

Mail on Sunday article

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Jean MacColl last saw her daughter on December 10, 2000. It was a Sunday and the next day Kirsty and her two teenage sons, Jamie and Louis, set off for a scuba-diving holiday on the Méxican resort of Cozumel.

Jean usually went to Kirsty's for a meal on Sundays - they lived a few minutes from each other in West London - and this time she found her in a particularly bubbly mood. Kirsty was looking forward to giving the boys their first taste of scuba diving. Her new boyfriend, James Knight, was coming too.

After supper, Kirsty drove her mother home. Jean remembers her daughter was wearing a tartan skirt and a pink beret. They kissed and hugged on Jean's doorstep and, as they parted, Jean told her: 'I love you'. Kirsty, who was walking down the path, did not look back. But her mother heard her say: 'I love you too'.

Eight days later, Jean's telephone rang. It was James calling from Cozumel. 'He said there had been an accident and Kirsty was dead. I just screamed, he had to repeat it because I couldn't believe it. He said a boat had hit her. I didn't want to hear any more.' Jean says.

The aftershocks of that horrific moment still reverberate. At 79, with failing eyesight, Jean lives alone in a garden flat, with photographs and memories of Kirsty all around. Piled in a spare room are some of Kirsty's clothes which she has not yet had the strength to sort through. The pain is all the greater for Jean because she believes her daughter, after the collapse of her marriage, had just found happiness again.

But the circumstances of Kirsty's death have made it even harder for her mother to find peace. At first she believed Kirsty had died in a tragic accident. Then more disturbing details emerged: the boat which killed her had apparently been travelling too fast and should not have been in the diving area at all. A confused and inexperienced boat hand was charged with causing her death. Jean now believes he was a convenient scapegoat. As the second anniversary of her daughter's death looms, she is drawing up plans to travel to Cozumel to find out what really happened, and who is to blame.

At 41 Kirsty had everything to live for. But she already had to overcome many tribulations. The marriage of her parents - dance pioneer Jean and legendary Scottish folk singer Ewan MacColl, writer of *Dirty Old Town*, collapsed when Ewan had an affair with American folk singer Peggy Seeger. Jean brought up her children as a single parent. 'Life wasn't easy for my kids,' she says. 'Their father was very loving, but he would bring little presents and then go.'

As a teenager, Kirsty's musical talents were obvious, though she had a fear of performing in public that was to plague her career. Later she dropped out of Croydon Art College to follow her dreams and her breakthrough came in 1981, aged 22, with *There's A Guy Works Down The Chip Shop Swears He's Elvis*. She had a striking, distinctive voice and a gift for lyrics that ranged from the witty

to the mournful. Yet despite her talents, her career proved volatile, recording just five albums in 20 years and constantly switching record companies. In part she was handicapped by paralysing stage fright. But her talents were much in demand - working with the Rolling Stones, Van Morrison and U2's Bono, among others.

In 1984, Kirsty married Steve Lillywhite, a music producer. They had their first son, Jamie, in 1985 and Louis in 1986 but split up in 1994. After a long spell alone, Kirsty met a new boyfriend in 2000: James Knight, who taught at her sons' school. Finally it looked as if her life was coming together. 'She was deeply in love,' says her mother.

Her career gained a new impetus with her highly acclaimed album *Tropical Brainstorm*. A concert at the Shepherd's Bush Empire, which proved to be her last, was a triumph. 'She thought it was the best she had ever done,' says Jean.

For Kirsty, the ill-fated holiday in Cozumel was to be something special. There are few better locations for scuba-diving than the Caribbean island, renowned for its reefs and calm, clear waters. On December 17, Kirsty arranged for Jamie and Louis to have some preliminary training with an instructor from an established dive shop called Papa Hog's. They returned the next or two sessions on the Chankanaab Reef, a couple of hundred yards offshore. Kirsty and the boys, escorted by their dive master, a 26-year-old Mexican named Ivan Diaz, started their first dive at 1.30pm, spending most of it swimming above the reef.

At 2pm, Diaz signalled it was time to return. The group emerged and within seconds, the speedboat had struck the singer. The injuries caused by its propeller were so devastating that she would have died instantly. Jamie was struck on the head and side, mercifully without suffering serious injury.

It was not until much later that Jean learned the full horror of what had happened. Until now, precise details of the accident have remained scarce. Indeed, Jamie has never even talked to Jean about it. But Louis once asked if she wanted to know what happened. He warned it would make her unhappy, but she said she wanted to hear.

