

NEGLIGENCE CRIMINAL ACT THAT CAUSES TRAFFIC ACCIDENTS AND RESULTS IN SERIOUS INJURY AND DEATH OF OTHER PEOPLE

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Abstract

Criminal acts due to the negligence of the perpetrator resulting in traffic accidents and serious injuries and/or deaths according to Law Number 22 of 2009 concerning Traffic and Road Transportation are regulated in Article 229 paragraph (1) of Law Number 22 of 2009 concerning Traffic and Road Transportation, although Article 229 paragraph (1) letter c of the Law on Traffic and Road Transportation has regulated the rights of victims regarding compensation for losses from victims, however, the compensation for losses is only limited to medical expenses and/or funeral expenses and compensation for losses the amount of which is determined by a court decision, which means that the compensation for losses may not necessarily be able to restore the losses suffered by the victim's family. By remembering and paying attention to Article 310 paragraph 3 of Law Number 22 of 2009 and Article 193 of the Criminal Procedure Code, it is correct. Implementation of the Panel of Judges' Decision on Criminal Acts of Negligence Causing Traffic Accidents and Resulting in Serious Injuries and Death of Others in Decision Number 212 / Pid.Sus / 2023 / PN Idm. and Decision Number 238 / Pid.Sus / 2024 / PN. In fact, the defendant's negligence has caused the loss of 2 lives, in addition, the defendant's negligence has caused 2 victims to suffer minor injuries and one person to suffer serious injuries. The Panel of Judges considered that the defendant had been responsible by replacing all losses suffered by the victim and assisting in the evacuation process of the victim. In fact, Article 235 paragraph (1) of Law Number 22 of 2009 concerning Traffic and Road Transportation explains that in the case of a driver who has caused death and has provided assistance to the victim's heirs in the form of medical expenses and / or funeral expenses, it will not dismiss the criminal case charges .

Keywords : Accident, Culpa, Traffic

INTRODUCTION

Negligence that causes traffic accidents is a national scale problem that develops in line with the development of society. Indonesia is a developing country and is very vulnerable to various crimes. Apart from the large population, this is also caused by the low economic and educational levels of the community, which causes the community to make various efforts to improve their standard of living, even though there are things that are not appropriate.

The traffic sector has many impacts, among others, on road users, transportation facilities as a result of which it will cause traffic jams, traffic violations and traffic accidents that have claimed many human victims so that they can disturb the community. Traffic crimes are limited to several articles of the Criminal Code (KUHP), as contained in Article 359 of the Criminal Code, which reads: "*Anyone who, due to his fault, causes the death of a person, shall be punished with imprisonment for a maximum of five years or imprisonment for a maximum of one year.*"

Traffic violations cannot be ignored because based on existing data, most traffic accidents are caused by human factors, road users who do not comply with traffic regulations, but there are still many causes outside of human factors such as flat tires, brake failure, potholes and others. Likewise, the problem of traffic congestion, that data must show that congestion occurs because of violations committed by road users. However, there are other factors that cause congestion besides traffic violations such as high vehicle volumes through certain roads, road conditions, inadequate road infrastructure and others. And Road Transportation which is considered no longer relevant to the Indonesian people.

The difference between crimes and violations is no longer a measure to determine which court has the authority to try them, as before, because now everything is tried by the district court. However, there are differences in the way of trying. To overcome traffic accidents and other traffic problems, an effort is needed, one of which is by effectively enforcing criminal law against traffic violators, the hope is that the community can be more disciplined in traffic so that traffic peace is created. Criminal law enforcement against traffic violators is also often ineffective, this is influenced by various factors.

In relation to the research undertaken by the author, it is the creation of traffic peace. Criminal law enforcement against traffic violators is also often ineffective, it is influenced by various factors. In the Decision of the Indramayu District Court Number 212/Pid.Sus/2023/PN Idm., with the Defendant Karso bin Kartam, who has been proven legally and convincingly guilty of committing a crime "Because his negligence caused a traffic accident that resulted in the death of another person and another person suffering minor injuries". The Panel of Judges sentenced the Defendant Karso bin Kartam to 2 (two) years in prison and a fine of Rp. 10,000,000 (ten million rupiah) with the provision that if the Defendant does not pay the fine, it will be replaced with 2 (two) months in prison. The Defendant Karso bin Kartam has violated Article 310 paragraph (4) of Law Number 22 of 2009 Sub Law Number 11 of 2012 concerning Road Traffic and Transportation and Article 310 paragraph (2) of Law Number 22 of 2009 Sub Law Number 11 of 2012 concerning Road Traffic and Transportation and Law Number 8 of 1981 concerning Criminal Procedure Law and other relevant laws and regulations.

