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Legal Protection For Bus Passenger Consumers (Case Study of Bus Accidents in Guci, Tegal)

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Abstract: Public transportation, particularly buses, plays a vital role in community mobilization due to their flexibility and accessibility. While public transportation offers many benefits, its operation isn't always flawless, as evidenced by the continued occurrence of public transportation accidents, especially involving buses. This research aims to investigate the legal protection available to consumers who experience bus accidents and determine the responsibility of bus business operators towards accident victims in Guci, Tegal. The research employs a normative legal method (normative juridical) supplemented with interviews. The approach utilizes both a statutory approach and a case approach. The form of legal protection in the event of a bus accident has been regulated in the UUPK and UULLAJ. In this case, the PO Mitra Duta Sejati has not fulfilled its full responsibility because there is still one of the victims whose rights have not been fulfilled, namely the right to receive road maintenance when injured as a result of the accident and compensation to the families of the victims who died, this is contrary to paragraph 235 (1) and (2) UULLAJ. Therefore, the victim's family has the right to receive compensation from the PO Mitra Duta Sejati. The amount of compensation can be obtained from a court decision or amicably by way of agreement between both parties, this provision is based on article 236 paragraphs (1) and (2) UULLAJ. With this research, it is hoped that if passengers experience a bus accident, they will be able to know the form of legal protection and the form of responsibility of business actors.

Keyword: Consumer Protection, Liability, Accidents, Bus.

INTRODUCTION

Humans are social creatures, which means they rely on others for their survival and well-being. Human nature as a social creature is a fundamental nature, as from childhood humans need other individuals to accommodate their life needs. To support these needs, humans will try to reach places or make movements to obtain goods, which is called mobilization. Mobilization carried out by humans requires adequate facilities to facilitate access to movement. One of the fundamental means of mobilization is transportation. Transportation is a system that delivers goods or people from one region to another (Abbas,

2000). Adequate transportation has a crucial role in becoming a bridge for economic, social and industrial progress, by opening up opportunities for job specialization based on local skills and culture. A country's economic progress is highly dependent on the smooth mobility of people and goods through an effective transportation system (Ikke Sintya, 2022).

Indonesia's population is recorded to have reached 279.04 million people, making this country one of the countries with the largest population in the world. The majority of Indonesians use private vehicles as the main mode of transportation. This was verified by the National Police Traffic Corps which recorded that the number of active motorized vehicles as of February 9th 2023 reached a total of 147,153,603 units. In 2024, the number of motorized vehicles will increase significantly, recorded by Korlantas Polri as of January 2 2024, namely 159,653,480 units (Fea Can, 2024).

The large number of figures from private vehicle data is not good for a country, especially Indonesia, because the large number of vehicles will of course have a negative impact on social life. An example of the negative impact of the large number of private vehicles is traffic jams, which will then increase air pollution. Seeing this, the Indonesian government provided a solution to deal with these two problems by providing public accommodation, namely public transportation on land, sea and air. Public transportation is a mode of mass transportation that provides passenger transportation services on a pay or rental basis (Warpani, 1990). Transportation plays an important role in uniting the Indonesian people who are spread across various islands and remote corners of the country. An adequate transportation network including land, sea and air transportation facilities facilitates the movement of people, goods and services, thereby encouraging the realization of economic equality and development throughout Indonesia (Balqis & Yusri, 2021).

Among the various modes of public transportation, land transportation is the most widely used for mobilization. One of the frequently used land transportation is buses, which are a mainstay for Indonesian people to travel. Buses offer various options available to meet the needs of people from various groups, from the upper, middle and lower classes. Ease of access and flexibility, such as being able to drop off passengers at places close to their final destination, including roadsides, make buses a popular choice (Riandana, 2020). Based on Undang-Undang Republik Indonesia Nomor 22 Tahun 2009 Tentang Lalu Lintas dan Angkutan Jalan, hereinafter referred to as the UULLAJ, specifically in article 47 paragraph (2) letter c, a bus is defined as a motorized vehicle transporting people that has more than 8 (eight) seats. people, including drivers, or who weigh more than 3,500 (three thousand five hundred) kilograms. From this definition, what is meant by transportation of people is bus consumers or you could say passengers. In accordance with Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen, hereinafter referred to as UUPK, a consumer is defined as every person who uses goods and/or services available in society, either for their own benefit, that of their family, other people, or other living creatures, and not for traded. In the context of bus transportation, passengers buy tickets to get permission to board the bus, which then becomes legal proof of the agreement and payment for bus transportation services. With this valid evidence, passengers deserve the right to safety, security and comfort, in accordance with the UUPK.

