



**CORONER'S COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the disappearance and suspected death of Minhyuk CHOI

Hearing dates: 2 March 2022

Date of findings: 2 March 2022

Place of findings: Coroner's Court of New South Wales

Findings of: Magistrate Carolyn Huntsman, Deputy State Coroner

Catchwords: CORONIAL LAW – missing person; last seen on bulk carrier marine vessel; air and sea rescue search; whether missing or deceased; fall from vessel into sea.

File number: 2020/1124880

Representation: Mr Tim O'Donnell

Findings:

I find the missing person, Minhyuk CHOI is deceased.

I make the following findings pursuant to s81 of the Coroners Act 2009 NSW:

Identity	Minhyuk CHOI
Date	15 th of April 2020
Place	23 nautical miles off the east coast of Australia, adjacent to Lake Macquarie, New South Wales

Cause of death – injuries caused by impact with the water and/or drowning, caused by fall into ocean from a height

Manner of death – misadventure

Recommendations Nil

Non-publication orders: Nil

JUDGMENT

Introduction

- 1 This is an inquest into the disappearance of Minhyuk CHOI, who was last seen alive on the 15th of April 2020 while he was a crew member on the bulk carrier marine vessel 'The Western Marine'. As Coroner, I would like to begin these reasons for decision by expressing my sincere condolences to Minhyuk's family for their loss. Minyhuk is survived by his parents, Dongsun CHOI and JinSoon YEUN, and his brother, Joonhyuk. He was relatively young at the time he disappeared from the marine vessel, being only 26 years of age. His disappearance and suspected death is tragic.
- 2 Section 21 of the Coroners Act 2009 NSW (the Act) gives jurisdiction to a Coroner to hold an inquest into the death, or suspected death of a person, if there is reasonable cause to suspect that the death, or suspected death, is a reportable one. Reportable deaths are defined under the Act in section 6, and include deaths or suspected deaths where the person died a violent or unnatural death, the person died a sudden death the cause of which is unknown, or the person died under suspicious or unusual.
- 3 The investigation conducted to date, and the evidence presented at the inquest, indicate that Minhyuk is suspected to be dead, and the suspected cause (a fall from the ship) is an unnatural cause of death, hence the Coroner has jurisdiction.
- 4 The Act provides that the Coroner is to investigate and make findings about suspicious or unnatural deaths. The required findings include the identity of the person who has died, the date and place of the person's death, the cause of death, and manner (or circumstances) of the person's death. Coroners may also make recommendations in relation to any matter connected with the person's death if appropriate to do so. Where a person is missing, the Coroner must make a determination based on the evidence provided, whether or not to declare the missing person deceased. Declaring a missing person deceased is a serious

matter, and there should be clear and compelling evidence supporting this declaration.

- 5 The police conducted a detailed investigation and a brief of evidence was prepared for the Coroner. The brief of evidence firstly focused on investigating the events surrounding Minhyuk's disappearance, substantial interviews with the captain and crew members were undertaken by investigating police, additional evidence included photographic and CCTV evidence, witness statements by investigating Border Force and Police officers, crime scene photographs, and video recordings made by investigating officers. The police investigation also focused on making all possible investigations to try to discover any trace of Minhyuk after he went missing, and those enquiries included with interstate Police and also overseas agencies such as the Korean Consulate and Korean Immigration authorities.

- 6 At the inquest, given the substantial evidence already obtained during the coronial inquiry, as presented in the police brief of evidence, the only witness required to give evidence was the Officer in Charge of the investigation, Detective Senior Constable Philip Taylor, his evidence will be detailed below. The brief of evidence indicates the significant investigations undertaken by police and other responsible parties in an attempt to find out where Minhyuk is, and what happened to him. As detailed below, there was a lengthy search of the ship, first by crew and then by investigating police, soon after Minhyuk was last seen, and also a search of the surrounding seas by rescue planes and marine vessels - the search commenced under the co-ordination of the Joint Rescue Co-ordination Centre, involving five aircraft, supported by three marine Area Command vessels as rescue platforms. The searching aircrafts flew under perfect conditions, such there was a 98% likelihood they would have found Minhyuk had he been alive in the water. The search continued until last light, when it was suspended with no sighting, pending further information.

- 7 The purpose of the inquest is to determine firstly whether the missing person, Minhyuk Choi, is deceased, and, if I am satisfied of this, I will go on to make determinations, if possible, as to the required findings under s81 of the Coroner's Act: these are findings as to the identity of the person who has died, the date and place of their death, and the cause and manner of the death.