RESEARCH METHODS

The types and sources of data used by the author in this research can be described as follows:

a. Primary Data

Namely empirical data obtained directly in the field or research location through data and information collection techniques from the Indramayu District Court and the Cianjur District Court, which handled the case.

b. Secondary Data

This is the data that we searched through library sources, whether from books, magazines,

journals, or electronic media and mass media that we considered relevant to the problem being discussed.

RESULTS AND DISCUSSION

Legal Handling of Criminal Acts of Negligence Causing Traffic Accidents and Resulting in Serious Injuries and Death of Other People

Moderate traffic accidents as referred to in paragraph (1) letter b are accidents that result in minor injuries and damage to vehicles and/or goods. Serious traffic accidents as referred to in paragraph (1) letter c are accidents that result in death or serious injury. Traffic accidents as referred to in paragraph (1) can be caused by negligence of road users, unroadworthiness of vehicles, as well as unroadworthiness and/or the environment.

Driver errors can often be concluded as not using traffic regulations. For example, he did not give a sign that he was going to turn, or he drove the car not in the left lane, or at an intersection did not give priority to other vehicles coming from the left, or drove the car too fast exceeding the speed limit specified in the traffic signs.

Thus, the perpetrator of the crime of traffic accidents resulting in death is the driver of the vehicle because the action taken is unlawful. The unlawful nature shows the fault of the driver of the vehicle in the form of negligence / negligence or in other words the action is reprehensible and the perpetrator is aware of the action taken. According to the description in Article 359 of the Criminal Code, it can be concluded that if the driver's negligence or negligence results in death, the criminal threat is as regulated in Article 359 of the Criminal Code.

The LLAJ Law contains high criminal provisions, including the article related to traffic accidents resulting in death, namely Article 310 paragraph (3) which stipulates that anyone who drives a motorized vehicle who due to his negligence causes a traffic accident with serious injuries as referred to in Article 229 paragraph (4), shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp. 10,000,000.00 (ten million rupiah). While paragraph (4) in the case of an accident as referred to in paragraph (3) resulting in the death of another person, shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 12,000,000.00 (twelve million rupiah).

Different from Article 311 (UULLAJ), namely:

Any person who intentionally drives a motorized vehicle in a manner or condition that endangers life or property shall be punished by imprisonment for a maximum of 1 (one) year or a maximum fine of Rp. 3,000,000.00 (three million rupiah).

In the event that the act as referred to in paragraph (1) results in a traffic accident with damage to vehicles and/or goods as referred to in Article 229 paragraph (2), the perpetrator may be punished with a maximum imprisonment of 2 (two) years or a maximum fine of IDR 4,000,000.00 (four million rupiah).

In the event that the act as referred to in paragraph (1) results in a traffic accident with minor injuries and damage to vehicles and/or goods as referred to in Article 229 paragraph (3), the perpetrator shall be punished with a maximum prison sentence of 4 (four) years or a maximum fine of IDR 8,000,000.00 (eight million rupiah).

In the event that the act as referred to in paragraph (1) results in a traffic accident with serious injuries as referred to in Article 229 paragraph (4), the perpetrator shall be punished with a maximum prison sentence of 10 (ten) years or a maximum fine of IDR 20,000,000.00 (twenty million rupiah).

In the event that the act as referred to in paragraph (4) results in the death of another person , the perpetrator shall be punished with a maximum prison sentence of 12 (twelve) years or a maximum fine of IDR 24,000,000.00 (twenty four million rupiah).

It is also often found in several criminal acts of traffic accidents, namely hit and run. Hit and run is generally a term meaning that the perpetrator, in this case the driver of the vehicle, leaves the victim of a traffic accident and does not stop the vehicle he is driving.

Drivers of vehicles involved in traffic accidents as regulated in Article 231 of Law No.

22 of 2009 concerning traffic and road transportation, namely:

Motorized Vehicle Drivers involved in Traffic Accidents are required to:

- (1) Stopping the vehicle he was driving
- (2) Providing assistance to victims;
- (3) Report the accident to the nearest Indonesian National Police; and
- (4) Provide information related to the accident.

