



LEGAL ANALYSIS OF CONSUMER PROTECTION OF PUBLIC TRANSPORTATION SERVICES FOR TRAFFIC ACCIDENT VICTIMS

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ABSTRACT

Apart from causing casualties such as injuries and deaths, traffic accidents also cause material losses. Material losses resulting from traffic accidents are certainly not small, especially for victims who have experienced physical losses and also experienced material losses, as well as the families of victims who have died. There is an obligation for public transportation companies to take responsibility for traffic accidents because the vehicle crew works under the authority of the owner of the public transportation. However, not all public transportation companies carry out their responsibilities as regulated in statutory regulations. Full legal responsibility often assigned to the vehicle crew who are directly involved in a traffic accident. By using normative legal method, this research aims to find out how consumer protection arrangements for users of public transportation services are regulated and find the right concept of legal protection for consumers who are victims of public transportation traffic accidents. The author finds that consumer protection regulations for users of public transportation services are regulated based on the principles of consumer protection contained in the Law No. 8/1999 concerning Consumer Protection and are also included in several laws relating to public transportation services, especially roads, namely Law No. 22/2009 concerning Road Traffic Law. Legal protection for consumers who are victims of traffic accidents involving public transportation services is provided through the existing regulations in Consumer Protection Law and Road Traffic Law as well as protection in the so called SWDKLLJ or Mandatory Traffic Accident Fund Contribution mechanism.

Keywords: consumer protection, public transportation services, traffic accident.

INTRODUCTION

Law exists in every human society, both primitive and modern, so it is universal and inseparable from society (Prasetyo and Barkatullah, 2009). In Indonesia, the law is confirmed in the 1945 Constitution Article 1 paragraph 3 which states that Indonesia is a rule of law country. In an effort to improve order and legal certainty, attention is paid to traffic order, which is regulated in Law no. 22 of 2009 concerning Road Traffic and Transportation Law (RTTL). The government aims to create safe and efficient traffic through traffic management and engineering.

Public transportation services are

important for the mobility of modern society, but traffic accidents are a significant risk that causes material and non-material losses. These accidents not only threaten the safety of passengers, but also have serious economic and psychological impacts on individuals and society as a whole (Másilková, 2017). According to RTTL, roads are an important piece of infrastructure that must be maintained. Roads are a unified road network system that binds and connects growth centers with areas under the influence of their services in a hierarchical relationship (Soekanto, 1990). However,

the increasing number of vehicles is not matched by adequate road infrastructure, often causing accidents due to poor road conditions.

Road damage is caused by various factors such as heavy vehicle loads and construction errors, which can increase the number of accidents. Damage to this road includes cracks, bumpy roads, damage in the form of grooves that widen and lengthen the road around the distance of the vehicle's wheels, puddles of asphalt on the road surface, and potholes in the road (Artajaya, 2014). Road damage like this is usually caused by various factors, for example, due to the wheels of heavy vehicles passing by (repeatedly), high groundwater conditions, errors during asphaltting, increasing population, old roads and also due to planning errors. calculations during road construction (Yudaningrum and Ikhwanudin, 2017). Losses resulting from accidents are not only in the form of fatalities or injuries, but also material losses that require liability. RTTL stipulates the responsibility of public transport companies for accidents, but often this responsibility is delegated to the driver alone.

Traffic accidents can occur due to various factors, including negligence of road users and unroadworthy conditions of vehicles. RTTL regulates the classification of accidents into light, moderate and serious, and emphasizes the responsibility of public transport companies in the event of accidents.

Examples of cases in Balikpapan and Tulungagung show that often only the driver is made a suspect, without action being taken against the company owner (Saputra, 2023). RTTL and the Consumer Protection Law (CPL) protect passengers' rights as consumers of public transportation services, however violations of service standards and passenger capacity still frequently occur.

In the odong-odong case in Serang, Banten, where the vehicle was hit by a train, the odong-odong driver was made a suspect

according to RTTL (Ridho and Purba, 2022). Even though trains cannot make sudden stops, train passengers do not receive delay compensation.

Thus, the author is interested in analyzing the legal protection of consumers of public transportation services who are victims of traffic accidents based on RTTL and CPL. The purpose of this research is to find out how consumer protection arrangements for users of public transportation services are regulated and to find the right concept of legal protection for consumers who are victims of public transportation traffic accidents.

METHOD

This research uses normative legal or library methods, namely research that aims to obtain secondary data through books and statutory regulations. The themes include legal principles, legal systematics, legal synchronization, legal comparison, and legal history.