Background

- 8 Mr Minhyuk Choi was born in South Korea on the 9th of September 1993. He is the son of Dongsun CHOI and JinSoon YEUN, who he resided with in the Republic of Korea, and he has one brother, Joonhyuk.
- 9 Minhyuk had been a sailor since 2016, joining the bulk carrier Western Marine approximately five months before his disappearance. He worked as the Second Officer. Despite being away for extended periods of time for his work, he is said to have always kept in regular contact with his mother by telephone. Whilst on the Western Marine, he had told his mother that he was stressed about other crew members making comments, which he thought was because he had joined the crew about a year later than the other members. He did not describe the nature of the comments any further to his mother but did say that he did not feel as though he was being bullied. He was not believed to have been suffering from any mental health or psychological problems, nor was he reported to have any drug or alcohol dependence issues. He was not known to be a heavy drinker of alcohol. He was described by another crew member, Joonyong Kim, who had known Minhyuk as a friend since they both studied at University together, as being dedicated to exercise, including weight training, and this made him “very muscled”.

Events leading up to Minhyuk’s disappearance

- 10 On the 14th of April 2020, the Western Marine was drifting approximately 23 nautical miles off the east coast of Australia waiting for a call-up to berth at the Port of Newcastle.
- 11 Witness statements obtained by investigation police indicate the following events occurred. At about 9pm that night, Minhyuk and several other crew members met in the recreation room on deck A for a celebration of the Korean General Elections and subsequent public holiday. Minhyuk was due to commence his duty as the watch officer from midnight until 4am. According to the other crew members, Minhyuk was drinking alcohol, including beer, whiskey and Korean wine, and became very intoxicated. He was described as being in a happy mood at this time. Just before midnight, one of the other officers reminded Minhyuk that he had to

attend the Bridge area to commence his shift. Minhyuk left the recreation room and attended the Bridge to relieve the previous watch officer.

- 12 Between midnight and 2am, Minhyuk reportedly returned to the recreation room on a number of occasions and consumed further alcohol before returning to the Bridge.
- 13 At about 2am, whilst on the Bridge, the ship's Captain confronted Minhyuk about being too intoxicated to continue his shift and that he would take over for him. Minhyuk reportedly became agitated by this and stated that he would continue his shift. Minhyuk began to throw items around the Bridge area, as well as throwing a number of items at the Captain. Crew members Joonyong KIM and Uinyun HONG assisted the Captain in attempting to calm Minhyuk down.
- 14 Minhyuk's behaviour deteriorated further and so the Captain left to allow KIM and HONG to speak with Minhyuk, as he believed his presence was making Minhyuk more agitated. Minhyuk spent the next hour or so in the Bridge area yelling uncontrollably and telling the other crew members he was going to kill them or kill himself. He also mentioned that he was going to meet Jin - a reference to JIN YU, who Minhyuk and Joonyson had gone to University with. Jin YU had died in 2017 after going overboard off a bulk carrier vessel (container vessel).
- 15 At about 3am, Minhyuk removed his clothes and began throwing items around the bridge area again. The crew members had to restrain him on the ground. At about 3:10am, Minhyuk began to calm down and crew members HONG and KIM decided to allow him some time on his own. One of them lit a cigarette for Minhyuk before they returned to the Chief Officer's cabin, leaving Minhyuk in the Bridge area on his own.
- 16 CCTV footage of the Bridge area shows this incident as described. Once the crew members leave, Minhyuk is seen alone in the bridge area walking around and smoking his cigarette. After a few minutes, he exits the Bridge area through a door that leads to the Bridge Wing area. He turns to the right and goes out of sight of the CCTV camera.
- 17 There were two CCTV cameras on the ship and these were attached to the Bridge area of the ship. These were viewed as part of the police investigation.

- 18 A few minutes later, HONG and KIM return to the Bridge area to speak with Minhyuk, but he could not be located. They searched the immediate area and Minhyuk's cabin before notifying the Captain that Minhyuk was missing. The Captain raised all the crew by an announcement over the PA system and the crew commenced a full search of the ship from 3:30am and 6:30am, but Minhyuk could not be located.
- 19 At about 6:50am, Captain Kim contacted the Port of Newcastle advising that the ship's Second Officer, Minhyuk CHOI, could not be located, having last been seen on the bridge of the ship at about 3:20am; and told Port of Newcastle that there had been a full search of the ship between 3.30am and 6.30am without locating Minhyuk. Newcastle Ports contacted Marine Rescue NSW.