Motor Vehicle Drivers, who due to compelling circumstances are unable to carry out the provisions as referred to in paragraph (1) letters a and b, must immediately report themselves to the nearest Indonesian National Police. Thus, the driver of the vehicle due to compelling circumstances is unable to stop the vehicle or provide assistance to the victim when a traffic accident occurs, compelling circumstances in this case mean that the situation in the environment of the accident location can threaten the safety of the driver of the vehicle, especially from the anger of the masses and the condition of the driver of the vehicle who is powerless to provide assistance.

Driver negligence is something that is difficult to avoid, but you should always be alert when driving a vehicle by limiting things that can cause traffic accidents.

Thus, vehicle drivers who commit a traffic accident resulting in death are threatened with a maximum prison sentence of five years or a maximum imprisonment of one year.

In the application of Article 359 of the Criminal Code, all elements of Article 359 of the Criminal Code must be proven in court. Although it must be admitted that this proof is not an easy thing, and is often an obstacle to punishing perpetrators of traffic accidents in this case vehicle drivers.

In Article 184 paragraph (1) of the Criminal Procedure Code it is stated that valid evidence is witness testimony, expert testimony, letters, instructions and the defendant's testimony. And to determine whether someone can be sentenced to a criminal penalty, there must be at least two valid pieces of evidence (Article 183 of the Criminal Procedure Code). Specifically for traffic accident crimes, with the provisions of Article 183, it is becoming easier to prosecute the perpetrators.

Therefore, in order to be able to prosecute the crime of traffic accidents resulting in death in Article 359 of the Criminal Code, accuracy is needed, including witnesses in this case providing information about the victim's condition and information about the accident that resulted in death. So that witness statements in cases of traffic accidents make it easier for the police to examine the case more quickly and immediately transfer the case to the prosecutor's office.

Legally, we know that Article 359 of the Criminal Code, the maximum penalty of five years or a maximum of one year imprisonment, has encouraged vehicle drivers not to be afraid of committing traffic accidents that result in death, so that many accidents have occurred in the last few decades. Thus, the criminal responsibility of vehicle drivers who cause death in Article 359 of the Criminal Code is a maximum of five years in prison or a maximum of one year imprisonment, if the act meets all the elements of the article, or in other words all the elements of Article 359 of the Criminal Code, namely: anyone who, due to his negligence, causes the death of another person, is proven in court.

The threat of a maximum sentence of five years in prison or a maximum of one year in prison in Article 359 of the Criminal Code is very disappointing for the public, especially the victim's family, because judges often impose sentences that are too light on the accused, such as the accused is only sentenced to one year in prison, so that the accused does not become a deterrent and other vehicle drivers do not become afraid and are not more careful in driving vehicles so that there are still many traffic accidents that result in death.

As in cases of criminal traffic accidents resulting in death which were examined in court, a vehicle driver was once sentenced to eight months in prison. This is certainly very disappointing for the public, especially the victim's family, because the punishment served is actually not commensurate with the actions and the suffering experienced by the victim's family throughout their lives.

In fact, legally, the criminal act of traffic accidents resulting in death in Article 359 of the Criminal Code with the threat of a maximum prison sentence of five years or a maximum imprisonment of one year is intended to prevent the occurrence of criminal acts of traffic accidents and will cause psychological pressure on other vehicle drivers so that they are afraid of committing criminal acts of traffic accidents.

The efforts of the Indonesian nation were realized by carrying out codification and unification in certain legal fields, including the renewal of the Criminal Code and the Criminal Procedure Law (material criminal law and formal criminal law).

Indeed, there is something odd if it has succeeded in making a National Criminal Procedure Code, namely Law No. 8 of 1981 concerning the Criminal Procedure Code (KUHAP), without being followed or even preceded by the preparation of the Criminal Code, so that the criminal procedure law that was previously regulated in *the Herziene Inlands Reglement*, Stb. 1941 No. 44 has been replaced by Law No. 8 of 1981 but the Criminal Code is still the same.

Therefore, the hopes of the entire community are pinned on the legislative body in Indonesia that one day we will be able to have a National Criminal Code which is a product of our own nation and can be a source of pride for us, the Indonesian people, who have regulated the behavior of Indonesian society in accordance with the development and needs of society.