Although public transportation offers many benefits, public transportation is not always good in operation. Public transportation often causes situations where passengers experience losses, one example is the bus accident in Guci, Tegal city, Central Java in May 2023. The incident claimed the lives of 4 people out of 35 total bus passengers.

Based on the brief chronology of the Komite Nasional Keselamatan Transportasi (KNKT), on Sunday, May 6 2023, a tourist bus with plate number B 7260 CGA was carrying 50 (fifty) people who were a recitation group from South Tangerang for religious tourism. The bus managed by PO Mitra Duta Sejati has a route starting from South Tangerang then to Cirebon, continuing from Cirebon to Pematang, then continuing to Guci

Tegal, then continuing to Pekalongan and back to South Tangerang. After a long journey, precisely at 21.00 WIB the bus finally arrived in Guci, Tegal. All passengers got off around the accommodation area, and the bus driver parked the bus in an additional parking lot because the main parking lot was full. The parking process is assisted by a parking attendant, after that the bus driver pulls the parking brake hand, turns off the bus engine, and the conductor places stones to block the wheels on the left front and left rear wheels. The driver and conductor rest on the bus, namely the driver in the trunk and the conductor in the passenger seat. The day after, on Monday, May 7 2023, at around 07.30 WIB, passengers started boarding the bus and the bus driver woke up.

On that morning, the bus conductor started the bus engine with the aim of turning on the air conditioning (AC). Once the bus feels cool for the passengers, the bus conductor then gets off to help pack and place the passengers' belongings into the trunk. Not long after that, passengers began to enter the bus alternately until the total number of people who had entered the bus was 35 people. When the bus driver was coordinating the next destination with the committee in the parking area around the bus, unexpectedly the bus suddenly headed towards a ravine. The bus conductor then ran in the direction of the bus which was moving without a driver. After driving fast without control, the bus then hit a cliff on the right, causing the bus' speed to decrease. But the bus continued on the steep and descending road and then hit a cliff for the second time. The bus got closer to the edge of the ravine, crashed into a shop, after that the bus rolled over and over until it finally fell into a ravine where there was a river below (KNKT, 2023).

Based on the background description that has been explained, the author is interested in carrying out deeper research to identify and analyze related legal regulations in providing legal protection for passengers when experiencing a bus accident. In this way, it is hoped that bus passengers who are victims of accidents will know the form of legal protection if an accident occurs.

METHOD

The research method applied in this writing is a normative legal research method (normative juridical) with the aim of finding out and studying legal protection for bus accident victims. This method involves an in-depth study of library materials or other secondary data. There are 2 (two) approaches that the author uses in research, namely the approach through applicable laws and the approach through cases that are appropriate to the research. This research uses secondary data types which are divided into three, namely (Soekanto, 2007):

1. Primary Legal Materials

This research uses primary legal materials, including Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen dan Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan.

2. Secondary Legal Materials

The author uses secondary legal materials to support research which is obtained from books, articles, journals, papers, writing of other scientific papers, as well as interviews that are related to the topic of the research conducted.

3. Tertiary Legal Materials

In this research, Kamus Besar Bahasa Indonesia (KBBI) is a tertiary legal material used in searching for the meaning or significance of a word.

This research utilizes data collection techniques through library research and interviews. The data analysis technique used is descriptive analysis, where the author analyzes and examines the data obtained to produce accurate conclusions related to the formulation of the problem being studied (Hadikusuma, 1995).

RESULTS AND DISCUSSION

Legal Protection for Consumers Who Experience Bus Accidents

Law has an essential role in realizing social justice. Social justice can be said to be a fundamental basis for realizing legal protection for those in vulnerable positions. This means that the law functions as a tool to seek justice and provide a sense of security for vulnerable and marginalized groups (Kahfi, 2016). Legal protection is a form of protection of a person's honor, as well as protection of the right to live in accordance with existing legal regulations, which aims to protect against actions that violate legal provisions. Legal protection is a mandatory right for every citizen, including all Indonesian citizens. The large human population in Indonesia does not rule out the possibility of conflict between communities, which means that legal protection is needed to resolve cases. Therefore, the government, in this case as the highest official of the state, is obliged to provide legal protection to all citizens without discrimination (Putra et al., 2023).

In this context, legal protection is also related to consumers who are harmed by business actors. Legal protection for consumers is contained in the UUPK. The existence of consumer protection for service users is a very crucial aspect in transaction activities, because with this protection, consumers will feel safe and avoid unwanted or detrimental situations or conditions. This consumer protection can also give consumers rights in accordance with the initial agreement or agreement made by the business actor.

