

LAW ENFORCEMENT IN TRAFFIC ACCIDENT CRIMINAL ACTS DUE TO DRIVER NEGLIGENCE RESULTING IN THE VICTIM'S DEATH (Case Study at Serdang Bedagai Police Resort)

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ABSTRACT

The occurrence of traffic accidents causes many victims, died due to negligence or recklessness in driving a motorized vehicle. This application is regulated in Law Number 22 of 2019 concerning Road Traffic and Transportation. The formulation of the problem in this is how to regulate the law regarding traffic accidents in Indonesia, what are the factors that cause road traffic accidents that cause death, what are the solutions to overcome obstacles in law enforcement in traffic accident crimes on the highway according to the laws in force at The results of the study show that the factors that cause traffic accidents that cause death are intentional, namely deliberately driving a motorized vehicle in a dangerous manner and threatening the safety of road users. Article 311 of Law no. 22 of 2009 concerning Road Traffic and Transportation, it is proven whether driving properly or not. Countermeasures carried out by the Serdang Bedagai Police traffic unit against traffic violations in two ways, namely preventive and repressive, preventive efforts by enforcing the law against traffic crimes that cause victims to die, remain consistent with the provisions of Article 76 sd

INTRODUCTION

Advances in transportation technology have led to a highly diverse and accelerated development of transportation modes in Indonesia, both by air, land, and sea. This development, particularly land transportation, has made it easier for people to move from one area to another. However, as seen in almost all major cities, it has resulted in various traffic problems, such as traffic violations, congestion, and accidents, which are becoming increasingly complex over time.

Transportation systems can be considered a basic human need, continually improving in both quality and quantity. Among the various transportation systems available, such as sea, air, and land, land transportation remains the most dominant. Recognizing the crucial role of

transportation, particularly land transportation, it is necessary to regulate how to ensure safe, orderly, smooth, and efficient traffic flow to ensure the smooth flow of various activities toward achieving public welfare.

The increasing frequency of road users, particularly motorized vehicles for various personal and public purposes, can indirectly increase the frequency of traffic accidents. Rapidly advancing transportation technology has increased traffic accidents. While this has expanded the reach and range of transportation, it has also become a very serious cause of death in recent decades.

Law Number 22 of 2009 concerning Traffic and Road Transportation states that a traffic accident is an unexpected and unintentional event on the road involving a vehicle with or without other road users which results in human casualties and/or property losses.

Despite the dissemination of Law Number 22 of 2009 concerning Traffic and Road Transportation, the number of accidents and traffic violations in Indonesia remains high, according to data from the Traffic Directorate of the Police Headquarters, the number of traffic accidents in Indonesia in 2016 reached 57,726 cases with the number of traffic violations as many as 5,814,386 violations. In fact, according to data from the WHO, traffic accidents are the number 3 killer for Indonesian people, after HIV / AIDS and Pulmonary TB. In 2020, the number of deaths due to accidents has reached 30,637 people, meaning that in every 1 hour there are around 3-4 people or every day around 84 people die from road traffic accidents. Nationally, 67% of accident victims are in the productive age (22 - 50 years). Loss of productivity from victims and material losses due to these accidents is estimated to reach 2.9 - 3.1% of Indonesia's total GDP, or equivalent to Rp. 205-220 trillion in 2020, with a total GDP reaching Rp. 7,000 trillion.

Besides population growth and prosperity, which lead to more people traveling, the increasing number of road accidents is also due to

factors such as road and environmental conditions, vehicle conditions, and driver behavior. One traffic issue that requires serious attention is traffic accidents, which often begin with traffic violations.

The traffic violations referred to are deviations from traffic laws and regulations and those who violate them are subject to criminal sanctions and the case submission process uses a fast examination procedure in accordance with Articles 207, 211 and 216 of the Criminal Procedure Code.

A common form of traffic violation on the highway is a traffic accident, which can cause damage to property or lives. It is caused by human factors, vehicles, the road, the environment, and weather. A combination of these factors can occur, for example, between humans and vehicles, such as exceeding the speed limit and then a tire bursting, resulting in a vehicle accident.

