

The Responsibility of Traffic Criminal Actions that Caused Injury and Death

Rizky Widyo^{*)}

^{*)} Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: rizkywidyo.std@unissula.ac.id

Abstract. *The driver's carelessness in driving often results in victims, whether the victim suffers serious injury or death, not infrequently even the driver's life is claimed. Several traffic accidents that occurred could have been avoided if road users behaved in a disciplined, polite and respectful manner. That the use of the road is regulated in Act No. 22 of 2009 concerning Road Traffic and Transportation. Traffic violations are acts that are contrary to traffic and or implementing regulations, whether or not they can cause loss of life or property as well as security, order and smooth traffic (kamtibcarlantas). The method used by the author in compiling the journal uses the Normative juridical method with the research specifications used in this research is descriptive analysis type. The data collection technique carried out in this study used literature study, collecting data from the results of a review of literature and secondary data which included primary legal materials, secondary legal materials and tertiary legal materials. Data analysis techniques in this study were carried out by qualitative data analysis The results of this study are that the responsibility for traffic accident perpetrators is subject to articles 359 and 360 of the Criminal Code, but they can also be charged with Act No. 22 of 2009 concerning Road Traffic and Transportation article 310 which if they die can be criminally punished for a maximum of 6 (six) years imprisonment or a maximum fine of IDR 12,000,000.00 (twelve million rupiah). In addition to imprisonment, confinement, or fines, perpetrators of traffic crimes can be subject to additional punishment in the form of revocation of driving licenses or compensation for losses caused by traffic crimes. In the case of a traffic accident, the perpetrator is also charged with compensating the victim according to the rules of the Road Traffic and Transportation Act. There are several factors that lead to traffic accidents that cause death,*

Keywords: *Accountability; Criminal; Traffic.*

1. Introduction

The problem of traffic behavior is a common phenomenon in big cities in developing countries. This problem is often associated with the increasing number of city residents which results in increasing activity and density on the highway. Diverse vehicle traffic and the increasing number of vehicles is faster than the increase in road infrastructure which has resulted in various traffic problems such as traffic jams and traffic accidents. Traffic accidents are still a serious problem in developing and developed countries.

As a country which based on the law in achieving the goals of national and state life, especially the achievement of community welfare in development as mandated by the Preamble to the 1945 Constitution of the Republic of Indonesia, the road traffic and transportation system has a strategic role as a means of expediting the flow of transportation of goods and services.¹The driver's carelessness in driving often results in victims, whether the victim suffers serious injury or death, not infrequently even the driver's life is claimed. Several traffic accidents that occurred could have been avoided if road users behaved in a disciplined, polite and respectful manner. That the use of the road is regulated in Act No. 22 of 2009 concerning Road Traffic and Transportation.

Traffic violations are acts that are contrary to traffic and or implementing regulations, whether or not they can cause loss of life or property as well as safety, order and smooth traffic (*kamtibcarlantas*).² With the existence of a regulation mentioned above and if the people want to apply these rules in driving, it is likely to reduce the number of accidents that even often occur on the highway.

Act No. 22 of 2009 concerning Highway Traffic and Transportation regulates traffic problems, especially for every motorized vehicle driver (*bertuuder Van motor rijtuigen*). The number of orders and prohibitions given to those who aim to save traffic on the highway, therefore there is a provision that generally prohibits any driver of a car or other vehicle that endangers traffic on the highway, in this case it is called separate crime.³

There are several interrelated factors that are considered as the cause of traffic accidents, namely human factors, vehicle factors, highway factors and environmental factors. However, in reality in society, accidents or traffic

¹Pietersz, Characteristics of Tickets in Enforcement of Traffic and Road Transportation Violations, Sasi Journal Vol. 16 No. 3 (2010), p. 108

²National Police Headquarters of the Republic of Indonesia Police Academy, 2009, Traffic Technical Functions, Main Competencies, , Semarang, p. 6.

³R. Wirjono Prodjodikoro, 1994, Certain Criminal Acts in Indonesia, PT. Eresio, Jakarta, p. 264.

violations that occur can often be said that the fault lies with road users (human factors) who are disobedient and negligent towards existing traffic regulations. Because humans as road users are often undisciplined which in turn causes traffic accidents. People often think that the accident that causes the victim to die, the fault lies with the driver of the vehicle concerned. Whereas in legal theory to declare someone's guilt needs to be seen from various aspects,⁴

People often view that traffic accidents that result in death are always the fault of the driver of the vehicle concerned. Meanwhile, according to the prevailing legal theory that a person's fault is seen from the actual incident factors, the factors that resulted in the traffic accident. This can be revealed from the chronology of events and eyewitnesses who saw the accident occur.⁵

It is not uncommon to find people taking the law into their own hands when a traffic accident occurs which results in the death of the victim which causes the parties involved in the accident to be reluctant to take responsibility (hit and run). Based on the background of the problem above, the author is interested in studying traffic problems related to the accountability of traffic crime perpetrators that cause injuries and deaths. The purpose of this study is to identify and find out the responsibilities of traffic accident perpetrators and what factors cause traffic accidents to cause injuries and deaths.