The approach used is a statutory and conceptual approach. This approach examines legal rules as well as views of legal doctrine. Data was collected through literature and document studies, with legal sources consisting of the 1945 Constitution, the Consumer Protection Law, the Road Transport Traffic Law, the Criminal Code, the Civil Code and the Criminal Code, draft laws and research results, dictionaries, encyclopedias and other explanatory sources.

Data was collected through literature study and interviews with relevant experts and law enforcement. Analysis is carried out qualitatively, presenting data in sentence form to form explanations and conclusions that are relevant to the research objectives.

RESULTS AND DISCUSSION

1. Consumer Protection Arrangements for Users of Public Transportation Services

According to Setiono, legal

protection is an action or effort to protect society from arbitrary actions by authorities that are not in accordance with the rule of law, to create order and tranquility so as to enable humans to enjoy their dignity as human beings (Setiono, 2004). Communities are interconnected and interact, making the need for transportation important. The transportation used is now more modern and requires infrastructure support such as good roads. The government must pay attention to this in the public interest. Transportation is divided into three types: land, sea and air, and can be private or public transportation. Public transportation users are protected by regulations such as Law No. 22 of 2009 and Minister of Transportation Regulation Number 27 of 2015, and protected by Law No. 8 of 1999 concerning Consumer Protection (CPL).

Transportation basically is a transportation agreement carried out in the form of a transportation agreement and transportation agreements in general which are not permanent or are called periodic services. This means that carrying out the transportation agreement is not continuous but only occasionally, if the sender needs transportation to send goods (Soekardono, 1961). So, based on this agreement, there are several protection that needs to be carried out.

According to Philipus Hadjon, legal protection is the protection of honor and dignity, as well as recognition of human rights possessed by legal subjects based on legal provisions from arbitrariness (Hadjon, 1989). Consumer protection in the CPL covers various aspects such as comfort, security, correct information, the right to be heard, advocacy, consumer education, fair service, and compensation. The government is responsible for ensuring these rights are fulfilled and supports consumer protection with regulations and guidance. The aim of the CPL is to increase consumer awareness and independence, provide legal protection, and guarantee the

safety and quality of the goods and services used.

An old review of traffic violations that result in accidents states that traffic violations are actions or actions of a person that are contrary to road traffic laws and regulations as intended in Article 32 (1) and (2), Article 33 (1) letter a and b, Law no. 14 of 1992 or other statutory regulations (Awaloedin, 2003).

Consumer rights are also reflected in the obligations of companies providing goods/services as stated in Article 7 CPL. Companies must:

- a. Act in good faith.
- b. Provide correct, clear and honest information about the condition and guarantee of goods/services as well as explanations of use, repair and maintenance.
- c. Treat consumers correctly, honestly and non-discriminatorily.
- d. Guarantee the quality of goods/services according to standards.
- e. Give consumers the opportunity to test or try goods/services and provide guarantees or warranties.
- f. Provide compensation or compensation for losses arising from the use of traded goods/services.
- g. Provide compensation or compensation if the goods/services do not comply with the agreement.

These obligations are basically identical with what has been stated by Adjij, Prakoso, and Pramono, that the carrier obligations are (Adjij, *et.al.*, 1991):

- a. Providing transportation equipment that will be used to carry out transportation.
- b. Maintain the safety of people (passengers) and/or the goods they transport. Thus, from the moment the carrier controls the people (passengers) and/or goods to be transported, then from that moment the carrier begins to be responsible

(Article 1235 of the Civil Code).

- c. Obligations mentioned in Article 470 of the Commercial Code include carry out maintenance, equipment or maintenance of transport equipment; ensure the capability of the transport equipment to be used to carry out transportation according to the agreement; treat well and take care of the cargo being transported. d. Hand over the cargo at the destination according to the time specified in the agreement.

Entrepreneurs are required to provide accurate information about products, guarantee quality according to standards, and provide explanations of product use. If the goods/services do not comply with the agreement, the entrepreneur must provide compensation. They must also serve consumers fairly and provide a means for consumer complaints or input. In addition, employers must comply with all applicable consumer protection law provisions.

The law regulates national development and integration with Road Traffic and Transportation as an important part. Guidance and development are carried out jointly by various agencies, ensuring clear duties and responsibilities to achieve security, prosperity and traffic order. This includes traffic education, road and vehicle roadworthiness monitoring, traffic management, and stricter law enforcement. The law also provides for special treatment for the disabled, the elderly, children, pregnant women, and the sick to ensure equality in services.