The large number of traffic accidents that occur in Indonesia has caused a new problem, namely the increasing number of traffic accidents over the past two years. This is because many motor vehicle drivers do not understand and comprehend traffic signs and how to drive well in accordance with Law Number 22 of 2009 concerning Traffic and Road Transportation, resulting in many traffic accidents.

Besides the increasing number of road users, poor road construction, and substandard vehicles, human negligence and carelessness are the main causes of traffic accidents. This driver negligence often results in fatalities and even the lives of the drivers themselves.

Various factors can contribute to high accident rates, such as the condition of the vehicle itself, road conditions, driver negligence or human error, and so on. Driver negligence can be caused by a variety of factors, including poor work habits, environmental factors, psychological conditions, health conditions, or fatigue due to poor work habits.

This work pattern encompasses driving time and duration, as well as the frequency and duration of breaks. Driver fatigue is often overlooked due to the need to meet minimum deposit targets, neglecting operational standards. These accidents were analyzed and found to be largely due to driver negligence. This work system needs to be improved to prevent casualties and ongoing losses. There is a close relationship between alertness and fatigue. The greater the fatigue experienced by a person, the lower their alertness. This decreased alertness increases the likelihood of human error.

Traffic accidents are caused by various factors, such as driver fatigue and carelessness. Human factors are the primary cause of road accidents. These occur due to driver negligence or carelessness. This negligence often results in casualties, ranging from minor injuries to serious injuries to death, and even the driver's own life.

The increasing number of accident victims is undesirable for all parties, given the value of human life, which is difficult to measure in monetary terms. Those who cause accidents must be held accountable for their actions, in the hope that they will be deterred and more cautious. Even being careful is not enough to avoid accidents; driving conditions and awareness of traffic laws are also crucial factors.

Traffic accidents not only cause casualties, such as injuries and deaths, but also cause material losses. The material losses resulting from traffic accidents are certainly not insignificant, especially for victims who have already suffered physical and material losses, as well as the families of those who have died. To resolve these material losses, there must be responsible parties in traffic accidents. Not only the government and law enforcement officials, but the primary perpetrators must be held accountable, namely the vehicle crew. In the case of public transportation,

not only the vehicle crew is responsible, but the public transportation company also bears responsibility in traffic accidents.

An accident is an act of negligence, and negligence is a criminal act, and of course there is criminal responsibility. Accidents that occur due to damage to transportation, then Public transportation companies are also responsible for traffic accidents because the crew works under the authority of the public transportation owner. This is clearly stated in Article 191 of Law Number 22 of 2009 concerning Traffic and Road Transportation, which states, "Public Transportation Companies are responsible for losses resulting from all actions of people employed in transportation activities."

Several articles in Law Number 22 of 2009 concerning Traffic and Road Transportation have regulated the responsibilities that must be carried out by public transportation companies for the consequences of traffic accidents. Such as in Article 192 paragraph (1) which states "Public Transportation Companies are responsible for losses suffered by Passengers who die or are injured due to the provision of transportation, unless caused by an incident that cannot be prevented or avoided or due to the fault of the Passenger." However, in reality, not all public transportation companies carry out their responsibilities as regulated in the laws and regulations. Full legal responsibility is delegated to the vehicle crew who are directly involved in the traffic accident.

RESEARCH METHODS

This research is descriptive analysis, that is, research that describes, examines, explains, and analyzes laws and regulations related to the objectives of this research. The purpose of descriptive research is to accurately describe the characteristics of individuals, conditions, symptoms, or certain groups, or to determine the frequency or distribution of a symptom or the frequency of certain relationships between symptoms and other symptoms in society. The main purpose of analyzing legal

materials is to understand the meaning contained in the terms used in the statutory regulations conceptually, as well as to understand their application in practice.

The types of legal research used are normative legal research and empirical legal research. Normative legal research is research that places norms as the object of research, whether legal norms in statutory regulations or legal norms derived from statutes. Also known as doctrinal legal research, it is legal research that uses secondary data. Normative legal research is known as qualitative legal research. Empirical legal research is legal research that uses primary data sources.