All of this is a fact that the life of society is always developing along with the development of technology, so that there are changes in the values of legal life in society which must experience new developments, namely living, dynamic laws that arise in the nation's society itself.

Roeslan Saleh said:

It is a fact that the realities of people's lives have changed and these changes have sometimes been so far-reaching that they support values that are different from those previously upheld by legal values.

These facts show the negative aspects of the norms that are still being treated. It is this negligence in reforming and renewing it that over time gives rise to voices that doubt the basics outlined in the criminal law and doubt the good influence of the application of the criminal law itself which lives on these basics.

It is said that one of the sources of the unrest in society associated with criminal justice is because law enforcers still use a purely normative systematic approach.

With such an approach, legal experts have freed themselves from the realities in society that are still always moving and changing. From the fact that society develops so that there are changes in the values that live in society, then the law with the main goal of achieving peace, order, prosperity, welfare, justice and legal certainty, must be in line with the development of society so that the law can achieve its goals.

Bambang Poernomo, said that:

The growth of reality in society is closely related to changes in the circles of causes of reality, both those that lie within each individual human being and in social conditions and environments that can result in an increase and development of criminal behavior that is different from previous times and cannot be predicted previously.

Implementation of the Panel of Judges' Decision on Criminal Acts of Negligence Causing Traffic Accidents and Resulting in Serious Injuries and Death of Others in Decision Number 212/Pid.Sus/2023/PN Idm., and Decision Number 238/Pid.Sus/2024/PN Cjr.

a. Legal Analysis of Decision Number 212/Pid.Sus/2023/PN Idm

The defendant has been charged by the Public Prosecutor with cumulative charges, so the Panel of Judges will first consider the First Charge as regulated in Article 310 Paragraph (4) of Law Number 22 of 2009 Sub Law of the Republic of Indonesia Number 11 of 2012 Concerning Traffic and Road Transportation, the elements of which are as follows:

1. Whoever;
2. Driving a motor vehicle;
3. Due to negligence, a traffic accident occurred which resulted in the death of another person;

That regarding these elements the Panel of Judges considered the following:

Ad.1. Elements Whoever

That what is meant by whoever is any legal subject who commits a crime, based on the facts revealed in the trial that what is meant by whoever in this case is the Defendant KARSO Bin KARTAM whose identity is as in the indictment and the defendant is proven to be in good physical and mental health and can answer the questions of the Panel of Judges well and clearly and based on the statements of the witnesses and the statement of the Defendant that the Defendant is the perpetrator or legal subject who committed the crime so that there is no error in persona in the case, thus the Panel of Judges is of the opinion that the defendant can be held responsible for his actions, so that the element of whoever has been fulfilled legally and convincingly according to the law;

Ad.2. Elements of Driving a Motor Vehicle

Based on the facts in the trial obtained from the statements of witnesses, the Defendant's statement and evidence and written evidence submitted in the trial that initially on Sunday, March 19, 2023 at around 10.15 WIB the Defendant from the direction of Patrol towards Haurgeulis was going to the Anjatan Health Center because he wanted to see witness Ade Saputra Faturihman who was the Defendant's son-in-law who had an accident riding a Honda Vario motorcycle with the police number E 3735 PAK, then the Defendant stopped the motorcycle driven by the Defendant on the left side of the road which then the Defendant rode the motorcycle turning to the right about to turn around and when the position of the motorcycle driven by the Defendant was already slanting to the right about to turn around then the Fazzio E 2002 QAP motorcycle driven by the victim Dzikri El Farid Bin Fatoni from behind the Defendant's motorcycle from the direction of Patrol towards Haurgeulis hit the front right side of the motorcycle driven by Defendant;

After the Fazzio E 2002 QAP motorcycle driven by the victim Dzikri El Farid Bin Fatoni hit the right side of the Honda Vario motorcycle with police number E 3735 PAK driven by the defendant, which caused the defendant to fall and the victim Dzikri El Farid Bin Fatoni and the Fazzio E 2002 QAP motorcycle driven by the victim Dzikri El Farid Bin Fatoni were displaced to the right and hit the Honda Beat motorcycle with police number E 2744 OAI driven by Tedi Setiadi who was riding pillion with witness Ardiansyah and witness Haris Kusuma Wicitra who were driving in the opposite direction from the direction of Haurgeulis towards the patrol, until it hit the front wheel mudguard;