In the case of an accident that occurred in Guci, Tegal which resulted in victims, those affected by the accident are entitled to legal protection from the losses they experienced. Article 4 of the UUPK explains the contents of consumer rights:

1. The right to comfort, security and safety in consuming goods and/or services;
2. The right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange rate and conditions and guarantees promised;
3. The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services;
4. The right to have opinions and complaints heard regarding the goods and/or services used;
5. The right to obtain appropriate advocacy, protection and efforts to resolve consumer protection disputes;
6. The right to receive consumer guidance and education;
7. The right to be treated or served correctly and honestly and not in a discriminatory manner;
8. The right to receive compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or are not as they should be;
9. Rights regulated in other statutory provisions.

Based on the provisions of article 4 UUPK, in letter (a) consumers have the right to safety, security and security. The bus accident shows that passengers do not have their rights fulfilled when boarding the bus.

UULLAJ is the basis for legal protection for public transportation passengers on land. It is hoped that this regulation will become the foundation and guide in protecting passengers if there is a violation of their rights caused by public transportation services. In accordance with the provisions of Article 234 paragraph (1) UULLAJ which states that public transportation business actors are responsible if losses occur to victims caused by the carrier's negligence (Harahap, 2016)

If all consumer rights are not fully fulfilled by business actors or business actors are not fully responsible, then consumers have the right to receive advocacy, protection and dispute resolution efforts in accordance with the contents of article 4 letter (e) UUPK. Dispute resolution can be resolved through agencies or institutions that have the authority to handle disputes between consumers and business actors, or alternatively, through judicial or

non-judicial processes based on the wishes and results of discussions from both parties involved in the dispute. These provisions are based on article 45 paragraphs (1) and (2).

Thus, based on the explanation above, bus passengers who experience accidents are protected by UUPK and UULLAJ. Passengers are protected from their rights, passengers have the right to safety, security and comfort. Passengers also have the right to demand responsibility from the service provider if they feel disadvantaged when boarding their transportation.

Responsibilities of Bus Business Actors to Accident Victims in Guci, Tegal

In Kamus Besar Bahasa Indonesia (KBBI), responsibility is defined as a situation where there is an obligation to bear everything, assume responsibility, and provide answers and then accept the consequences. If viewed from a legal perspective, responsibility can be expressed as a concession that must be borne by someone for their actions, not only limited to actions that violate the law, but also includes actions related to morals or ethics (Soekidjo, 2010). Responsibility is based on a situation that creates a legal right for someone to sue another person which at the same time creates an obligation for other people to provide accountability (Triwulan, n.d.).

Responsibility is closely related to consumers because in buying and selling transactions, the possibility of losses can arise between the two parties. Also included in terms of transportation, transportation is a reciprocal agreement between the service provider and the consumer, in which the carrier is committed to organizing the delivery of people or goods from one location to another safely and safely to their destination (Purwosutjipto, 2002). From this definition it can be said that transportation is a reciprocal agreement, passengers pay the appropriate ticket to board the transportation and will get the right to comfort, security and safety. Similarly, the carrier's right is to receive payment for his services from passengers and to carry passengers to their destination safely. Based on this, the carrier is obliged to be responsible for the safety of passengers from the start of boarding the transport until the passenger disembarks, this provision is contained in article 192 paragraph (3) UULLAJ which contains the responsibility as intended in paragraph (1) starting from when the passenger is transported and ending at the agreed destination (Muhammad & Nurbaiti, 2019).

Regarding the carrier's responsibility in article 192 paragraph (3), if it is related to the bus accident case in Guci, Tegal, PO Mitra Duta Sejati as the business actor should be responsible because when the incident occurred some of the passengers had already boarded the bus. The form of accountability that must be given by business actors when an accident occurs is to immediately take the accident victim to receive first aid and medical treatment at the nearest hospital or clinic, this provision is based on article 240 UULLAJ and article 19 paragraph (2) UUPK.

According to the results of interviews obtained by the author from three heirs or families of the victims who died in the bus accident in Guci, Tegal, all three received first aid and were immediately taken to the nearest hospital after the accident occurred. Then two of the victim's families also received compensation when the victim died. However, according to one of the victims' families interviewed, Mrs. Nani, the sister of the deceased victim, Mrs. Manah, explained that after the incident she experienced paralysis and the costs for treatment were borne by the family. Then after 6 months of the accident the victim died and the PO bus did not provide compensation to the family of the deceased victim.