Investigation Following His Disappearance

- 20 As detailed above, soon after he was last seen a search of the ship was conducted - from 3.30am to 6.30am the captain and crew conducted a thorough search of the ship to try to locate Minhyuk. At 6:54am, the Sydney Water Police were advised of the incident. The Joint Rescue Co-ordination Centre were notified and commenced communications with the crew on the Western Marine.
- 21 Information was received from Dr Paul Luckin, a marine survival expert, via the Australian Marine Safety Authority, that the maximum time frame for survival would expire at last light that day (15 April 2020), provided he could survive the fall from the ship into the water.
- 22 A search commenced under the co-ordination of the Joint Rescue Co-ordination Centre, involving five aircraft and supported by three marine Area Command vessels as rescue platforms. The searching aircrafts flew under perfect conditions, such there was a 98% likelihood they would have found Minhyuk had he been alive in the water. The search continued until last light at around 6pm, when it was suspended with no sighting, pending further information.
- 23 It was arranged for the Western Marine to berth at 1am on the 17th of April at wharf K8 on Kooragang Island, where members of the Australian Border Force attended and searched the vessel. Minhyuk was not located on board the Western Marine

during this search. All members of the crew were interviewed by police regarding the events that led to Minhyuk's disappearance. Crew members told police that Minhyuk's behaviour on this night was out of character.

- 24 Police obtained copies of the CCTV footage from the Western Marine. There are two cameras on the vessel, both located on the 'bridge' area of the Western Marine. The footage shows the events that took place on the Bridge area just before Minhyuk disappeared and are largely consistent with the versions supplied to police by the crew in their interviews. The last sighting of Minhyuk on the CCTV footage is when he exits onto the Bridge Wing. The layout of the Western Marine is such that if Minhyuk had jumped off the bridge area from anywhere other than the extremity of one of the Bridge Wings, he would most likely have landed on the deck below.
- 25 Information was received from Dr Paul Luckin, Marine Survival Expert, was that the maximum time frame for survival would expire at last light on 15 April 2020 provided he survived the fall from the ship into the water. Dr Luckin advised, on the basis of information provided to him about the circumstances, there would be a 40% chance of Minhyuk surviving the fall if he had a medium level of intoxication and fell 20 metres; there would be a 0% chance of surviving the fall if he was significantly intoxicated and fell 40 metres; if he survived the fall, then there would be a 20% chance of survival at last light on Wednesday 15 April 2020 and a 0% chance of survival at first light on Thursday 16 April 2020.
- 26 The Western Marine is a large vessel with a length of 255 metres and a beam of 45 metres. It has a superstructure aft on the vessel which contains living quarters, and the bridge. The Bridge wings go out to each side of the vessel at the level of the Bridge. The elevation of the structure is a significant height about the decks and a further height above the ocean. Diagrams of the plan of the ship were in evidence.
- 27 All sign of life checks were completed by police, including immigration checks with Australia and South Korea. No signs of Minhyuk have been found since the night of his disappearance on the 15th of April 2020, up until the date of the inquest on 10 March 2022. Police have obtained a DNA profile for the missing persons registry to assist for identification purposes in the future. The officer in charge of the police investigation has recently checked with Korean Immigration and Minhyuk has not re-entered South Korea (refer exhibit 2 at the inquest).