As a result of the collision between the Fazzio E 2002 QAP motorcycle driven by the victim Dzikri El Farid Bin Fatoni and the Honda Beat motorcycle with the police number E 2744 OAI driven by witness Tedi Setiadi who was riding pillion with witness Ardiansyah and witness Haris Kusuma Wicitra, the head of victim Dzikri El Farid Bin Fatoni hit the front right side of the motorcycle driven by witness Tedi Setiadi until witness Tedi Setiadi who was riding pillion with witness Ardiansyah and witness Haris Kusuma Wicitra fell;

Ad.3. Element Due to negligence resulting in a traffic accident resulting in the death of another person;

After the Fazzio E 2002 QAP motorcycle driven by Victim Dzikri El Farid Bin Fatoni hit the right side of the Honda Vario motorcycle with license plate E 3735 PAK driven by the Defendant, which caused the Defendant to fall and Victim Dzikri El Farid Bin Fatoni and the Fazzio E 2002 QAP motorcycle driven by Victim Dzikri El Farid Bin Fatoni were displaced to the right and hit the Honda Beat motorcycle with license plate E 2744 OAI driven by Tedi Setiadi who was riding pillion with Witness Ardiansyah and witness Haris Kusuma Wicitra who were driving in the opposite direction from Haurgeulis towards patrol, until it hit the right side front wheel mudguard of the motorcycle driven by

witness Tedi Setiadi until witness Tedi Setiadi who was riding pillion with Witness Ardiansyah and witness Haris Kusuma Wicitra fell and Victim Dzikri El Farid Bin Fatoni died. world and based on the Visum Et Repertum Letter Number 182.2/0470/PKM, signed by Dr. Retno Isriyani Tanjung, medical executive doctor of the Anjatan Health Center UPTD dated March 27, 2023, on behalf of Dzikri El Farid Bin Fatoni with the conclusion: there is a cross-crack wound on the top of the head and blood is flowing profusely from the nose and mouth due to impact with a blunt object;

Based on the description of the considerations above, as a result of the traffic accident between the Honda Vario motorcycle with the police number E 3735 PAK driven by the Defendant and the Fazzio motorcycle E 2002 QAP driven by the Victim Dzikri El Farid Bin Fatoni and the Honda Beat motorcycle with the police number E 2744 OAI driven by witness Tedi Setiadi who was riding pillion with Witness Ardiansyah and witness Haris Kusuma Wicitra resulted in the death of the Victim Dzikri El Farid Bin Fatoni, so that this element is fulfilled legally and convincingly according to the law;

That because all the elements of Article 310 Paragraph (4) of Law Number 22 of 2009 Sub Law of the Republic of Indonesia Number 11 of 2012 concerning Road Traffic and Transportation have been fulfilled, the Defendant must be declared to have been legally and convincingly proven to have committed the criminal act as charged in the first indictment of the Public Prosecutor;

That because the Public Prosecutor's indictment was compiled cumulatively, the Panel of Judges will then consider the second indictment as regulated in Article 310 Paragraph (2) of Law Number 22 of 2009 Sub Law of the Republic of Indonesia Number 11 of 2012 Concerning Traffic and Road Transportation, the elements of which are as follows:

1. Whoever;
2. Driving a motor vehicle;
3. Due to negligence, a traffic accident occurred which resulted in another person suffering minor injuries;

That regarding these elements the Panel of Judges considered the following:

Ad.1 . Elements Whoever

That what is meant by whoever is any legal subject who commits a crime, based on the facts revealed in the trial that what is meant by whoever in this case is the Defendant KARSO Bin KARTAM whose identity is as in the indictment and the defendant is proven to be in good physical and mental health and can answer the questions of the Panel of Judges well and clearly and based on the statements of the witnesses and the statement of the Defendant that the Defendant is the perpetrator or legal subject who committed the crime so that there is no error in persona in the case, thus the Panel of Judges is of the opinion that the defendant can be held responsible for his actions, so that the element of whoever has been fulfilled legally and convincingly according to the law;