2. Research Methods

The method used by the author in compiling the journal uses the normative juridical method. The research specification used in this study is a descriptive type of analysis. In this study the authors focused on library research as well as primary materials in the form of applicable laws and secondary materials in the form of expert opinions, law books, journals and magazines. The data collection technique carried out in this study used literature study, collecting data from the results of a review of literature and secondary data which included primary legal materials, secondary legal materials and tertiary legal materials. Data analysis techniques in this study were carried out by qualitative data analysis, namely data collection using laws, theories and legal principles.

3. Results and Discussion

3.1. Accountability of Traffic Offenders Causing Injury and Death

⁴Asep Supriadi, 2014, *Traffic Accidents and Corporate Criminal Liability in the Perspective of Indonesian Criminal Law*, Alumni, Yogyakarta, p. 38

⁵Agio V Sangki, *Criminal Responsibility of Vehicle Drivers Causing Death in Traffic Accidents*, *Lex Crime Vol. 1 No. 1 (2012)*, p. 2

Criminal responsibility in foreign terms is also known as *theorekenbaardheid* or criminal responsibility. In criminal law, criminal responsibility is personal or individual, so that criminal responsibility cannot be transferred to other people. Criminal liability is intended to determine the circumstances of a perpetrator of a criminal act against whether or not a perpetrator is sentenced to a criminal act that has been committed.⁶

Traffic accidents according to Ramdlon Naning are: "road traffic accidents are the final events in a series of road traffic events, whether in the form of crimes or violations that result in loss, injury, or life or loss of property."⁷

In every case of a traffic accident that occurs on the highway, of course, has legal consequences for the driver of the vehicle. The legal provisions governing fatal accidents that result in injuries or death of a person, in general, are the Criminal Code (KUHP) and specifically regulated in Act No. 22 of 2009 concerning Traffic.⁸

In traffic is also known by the presence of intent and negligence. Elements of negligence or negligence or culpa in the doctrine of criminal law are called unconscious negligence and conscious negligence. In this element, the most important factor is that the perpetrator can predict the consequences of the act or the perpetrator is not careful. The most important element in negligence is that the perpetrator has awareness or knowledge that the perpetrator should be able to imagine that there will be consequences arising from his actions that will cause a consequence that can be punished and prohibited by law.⁹

Provisions for negligence are regulated in articles 359 and 360 of the Criminal Code, namely:¹⁰

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Whoever because of his fault (negligence) causes another person to die, shall be punished by a maximum imprisonment of five years or a maximum light imprisonment of one year.

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⁶Fitria Dewi Navisa, Legal Protection for Data Leakage and Personal Information on Air Transportation Passengers, Jurisprudence: Journal of the Faculty of Law, Islamic University of Malang Vol. 5 No. 1 (2022), p. 125.

⁷Ramdlon Naning, 1990, Enlivening Legal Awareness and Law Enforcement Discipline in Traffic, Mandar Maju, Bandung, h. 19

⁸Muhammad Dani Hamzah, Law Enforcement in Traffic Accident Crime Cases that Result in the Loss of People's Lives, Journal of Daulat Hukum Vol. 1 No. 1 (2018), p. 264

⁹Moeljatno, 2012, Principles of Criminal Law, Pustaka Karya, Jakarta, page 18

¹⁰The Criminal Code (KUHP)

1. Any person who through his fault (negligence) causes another person to be seriously injured, shall be punished by a maximum imprisonment of five years or a maximum light imprisonment of one year.

2. Any person who through his fault (negligence) causes another person to be injured in such a way as to cause illness or impede the carrying out of work or search for a certain time, shall be punished by a maximum imprisonment of nine months or a maximum light imprisonment of six months or a maximum fine of four thousand five hundred rupiah.

Indonesia as a rule of law adheres to the principle of *lex specialis derogat legi generali*, where the principle of legal interpretation states that special laws (*lex specialis*) overrule general laws (*lex generalis*). Rules regarding traffic accidents that result in injuries or death have been regulated in Act No. 22 of 2009 concerning Road Traffic and Transportation article 310:¹¹

(1) Everyone who drives a motorized vehicle which due to his negligence causes a traffic accident with damage to the vehicle and/or goods as referred to in Article 229 paragraph (2), shall be subject to imprisonment for a maximum of 6 (six) months and/or a fine of up to IDR 1,000 000.00 (one million rupiah).