- 28 The Police obtained all interstate police records throughout Australia to see if there was any record of Minhyuk being present in any part of Australia, and there were no records of him. Investigating police also maintained contact with the South Korean Consulate and there was no trace of Minhyuk since his disappearance. Minyhuk has not been in contact with family members since his disappearance.
- 29 The officer in charge of the police investigation, Detective Senior Constable Philip Taylor, told the court during his evidence at the inquest, of his opinion based on his experience and his detailed investigation in this matter, of what happened to Minhyuk. Detective Taylor stated that after his detailed investigation he is of the belief that Minhyuk is deceased. He says the evidence establishes that at the time of his disappearance Minhyuk was heavily intoxicated.
- 30 Detective Taylor said he had three theories as to how Minhyuk died. His first theory is that Minhyuk accidentally fell overboard and either drowned or died from injuries sustained with his impact with the water due to falling from a height. He stated that the given the height of the railing/balustrade in the Bridge area – that the pivot point on Minhyuk’s torso, given his height, would be well below the balance point on the railing - an accidental fall was less likely. In addition, there were no extreme weather conditions to make the ship pitch, or be otherwise in motion that was more dangerous, leading to a greater risk of falls. Even though Minhyuk was heavily intoxicated by alcohol, Detective Taylor does not believe he accidentally fell over the railing, given the structure of the railing, unless Minhyuk climbed onto the railing and then accidentally fell. Detective Taylor, on the evidence, cannot exclude the real possibility that Minhyuk accidentally fell.
- 31 Detective Taylor’s second theory is that Minhyuk was pushed or thrown overboard – however on the evidence this is unlikely. The reason it is unlikely that Minhyuk was pushed overboard, is that thorough police investigations and lengthy interviews with the captain of the ship, and all of the crew, did not indicate any motive or any malice which would support a conclusion that someone pushed or threw Minhyuk overboard. Nor do the CCTV recordings of his interactions with crew members on the Bridge prior to going missing support such a conclusion. All the crew were interviewed by investigating police, and most of the crew had limited contact with the Minhyuk. There was some separation of crew and officers on the ship, due to

hierarchy between officers and crew, and also because on this ship that separation was furthered by language barriers. Most of the crew were Filipino and most of the officers, and second-in-command, were Korean. Other lesser officers on the ship did not speak Korean and most of the crew did not speak Korean – for these reasons there was less opportunity to form disagreements, and to fight or argue. Given the lack of any evidence of any motive, or of any disagreement between Minhyuk and anyone on board the ship, then Detective Taylor is of the view that it is highly unlikely that Minhyuk was pushed overboard by someone on board the ship.

- 32 Detective Taylor’s third theory is that Minhyuk deliberately jumped overboard. In regard to this theory, Detective Taylor noted the erratic behaviour by Minhyuk prior to his disappearance. The CCTV footage supports a conclusion that he was severely intoxicated during the interactions on the Bridge just prior to his disappearance. His behaviour, as seen in the CCTV footage, and as described by the captain and crew was excessive, irrational and somewhat violent – the actions of throwing objects around and at people, and the action of removing all of his clothing while on the Bridge, was excessive behaviour, and consistent with a high level of alcohol intoxication. This behaviour and Minhyuk’s obvious intoxication also caused the crew members to believe that Minhyuk may have hidden, or passed out after his behaviour on the Bridge. However a search of the ship failed to find him. In Detective Taylor’s view, this high level of intoxication and irrational behaviour may have contributed to self harm thinking, however Detective Taylor concedes there is simply no evidence of any intention to self harm. Whilst a couple of statements were made on the night of the incident, (that he would kill the crew members on the Bridge, or himself, or join Jin) there was little evidence indicating an intention to self harm. So whilst Detective Taylor is of the opinion that Minhyuk deliberately jumped from the ship, he is not able to be satisfied that this action was accompanied by an intention to take his own life or to self harm.

In Conclusion

- 33 The evidence is clear that Minhyuk was last seen on the 15 April 2020 while he was a crew member on the bulk carrier marine vessel “the Western Marine”.
- 34 Consistent evidence given to police, by a number of crew members, indicates that Minhyuk was acting out of character on the evening of his disappearance, this

evidence is summarised above – his behaviour was concerning to his fellow crew members, his captain and his friends among the crew. They had not seen him act in this way before.

35 The evidence is clear that he drank a significant amount of alcohol on the evening of his disappearance and appeared substantially intoxicated. Whether his altered behaviour was solely due to the alcohol, or whether some other issue contributed, cannot be known on the evidence. However what is established on the evidence is that Minhyuk was usually in regular contact with his family, and showed no signs of distress or depression to anyone who knew him, and was not known to have any issues with drugs or alcohol dependence. There is nothing to indicate that he was upset by his life or his situation on the Western Marine in the period leading to his death. Nor does the evidence support a conclusion that there was some interpersonal conflict on the ship that would upset Minhyuk, or cause Minhyuk to try to leave the ship. The evidence is that most of the crew members did not speak Korean and did not associate much with the senior officers who did speak Korean. This meant there was little opportunity for personal arguments and disagreements to build between Minhyuk and other crew members. For these same reasons I agree with the opinion of Detective Taylor that it is most unlikely that Minhyuk was pushed overboard by someone.