In Law Number 22 of 2009 concerning Road Traffic and Transportation, consumer protection is regulated through various aspects aimed at ensuring the safety, comfort and rights of users of road transportation services. Here are brief details regarding these aspects:

- a. Safety and Security Aspects:
Article 5, Article 106, and Article 307 of the Law regulate the state's

responsibility in managing road traffic and transportation, the driver's obligation to comply with safety provisions, and sanctions for violations of technical and roadworthiness provisions.

- b. Service Standard Aspects:
Article 138, Article 139 and Article 141 regulate minimum service standards that must be met by public transportation, including aspects of safety, comfort and affordability for service users.
- c. Aspects of Rights and Obligations:
Articles 213 to Article 217 emphasize the rights and obligations of the Government, public transport companies and the community regarding protecting the environment, providing environmentally friendly transport, as well as clear and correct information regarding the condition of public transport.
- d. Aspects of Insurance and Compensation:
Articles 186 to Article 194 regulate the obligations of public transportation companies in transporting passengers or goods, including returning transportation costs, providing compensation for losses experienced by passengers or goods senders, as well as liability insurance.

Thus, the Law comprehensively regulates various aspects that are relevant to protecting consumers in the context of road traffic and transportation in Indonesia.

The consumer protection paradigm in RTTL emphasizes the need for insurance to compensate victims of traffic accidents and the important role of public transportation companies in providing insurance protection to passengers. Accident victims are entitled to compensation for medical

costs, care and material losses. Drivers and transport companies are also responsible for losses incurred, with dispute resolution mechanisms and sanctions established to ensure compliance with compensation obligations.

Minister of Transportation Regulation Number 27 of 2015 also regulates Minimum Service Standards for Road-Based Mass Transport in accordance with Law Number 22 of 2009 concerning Road Traffic and Transportation. This standard covers six main aspects, namely security, safety, comfort, affordability, equality and regularity to ensure service users receive adequate basic services. This standard aims to improve the quality of mass public transportation services using buses with special protected lanes in the area.

2. Legal Protection for Consumers of Traffic Accident Victims of Public Transportation Services

From the explanation above, it can be seen that several consumer protection arrangements for users of public transportation services are carried out with several aspects such as Security, Safety, Comfort, Affordability, Equality, Regularity, Rights and Obligations of Road Users and Companies Providing Transportation Services, and Compensation and Compensation aspects.

The definition of traffic is the movement/movement of human vehicles and animals on the road from one place to another using means of movement (Anggraini, 2013). Otto explained that legal rules that are able to create legal certainty are laws that are born through and can reflect the culture that exists in society (Otto, 2003). So, consumer protection in the context of public transportation aims to ensure basic consumer rights such as safety, comfort and compensation for losses resulting from accidents. This is covered in RTTL as well as CPL which regulates rights

such as clear information, security, safety and compensation. for consumers, including traffic accident victims. In addition, the so called mandatory SWDKLLJ (Mandatory Traffic Accident Fund Contribution) insurance managed by PT Jasa Raharja provides compensation to traffic accident victims who use public transportation in accordance with established provisions.

Legal bases such as the CPL regulate that consumers have the right to security and safety in using goods/services, as well as the right to receive compensation if the goods/services do not comply with the agreement or do not function properly. The SWDKLLJ stated on the vehicle's STNK is an obligation to pay contributions by the vehicle owner to provide basic protection to accident victims. The amount of compensation such as ambulance costs, medical care, permanent disability and death is stipulated in Minister of Finance Regulation No. 15/PMK.010/2017.

SWDKLLJ is the state's effort to provide basic protection to the public, especially victims of accidents caused by vehicles or hit by vehicles. The SWDKLLJ stated on the Vehicle Registration Certificate (STNK), is paid by the vehicle owner periodically at the Samsat office, either at the time of registration or renewal of the STNK. SWDKLLJ payments are mandatory for every person or company that owns a motorized vehicle, so that the costs of treating victims are borne by the state through the role of Jasa Raharja,

The amount of fees that must be paid is classified according to the type of vehicle. For 50-250 cc motorbikes, Rp. 320,000, motorbikes over 250 cc are charged IDR. 80,000, and for four wheels or more around Rp. 73,000 to Rp. 163,000.

The amount of compensation for traffic accident victims has also been determined starting from reimbursement of ambulance costs Rp. 500,000, first aid costs Rp. 1,000,000, maintenance costs (maximum) Rp. 20,000,000, permanent

disability victim compensation Rp. 50,000,000, and death compensation Rp. 50,000,000 which was handed over to the victim's heirs.