(2) Everyone who drives a motorized vehicle which due to his negligence causes a traffic accident resulting in minor injuries and damage to the vehicle and/or goods as referred to in Article 229 paragraph (3), shall be punished with imprisonment for a maximum of 1 (one) year and/or a fine 2,000,000.00 (two million rupiah) at most.

(3) Any person who drives a motorized vehicle which due to his negligence causes a traffic accident and the victim is seriously injured as referred to in Article 229 paragraph (4), shall be subject to imprisonment for a maximum of 5 (five) years and/or a fine of up to IDR 10,000,000. 00 (ten million rupiah).

(4) In the case of an accident as referred to in paragraph (3) which results in the death of another person, the penalty shall be imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of IDR 12,000,000.00 (twelve million rupiahs).

Perpetrators of road traffic accidents can be brought to court to be held accountable for their actions if there is an element of negligence or negligence in their actions or there was no intentional element in their actions, even though in the chronology of traffic accident events, the actions that resulted in injury or death of people were caused by the victim's mistake while driving on on the

¹¹Act No. 22 of 2009 concerning Road Traffic and Transportation

highway, perpetrators who cause injury or death to people are still included in the category of criminal acts in accordance with the provisions in the two articles mentioned above if their actions contain an element of negligence which causes other people to suffer injuries, serious injuries or death.¹² Settlement of criminal cases is carried out through the stages of investigation, prosecution and examination in court hearings. At the stage of settling a criminal case in court, it is the judge who plays a role in determining whether the defendant is guilty or not.

In addition to imprisonment, confinement, or fines, perpetrators of traffic crimes can be subject to additional punishment in the form of revocation of driving licenses or compensation for losses caused by traffic crimes. In the case of a traffic accident, the perpetrator is also charged with compensating the victim according to the rules of the Road Traffic and Transportation Act.¹³

Article 235

1. if the victim dies as a result of a Traffic Accident as referred to in Article 229 paragraph (1) letter c, the Driver, owner and/or Public Transport Company is obliged to provide assistance to the victim's heirs in the form of medical expenses and/or funeral expenses without dropping the lawsuit.

3.2. Factors Causing the Occurrence of Traffic Crimes Causing Victims Injury and Death

Accidents have three main causal factors, namely human, vehicle and environmental factors which are divided into three stages before, during and after an accident. There are several factors that lead to a traffic accident that causes death, whether it's a single accident or an accident that hits another person causing death (loss of life). These factors are:¹⁴

a. Human Factors

The human factor referred to is generally the drivers, because humans as perpetrators of driving and carrying motorbikes are of course many things that are usually violated, such as speeds that are too high, because of sleepiness, fatigue, being drunk this is what usually happens often, and even violating traffic wednesdays.

¹²Ruslan Renggong, 2016, Special Criminal Law Understanding Offenses Outside the Criminal Code, Prenadama Group, Jakarta, p. 83

¹³Act No. 22 of 2009 concerning Road Traffic and Transportation

¹⁴Suhaima Fitria, 2022, Responsibilities of Perpetrators of Traffic Accident Crimes That Result in the Victim's Death in the Legal Area of the Jambi Police, Thesis, Faculty of Law, University of Batanghari.

b. Vehicle Factor

due to the physical factors of the vehicle and also the condition of the vehicle's engine which is rarely serviced, especially the vehicle's rim itself

c. Weather Factor

rain also affects vehicle performance such as the braking distance becomes longer, the road becomes more slippery, visibility is also affected because the wipers (wipers) cannot work properly or heavy rain results in shorter visibility

d. Problem Factors Road Conditions

Damaged roads/potholes are very dangerous for road users, especially for motorcycle users

e. Lack of compliance with the law

Neglecting compliance with the rules is also a cause of accidents such as running a red light.

An accident is an event that generally occurs due to an accident, but this can be prevented and minimized if road users can comply with the rule of law and be careful when using the road.

4. Conclusion

The responsibility for traffic accident perpetrators is subject to articles 359 and 360 of the Criminal Code, but they can also be charged with Act No. 22 of 2009 concerning Road Traffic and Transportation article 310 which if they die can be criminally punished for a maximum of 6 (six) years imprisonment or a maximum fine of IDR 12,000,000.00 (twelve million rupiah). In addition to imprisonment, confinement, or fines, perpetrators of traffic crimes can be subject to additional punishment in the form of revocation of driving licenses or compensation for losses caused by traffic crimes. In the case of a traffic accident, the perpetrator is also charged with compensating the victim according to the rules of the Road Traffic and Transportation Act. There are several factors with the occurrence of traffic accidents that cause death, namely human factors, vehicles, weather, road conditions, and compliance with the law.

5. References

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The Criminal Code (KUHP)