Referring to the results of the interview description above, according to the author, PO Mitra Duta Sejati as the business actor, even though at the time of the incident, immediately took all the victims to the hospital to receive further treatment and medical care, their responsibility for this did not fulfill all the victims' rights, because before The death of one of the victims, namely Mrs. Manah, suffered from paralysis and when she received

outpatient treatment at her own expense and when the victim died, the victim's family or third parties did not receive compensation. Here the business actor, namely PO Mitra Duta Sejati, violates the rules of article 235 paragraph (1) and (2) UULLAJ, which states that if the victim dies due to a traffic accident caused by the driver, owner and/or Public Transport Company, they must provide assistance to the victim's heirs in the form of medical expenses and/or funeral expenses without eliminating criminal proceedings. Victims of traffic accidents who experience physical injuries or health problems are entitled to assistance with medical costs from the responsible driver, vehicle owner or public transportation company, without prejudice to the criminal process for that party. This means that the PO Mitra Duta Sejati as the business actor is obliged to provide compensation for medical costs incurred by the victim during road maintenance and the bus PO must also provide compensation to third parties or the victim's family.

The family of the accident victim is a third party, meaning a party who is not part of the transportation agreement, but suffers losses resulting from the implementation of the transportation. In relation to responsibility to third parties, Article 194 Paragraph (1) UULAJ states that public transportation companies are not responsible for losses suffered by third parties, unless the third party can prove that the losses were caused by the public transportation company's fault. Article 194 UULAJ uses the principle of responsibility in accordance with the fault (fault liability principle), meaning that the carrier is obliged to be responsible if the fault is caused by the carrier itself, but if the fault is caused by the passenger, the carrier is free from that responsibility (Nasution, 2014). This principle is not based on an agreement, because the injured party is a third party who is outside the agreement. Therefore, the PO Mitra Duta Sejati as a business actor is based on the principle of fault liability, which is civilly responsible to third parties or the victim's family (Setyaningrum & Nurbaiti, 2021).

Based on the explanation above, liability by business actors who cause bus accidents has been regulated in UULLAJ regarding the obligations of public transport companies. Next is the UUPK regarding the obligations and responsibilities of business actors. The form of responsibility is to provide first aid and medical treatment, compensation according to the victim who is injured, and providing compensation to the victim's family when the victim dies. In the case of a bus accident in Guci, Tegal, PO bus Mitra Duta Sejati as the business actor has not fulfilled the principle of responsibility in accordance with the fault liability principle, because the responsibility of the business actor has not fully fulfilled the rights of one of the victims, where one of the victims did not get road maintenance costs and also compensation to the families of victims who died as a result of the accident. Therefore, third parties, in this case the victim's family or heirs, have the right to receive compensation. The amount of compensation can be obtained from a court decision or amicably by way of agreement between both parties, this provision is based on article 236 paragraphs (1) and (2) UULLAJ.

CONCLUSION

Legal protection is a form of protection for a person's honor, as well as protection for the right to life which legal subjects definitely have based on existing legal rules, which have the aim of protecting against actions that violate legal provisions. Based on Article 4 UUPK, consumers have the right to comfort, security and safety. The bus accident case shows that passengers' rights are not fulfilled. Legal protection for public transportation passengers is contained in Article 234 paragraph (1) UULLAJ, which requires public transportation business actors to carry out responsibilities to passengers who experience losses due to driver negligence. If a situation occurs where business actors do not fulfill consumer rights or are not fully responsible, consumers have the right to obtain advocacy, protection and dispute resolution efforts in accordance with Article 4 letter (e) UUPK, which can be done through

dispute resolution institutions or courts based on Article 45 paragraphs (1) and (2) UUPK. Thus, bus passengers who experience accidents are protected by UUPK and UULLAJ, which ensure their rights to comfort, security and safety, as well as the right to demand responsibility from business actors for losses suffered by passengers.

In terms of law, responsibility can be interpreted as the consequences that must be borne by someone for actions that violate the law and actions related to morals or ethics. Liability for business actors who cause bus accidents has been regulated in UULLAJ regarding the responsibilities of public transport companies. Next is the UUPK regarding the obligations and responsibilities of business actors. The form of responsibility is to provide first aid and medical treatment, compensation according to the victim who is injured, and providing compensation to the victim's family or heirs when the victim dies. In the case of the bus accident in Guci, Tegal, the responsibility of the business actor did not fully fulfill the rights of one of the victims, where one of the victims did not receive road maintenance costs or compensation for the death victim. Therefore, the victim's family or heirs have the right to receive compensation. The amount of compensation can be obtained from a court decision or amicably by way of agreement between both parties, these provisions are contained in article 236 paragraphs (1) and (2) UULLAJ.

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