Dispute resolution for accident victims who do not receive compensation from the party who caused the accident can be carried out through legal mechanisms, insurance, or other alternative dispute resolution mechanisms, to ensure that consumer rights are protected fairly and effectively.

CONCLUSION

Consumer protection regulations for users of public transportation services are regulated based on the principles of consumer protection contained in the CPL, and are also included in several laws relating to public transportation services, especially roads, namely RTTL. The CPL provides a general legal basis regarding consumer rights and the obligations of business actors, including public transportation service providers, as Article 4 of the CPL states basic consumer rights such as the right to comfort, security and safety in consuming goods and/or services. RTTL regulates aspects of safety, security, order and the smooth running of road traffic and transportation. This law requires public transportation service providers to comply with safety standards and provide insurance protection for passengers.

Legal protection for consumers who are victims of traffic accidents involving public transportation services is provided through the existing regulations in CPL and RTTL as well as protection in the SWDKLLJ (Mandatory Traffic Accident Fund Contribution) mechanism. Protection of traffic accident victims in the context of the CPL is not specifically regulated, but the general principles contained in the law still provide the basis for protecting consumer rights, including traffic accident victims who use public transportation services.

REFERENCES

- Adji, S.U., Prakoso, D., Pramono, H., 1991, *Hukum Pengangkutan Di Indonesia*, Jakarta: PT Rineka Cipta.
- Anggraini, D., 2013, "Studi Tentang Perilaku Pengendara Kendaraan Bermotor Di Kota Samarinda", *eJournal Sosiatri-Sosiologi*, 2013, 1 (1): 10-19, [https://ejournal.ps.fisip-unmul.ac.id/site/wp-content/uploads/2013/03/Dini%20Anggraini%20\(03-04-13-07-36-59\).pdf](https://ejournal.ps.fisip-unmul.ac.id/site/wp-content/uploads/2013/03/Dini%20Anggraini%20(03-04-13-07-36-59).pdf).
- Artajaya, W.A., 2014, *Perlindungan Hukum Bagi Pengguna Jalan yang Mengalami Kecelakaan Lahu Lintas Diakibatkan Oleh Jalan yang Rusak*, Skripsi Universitas Atmajaya Yogyakarta, 2014. Lihat di <http://ejournal.uaaj.ac.id/6014/2/HK110032.pdf>
- Awaloedin, N.R., 2003, *Mengarahkan Kesadaran Hukum Masyarakat dan Disiplin Penegak Hukum dan Lahu Lintas*, Jakarta: Bina Ilmu.
- Hadjon, P.M., 1989, *Perlindungan Hukum Bagi Rakyat di Indonesia*, Surabaya: Penerbit Bina Ilmu.
- Otto, J.M., 2003, *Kepastian Hukum di Negara Berkembang / Jan Michiel Otto*, diterjemahkan oleh Tristan Moeljono, Jakarta: Komisi Hukum Nasional Republik Indonesia.
- Másilková, M., 2017, "Health and Social Consequences of Road Traffic Accidents", *Kontakt*, Volume 19, Issue 1, March 2017, pp. e43-e47.
- Prasetyo, T., Barkatullah, A.H., 2009, *Ilmu Hukum Dan Filsafat Hukum*, Yogyakarta: Pustaka Pelajar.
- Ridho, R., Purba, D.O., 2022, "Kereta Api Tabrak Odong-odong di Serang, Sejumlah Penumpang Tewas", Kompas.com, <https://regional.kompas.com/read/2022/07/26/123952178/kereta-api-tabrak-odong-odong-di-serang-sejumlah-penumpang-tewas>.
- Saputra, D., 2023, *Kaleidoskop 2022: Daftar 10 Kecelakaan Transportasi Terbesar di Indonesia*,

<https://ekonomi.bisnis.com/read/2022/98/1611020/kaleidoskop-2022-daftar-10-kecelakaan-transportasi-terbesar-di-indonesia>.

- Setiono, 2004, *Supremasi Hukum*, Surakarta: UNS.
- Soekanto, S., 1990, *Polisi dan Lalu Lintas*, Bandung: Mandar Maju
- Soekardono, R., 1961, *Hukum Dagang Indonesia*, Jakarta: Penerbit Soeroeng.
- Yudaningrum, F., Ikhwanudin, 2017, "Identifikasi Jenis Kerusakan Jalan (Studi Kasus Ruas Jalan Kedungmundu-Meteseh), *Teknika*, Vol. XII No. 2, Oktober 2017 : 1-54.