than the others.

He said if the jury could not determine how the accident happened it should find that the driver was not negligent and not award financial damages.

At the 11th hour yesterday, and after a roller-coaster of emotions by the Shaw family, the jury determined it could decide what happened and that someone was ultimately negligent in the death of their son and brother Luke Ryan Shaw.

Father's Day Gifts

AKUBRA

Specials for Dad

RM Williams Spring / Summer Catalogue now in

WALLBYS

81A Lime Ave, Mildura
Ph: 5023 2846

For all your Nationally Recognised and Accredited Training needs in:

- Business Studies
- Retail Studies
- Hospitality Studies
- Workplace Training and Assessment

or Recognition for your current skills

Contact us now

Clarke Creative Training Consultants
74 Lemon Ave, Mildura - Ph 5023 4133

SuniTAFE BUSINESS Solutions

Job Services Australia
people • skills • jobs
AN AUSTRALIAN GOVERNMENT INITIATIVE

Want to start your own business?

NEIS CAN HELP!

Contact: Minette Cowen NEIS Coordinator
Phone: (03) 5022 3650
E-Mail: mcowen@sunitafe.edu.au
Web: www.sunitafe.edu.au/business/neis.html

employer focused workforce solutions

Disney's **Aladdin JR.**

Mildura Arts Centre
7pm Friday 11 September 2009
1pm & 7pm Saturday 12 September 2009

Bookings through
Mildura Arts Centre 5018 8330 and
Mildura Visitor & Information Centre 5018 8376

Trinity Lutheran College
5023 7013
920 Fifteenth Street, Mildura

Exclusive to

Burrows JEWELLERS

68 Langtree Avenue, Mildura
Phone 5023 2357
Shop T56 Centro, Mildura,
Phone 5022 2642

JUST ARRIVED

PANDORA WOOD BEADS

LIMITED STOCK AVAILABLE