The approach used in this research is the statute approach. and case approach in analyzing cases (case study) at the Serdang Bedagai Police Resort. The case approach is carried out by reviewing cases related to the legal issues faced. The conceptual approach is carried out by studying the views and doctrines in legal science, which will find ideas that can give birth to legal understandings, legal concepts, and legal principles that are relevant to the issues faced. Understanding these views and doctrines is a basis for researchers in building a legal argument in solving the issues faced.

Data collection is a crucial stage in the research process, as it serves as the source of the research. Data collection focuses on the underlying problem, ensuring that the research avoids any deviations or ambiguities in its discussion. This study utilized both primary and secondary data.

RESULTS AND DISCUSSION

Traffic crimes are violations of traffic laws, one of which can result in traffic accidents that can be detrimental to others or oneself. According to Soerjono Soekanto, a traffic accident may occur where a motorized vehicle is involved on the road. It involves people, objects, and hazards that

may result in death, injury, damage, or loss. In addition, traffic accidents may involve motorized vehicles or non-motorized vehicles only.

A common daily reality is that many drivers, especially city bus drivers, are still mentally unprepared. They overtake each other without regard for their own safety or that of their passengers. Many traffic accidents could have been avoided if road users had behaved in a disciplined, courteous, and respectful manner.

Article 229 paragraph (5) of Law Number 22 of 2009 concerning Traffic and Road Transportation explains that traffic accidents as referred to in paragraph (1) which classifies accidents into minor, moderate and serious accidents (death) can be caused by negligence of Road Users, unroadworthiness of vehicles, and unroadworthiness and/or the environment.

An accident can be defined as an unplanned event that can be caused by human factors, road factors, vehicle factors, environmental factors, or a combination of these factors that can disrupt the work process and can cause injury or not, illness, death, property damage or other undesirable events.

According to Article 1 point 24 of Law Number 22 of 2009 concerning Traffic and Road Transportation, a traffic accident is an unexpected and unintentional event on the road involving vehicles with or without other road users which results in human casualties and/or property losses.

The word culpa, in its broadest sense, refers to a mistake in general, while in its narrower sense, it refers to a mistake in the form of negligence. The reason why culpa is an element of error is when a situation is so dangerous that it endangers the safety of people or property, or causes a loss to someone that is so great that it cannot be repaired. Therefore, the law also acts against the prohibition of caution, recklessness (negligence), and in short, schuld (negligence that causes the circumstances described above).

Thus, a crime is covered by negligence when an act is committed due to a lack of foresight or carelessness. For example, driving a car at speed, resulting in a collision with someone and causing their death.

In addition to being sentenced to imprisonment, detention or a fine, perpetrators of traffic accidents can also be sentenced to additional penalties such as revocation of their driving license or compensation for losses resulting from the traffic accident.

A crime only refers to an act that is prohibited and threatened with punishment. A person who commits a crime is not necessarily subject to the punishment threatened.

Simons stated that guilt is the existence of a certain physical condition in a person who commits a crime and there is a relationship between that condition and the act committed in such a way that the person can be blamed for doing that act. Thus, for there to be guilt, two things must be considered in addition to committing a crime, namely the existence of a certain physical (mental) condition and a certain relationship between that mental condition and the act committed, so that it gives rise to the blame.

The inner attitude of the person who creates the prohibited situation is not opposing the prohibitions, he does not want or approve of the occurrence of the prohibited thing, but his mistake, his inner error when he does something that causes the prohibited thing is that he does not pay attention to the prohibition. So it is not merely opposing the prohibition by doing what is prohibited but he does not really pay attention to the prohibition.

It turns out that his actions were negligent, negligent, and careless in carrying out his actions, because if he had heeded the prohibition when carrying out an action that objectively caused the prohibited event, he would certainly not have been negligent or careless enough to prevent the

prohibited event from occurring. Because this form of error is also mentioned in the formulation of the crime, it must also be proven.

While negligence (*culpa*) is generally considered a less serious offense and therefore carries a lower penalty than intentional offenses, the imposition of severe penalties for negligent acts, as stipulated in Article 359 of the Criminal Code, is actually intended for general prevention.

The crime of negligence in the formulation of the law is of two types, namely the crime of negligence (*culpa*) which causes consequences (*culpose gevolgsmisdrijven*) and that which does not cause consequences, but what is threatened with punishment is the act of carelessness itself. The difference between the two is very easy to understand, namely for negligence (*culpa*) which causes consequences, then the crime of negligence (*culpa*) is created, while for those that do not necessarily cause consequences, with negligence or lack of care itself is threatened with punishment.