36 The evidence establishes on the balance of probabilities that Minhyuk fell from the ship – the ship was thoroughly searched soon after his disappearance, and police investigators also undertook investigation promptly after the disappearance. The CCTV footage reveals that he exited the Bridge area of the ship and walked in the direction of the Bridge Wing, and thereafter is not seen again. The evidence shows that the Bridge Wing is the area from which a person can fall into the sea, rather than on to the deck below. As Minhyuk was not found on the ship, nor was he found to have fallen to any of the decks below, then the only conclusion which can arise from the evidence is that he fell from the Bridge Wing into the sea.

37 An extensive search of the sea by five aircraft and three supporting vessels failed to locate Minhyuk. The evidence is that the conditions were perfect for the search so that there was a 98% chance they would have found Minhyuk if he was alive in the water.

38 The expert opinion of Dr Luckin, on the basis of information provided to him about the circumstances, was there would be a 40% chance of Minhyuk surviving the fall if he had a medium level of intoxication and fell 20 metres; there would be a 0% chance of surviving the fall if he was significantly intoxicated and fell 40 metres. On this opinion the chances of Minhyuk not surviving the fall were significant. Further Dr Lukin's expert opinion was that if Minhyuk survived the fall, there would be a 20% chance of survival at last light on Wednesday 15 April 2020 and a 0% chance of survival at first light on Thursday 16 April 2020.

39 The expert opinion of Dr Luckin indicates the substantial probability is that Minhyuk would likely not have survived the fall, and if he had survived the fall, would likely not have survived for long in the ocean. Despite an extensive search of the ocean in excellent conditions for discovering Minhyuk, he was not found, this suggests he probably did not survive the fall or drowned soon after falling.

Is Minhyuk still a missing person or is he deceased?

40 On the evidence as to Minhyuk's connection with his family, and his regular contact with his mother, if he was still alive he would have contacted his mother or other family members. He has not done so, nor has he entered Korea or been seen or heard of since. The detailed police investigation to find any trace of Minhyuk after his disappearance is referred to above in these reasons for decision. As detailed below, I am of the view there is strong evidence in this matter indicating Minhyuk fell from the ship, and that it would have been difficult for him to survive such a fall. I am therefore satisfied on the balance of probabilities that Minhyuk is deceased.

The cause of death

41 Expert evidence indicates that surviving a fall from such a significant height, into the ocean, is unlikely. In this case, the possibility of surviving the fall is further reduced by Minhyuk's significant consumption of alcohol. Given that Minhyuk was seen exiting the Bridge toward the Bridge Wing, and the evidence indicating that he likely fell from that location, then I am satisfied that the cause of death was injuries from impact with the water and/or drowning, consequent upon his fall from a height (the Bridge Wing) into the ocean.

Manner of death

42 The evidence supports a finding that the manner of death is misadventure. Whilst Minhyuk's fellow crew members refer to some statements made on the night by Minhyuk, to the effect that he was going to join a friend who had been lost at sea, given his irrational state at that time, I am not satisfied on the evidence overall that such statements evidenced an intention to take his own life. Even if he intentionally did jump into the sea, given his irrational and out of character behaviour at the time, I could not be satisfied that any jump was undertaken with intention to end his own life. Also, I cannot be satisfied that he jumped from the ship, as there is no evidence on which I can say he deliberately jumped, and given that the evidence supports a conclusion that he accidentally fell. The manner of death is therefore misadventure.

FINDINGS

1. Conclusion

1.1. I am satisfied on the balance of probabilities that the Missing Person Minhyuk CHOI, is deceased.

2. Findings

2.1. The findings I make in relation to the deceased, under section 81(1) of the Act are:

Identity: Minhyuk CHOI

Date: 15th of April 2020

Place: 23 nautical miles off the east coast of Australia, adjacent to Lake Macquarie, New South Wales

Cause of death: injuries caused by impact with the water and/or drowning, caused by fall into ocean from a height

Manner of death: Misadventure

3. Closing

43 I acknowledge and express my gratitude to Mr Tim O'Connell, Coronial Advocate, for his assistance both before and during the inquest. I also thank the Police from the Marine Investigation Group, Marine Area Command, Det Sen Constable Philip Taylor, Det Seargent Michael O'Keefe and Det Sen Constable Kellie Veness, for their work in the Police investigation and compiling the evidence for the inquest.

44 On behalf of the Coroners Court of New South Wales, I offer my sincere and respectful condolences to Mr Choi's family.

45 I close this inquest.

Magistrate Carolyn Huntsman

Deputy State Coroner

Coroners Court of New South Wales