Louis said the diving itself was 'wonderful'. They were all delighted by the experience. Louis recalled his mother giving him a huge smile. But when he reached the surface he heard a warning shout, and saw 'a large boat high up out of the water with two propellers showing. I tried to move to the side. Then I turned and swam after the boat and found I was swimming in blood. I screamed out: "Don't look, Jamie." Jamie called back, "What's wrong? Where's mummy?" I shouted out, "Don't look Jamie. Look the other way!"

Two years on, says Jean, there is an 'emptiness' that cannot be assuaged. 'Never a day goes by without thinking of her. I look out into the garden and I remember her sitting on the patio with a bottle of wine.' Mingling with Jean's grief is a persistent ache that stems from her bafflement over how the accident could have happened. Cozumel's reputation for diving means it attracts thousands of visitors a year. The area where the accident occurred was part of a National Park which bans all powered boats, except those used for diving. Jean presumed any experienced skipper would know that. Local police began an investigation within hours of the accident.

Further inquiries were conducted by Kirsty's travel insurers and private investigators commissioned by Jean, and Kirsty's estate. As details mounted up, Jean became increasingly angry. The powerboat in question, the *Percalito*, belonged to Guillermo González Nova, the 67-year-old boss of one of Mexico's largest companies, Comercial Mexicana, which owns a chain of stores and restaurants. The

Percalito, which he had bought in 1994 for 127,000, was immensely powerful, with two massive engines and a top speed of 33 knots. On the day of the accident there were five adults on board: Gonzalez, his sons Luis and Gustavo, Gustavo's wife Norma plus their baby daughter. The fifth adult was a 26-year-old boat hand named Jose Cen Yam.

According to statements from all those on board, it was Cen Yam who was at the controls of the boat when Kirsty was hit. Witnesses said the boat was travelling at high speed, possibly as fast as 20 knots, with its bow riding clear of the water, just as Kirsty's son Louis was to describe. They also said that it was inside the National Park. Both Cen Yam and Gonzalez told police they had been travelling at no more than one knot. Gonzalez also claimed they were outside the restricted area.

But under questioning, disturbing facts began to emerge. Cen Yam had originally claimed he had a clear view. Later, he said he had turned to talk to his passengers just before the impact. In addition, he said the owner's son, Luis, had been sitting against the windscreen, obstructing the view, which would have been further limited if the bow was lifted clear of the water as a result of its speed.

There were further revelations about Cen Yam's experience. Although he called himself a seaman, his main job was to carry out maintenance on the Percalito. There are strict requirements for skippering powerboats of that size, but Cen Yam did not have a licence and had never taken the Percalito's helm before. Although he claimed to have taken a seaman's course he was unable to answer basic questions. He had trouble with simple arithmetic, was confused between left and right, and even though he claimed to have been travelling at one knot, could not explain what a knot was. It also emerged that Gonzalez did not have the right powerboat licence either. Although the evidence seemed damning, Gonzalez and Cen Yam attempted to divert the blame by claiming the diving team itself had broken the rules.

They said the dive master had failed to put out a marker buoy - which was true - and the dive boat was not flying a warning flag. Port authority investigators found it had been flying a flag, but not one that conformed to international regulations. The dive boat should also have had another crew member on board. But their findings against both Cen Yam and Gonzalez were damning: they had been in the prohibited area, Cen Yam had been negligent and violated navigation laws and Gonzalez should not have let him take the controls. This was echoed by investigators employed by Jean: even if the dive master contributed to the accident, that did not reduce the responsibility of Gonzalez and Cen Yam.

In the end, however, just one man was charged: the boathand, Jose Cen Yam. After lengthy legal proceedings, conducted without a jury, the Cozumel prosecutor concluded that Cen Yam was guilty of negligent homicide, which carries a sentence of up to seven years. The prosecutor's finding has still to be endorsed by a judge, who will deliver his verdict - and probable sentence - some time in the New Year. But Jean believes the person who carries the greatest culpability is Gonzalez. 'He owned the boat - and to pass control to that young man was reckless and irresponsible. Is human life in Cozumel so cheap?'

Jean also doubts whether Cen Yam was actually skippering the boat at the time. With his lack of qualifications it seems unlikely Gonzalez would have entrusted him with such a valuable boat. Is Cen Yam, Jean asks, merely the fall guy? Now she plans to go to Cozumel to see for herself. 'The accident should never have happened,' she said. 'It took the life of a young woman who had everything to live for. The person responsible must be made accountable. The more I hear about what happened, the worse it becomes.'