Road traffic accidents can occur due to various factors, including human factors (road users), vehicle factors (infrastructure), road factors (infrastructure), and environmental and natural factors. Among these factors, human factors (road users) are the most decisive.

The weaknesses arising from the above factors can be overcome if drivers or riders act cautiously and carefully, obey traffic regulations, and pay attention to traffic signs. Drivers or riders' careful attention to and preparation of their vehicles before departure, as well as when driving in heavy traffic or on slippery roads, are less likely to result in accidents.

Based on Article 310 of the Traffic and Road Traffic Law, it can be concluded that if a driver's negligence or carelessness results in injury or death to another person, the criminal penalties are clearly stated, as stipulated in the aforementioned article. Although the Traffic and Road Traffic Law has been implemented until now, it cannot be denied that accidents still occur.

Road accidents can at least reflect the lack of legal awareness among motorists in society. This is due to the continued failure of many drivers to follow traffic rules and regulations. The increasing number of accident victims is undesirable for all parties, given the immense value of human life, which is difficult to quantify in monetary terms.

The large number of fatalities in accidents is categorized as negligent homicide, as murder in the context of positive criminal law is categorized as murder intended by the perpetrator, murder due to assault, and murder due to negligence. Negligent homicide itself is a criminal act committed by someone who does not have the intention to commit the crime. But due to carelessness, it results in another person becoming a victim. Therefore, the driver is not categorized as having intentional but rather negligent.

The person who caused the accident must be held accountable for their actions, hoping the perpetrator will be deterred and become more cautious. Being careful isn't enough to avoid accidents; driving conditions are paramount, and proper adherence to traffic laws is crucial.

According to Article 1 number 24 of the LLAJ Law, a traffic accident is an unexpected and unintentional incident on the road involving vehicles with or without other road users that results in human casualties and/or property losses. Based on the definition of a traffic accident, it is identified that a traffic accident is an unexpected and unintentional incident, because of the unexpected and unintentional elements, it can be interpreted as negligence (negligence - culpa).

The provisions regarding negligence or carelessness that causes the victim to die are regulated in the Criminal Code Book Two on Crimes Chapter XXI Article 359, which reads as follows: "Anyone who due to his negligence causes the death of another person, is threatened with a maximum prison sentence of 5 (five) years or a maximum imprisonment of 1 (one) year."

CONCLUSION

The legal provisions for criminal acts resulting from driver negligence that cause traffic accidents resulting in death are regulated in Article 310 of Law Number 22 of 2009 concerning Traffic and Road Transportation, which states that drivers who are negligent in driving and cause accidents that result in the death of other people, shall be punished with a maximum prison sentence of six years or a maximum fine of IDR 12,000,000 (twelve million) rupiah.

The factors causing traffic accidents that cause death are the element of intent, namely intentionally driving a motorized vehicle in a dangerous manner and threatening the safety of road users. Article 311 of Law No. 22 of 2009 concerning Traffic and Road Transportation can be applied, the criminal element is intentionally driving a motorized vehicle in a manner or condition that endangers life or property. The way of driving a motorized vehicle must be proven whether driving is good or not.

Obstacles that often occur in the practice of law enforcement in the field in violations of criminal traffic violations so that the resolution of criminal traffic violation cases cannot run well, are obstacles to human resources for law enforcement, community factors. In general, the community does not want to bother in resolving traffic violation cases, the community does not want to bother dealing with officers, let alone going to court and the mentality of officers in the field is not ready. There is a dependency between violators and officers in the field, mutually beneficial from an economic perspective. The efforts to overcome traffic violations carried out by the Serdang Bedagai Police Traffic Unit through two methods, namely preventive and repressive, preventive efforts by enforcing the law against traffic crimes that cause victims to die, remain consistent with the provisions of Article 76 to Article 85 of the Criminal Code and Article 109 paragraph (2) of the Criminal Procedure Code and Law Number

22 of 2009 concerning Traffic and Road Transportation. Strictly speaking, the case process is still forwarded to the Public Prosecutor and the Court.

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