Ad.2. Elements of Driving a Motor Vehicle

Based on the facts in the trial obtained from the statements of witnesses, the Defendant's statement and evidence and written evidence submitted in the trial that initially on Sunday, March 19, 2023 at around 10.15 WIB the Defendant from the direction of Patrol towards Haurgeulis was going to the Anjatan Health Center because he wanted to see witness Ade Saputra Faturihman who was the Defendant's son-in-law who had an accident riding a Honda Vario motorcycle with the police number E 3735 PAK, then the Defendant stopped the motorcycle driven by the Defendant on the left side of the road which then the Defendant rode the motorcycle turning right about to turn around and when he was about to turn around then the Fazzio E 2002 QAP motorcycle driven by the victim Dzikri El Farid Bin Fatoni from the direction of Patrol towards Haurgeulis hit the front right side of the motorcycle driven by the Defendant;

After the Fazzio E 2002 QAP motorcycle driven by the victim Dzikri El Farid Bin Fatoni hit the right side of the Honda Vario motorcycle with police number E 3735 PAK

driven by the defendant, which caused the defendant to fall and the victim Dzikri El Farid Bin Fatoni and the Fazzio E 2002 QAP motorcycle driven by the victim Dzikri El Farid Bin Fatoni were displaced to the right and hit the Honda Beat motorcycle with police number E 2744 OAI driven by Tedi Setiadi who was riding pillion with witness Ardiansyah and witness Haris Kusuma Wicitra who were driving in the opposite direction from the direction of Haurgeulis towards the patrol, until it hit the front wheel mudguard;

As a result of the collision between the Fazzio E 2002 QAP motorcycle driven by the victim Dzikri El Farid Bin Fatoni and the Honda Beat motorcycle with the police number E 2744 OAI driven by witness Tedi Setiadi who was riding pillion with witness Ardiansyah and witness Haris Kusuma Wicitra, the head of victim Dzikri El Farid Bin Fatoni hit the front right side of the motorcycle driven by witness Tedi Setiadi until witness Tedi Setiadi who was riding pillion with witness Ardiansyah and witness Haris Kusuma Wicitra fell;

Ad.3. Element Due to negligence, a traffic accident occurred which resulted in another person suffering minor injuries;

That because all the elements of Article 310 Paragraph (2) of Law Number 22 of 2009 Sub Law of the Republic of Indonesia Number 11 of 2012 concerning Road Traffic and Transportation have been fulfilled, the Defendant must be declared to have been proven legally and convincingly to have committed the criminal act as charged in the second indictment;

That regarding the Defendant's defense which in essence requested that the Defendant be given the lightest possible sentence because the Defendant has family responsibilities, regarding the Defendant's defense, the Panel of Judges is of the opinion that the length of the sentence to be imposed on the Defendant will be stated in the verdict below, which in the opinion of the Panel of Judges is sufficiently fair, argumentative, humane, proportional and in accordance with the level of error committed by the Defendant, as in the verdict below, it is considered appropriate and fair;

During the trial, the Panel of Judges did not find anything that could eliminate criminal responsibility, either as a justification or excuse, so the Defendant must be held responsible for his actions. That because the Defendant is capable of taking responsibility, he must be declared guilty and sentenced to a criminal penalty.

In Article 310 Paragraph (4) of Law Number 22 of 2009 Sub Law of the Republic of Indonesia Number 11 of 2012 Concerning Traffic and Road Transportation and Article 310 Paragraph (2) of Law Number 22 of 2009 Sub Law of the Republic of Indonesia Number 11 of 2012 Concerning Traffic and Road Transportation, it is required that there be an additional penalty in the form of a fine, so that the defendant must also be sentenced to a fine, the amount of which will be determined in this verdict, which if the fine is not paid, therefore the Panel of Judges will impose a prison sentence as a substitute for the fine not paid by the Defendant. As for the length of the substitute fine, the Panel of Judges will determine it in this verdict.

In this case, the Defendant has been subject to lawful arrest and detention, so the period of arrest and detention must be deducted in full from the sentence imposed.

b. Decision Number 238/Pid.Sus/2024/PN Cjr

The defendant has been charged by the Public Prosecutor with a single charge as regulated in Article 310 paragraph (3) of the Republic of Indonesia Law No. 22 of 2009 concerning Traffic and Road Transportation, the elements of which are as follows:

1. Each person;
2. Driving a motor vehicle;
3. Due to his negligence, a traffic accident resulted in the victim suffering serious injuries;

Considering, that with regard to these elements, the Panel of Judges considered the following:

Ad . 1. Elements of each person

That what is meant by "every person who drives a motor vehicle" is anyone who is the perpetrator/drives a motor vehicle, so that the perpetrator (legal subject) can include anyone who has a Driving License or does not have a Driving License; Considering, that the legal subject submitted by the Public Prosecutor as the Defendant in this case is a person named Rian Bin Alm Usup who based on the statements of witnesses, letters and the Defendant's own statement has been in accordance with the identity of the person as contained in the Public Prosecutor's indictment;

Thus, the elements of the legal subject as referred to in the Public Prosecutor's indictment have been fulfilled ;

Ad. 2. Driving a motor vehicle

That what is meant by a Driver is a person who drives a Motor Vehicle on the road who has a Driving License;

That what is meant by a motor vehicle is any vehicle that is driven by mechanical equipment in the form of an engine other than a vehicle that runs on rails;

Based on the facts revealed in court, in the form of witness statements, written evidence, evidence and the defendant's statement that on Friday, March 1, 2024 at around 20.30 WIB on Jalan Raya Siliwangi, precisely in Hegarmanah Village, Sawahgede Village, Cianjur District, Cianjur Regency, a criminal act of motor vehicle accident occurred against the victim witness SUDRAJAT.;

At the time of the incident, the Defendant was driving a Honda Beat motorbike with license plate number: F-2160-ZO while the victim was crossing the road from left to right from Pasir Hayam towards Cianjur City Police.

Based on the facts described above, that on Friday, March 1, 2024 at around 20.00 WIB, the Defendant borrowed a Honda Beat motorcycle with the number Pol F-2160-ZO from witness Ace Apit Bin (Alm) Kundi with the aim of going to the Post Office near the Cianjur town square to pick up a money order from the Defendant's wife. Then at around 20.20 WIB the Defendant immediately left by riding pillion with the Defendant's son, namely sdr. Mansur to the post office and during the journey in a quiet traffic flow in both directions, precisely on Jalan Raya Siliwangi near Gg Laksana, Hegarmanah Village, Sawahgede Village, Cianjur District, Cianjur Regency at a speed of 60 km/hour in a distance of approximately 20 (twenty) meters, the Defendant saw a man, namely the Victim Witness Sudrajat Bin (the late) Tjetje, who was going to cross from the left side of the road to the right side of the road. Seeing this, the Defendant did not reduce his speed so that when the Victim Witness crossed the road, the Defendant hit the Victim Witness until he was unconscious and was immediately taken to Sayang Cianjur Hospital;

Based on the above considerations, according to the Panel of Judges, the element of driving a motorized vehicle has been fulfilled;

Ad. 3. Due to negligence, a traffic accident resulted in fatalities, serious injuries and damage to property.

That what is meant by traffic and road transportation is a unified system consisting of traffic, road transportation, traffic and road transportation networks, traffic and road transportation infrastructure, vehicles, drivers, road users, and their management;

That what is meant by traffic is the movement of vehicles and people in the road traffic space. Motorized vehicles are any vehicles driven by mechanical equipment in the form of engines other than vehicles running on rails where the act was committed by the Defendant;

That what is meant by a criminal act in terms of negligence (*culpa*) in carrying out an action, there are two things as follows:

1. Lack of caution (*het gemis van voorzichtigheid*);

2. Lack of attention to possible consequences (het gemis van de voorzienbaarheid van het gevolg);
3. Considering that according to Van Hamel there are also two conditions for negligence (culpa);
4. There are no guesses required;
5. Absence of necessary caution (het gemis van nodige voorzichtigheid);

Based on the facts revealed in court, in the form of witness statements, written evidence, evidence and the defendant's statement that on Friday, March 1, 2024 at around 20.30 WIB on Jalan Raya Siliwangi, precisely in Hegarmanah Village, Sawahgede Village, Cianjur District, Cianjur Regency, a criminal act of motor vehicle accident occurred against the victim witness SUDRAJAT.;

At the time of the incident, the Defendant was driving a Honda Beat motorbike with license plate number: F-2160-ZO while the victim was crossing the road from left to right from Pasir Hayam towards Cianjur City Police.

Based on the facts described above, that on Friday, March 1, 2024 at around 20.00 WIB, the Defendant borrowed a Honda Beat motorcycle with the number Pol F-2160-ZO from witness Ace Apit Bin (Alm) Kundi with the aim of going to the Post Office near the Cianjur town square to pick up a money order from the Defendant's wife. Then at around 20.20 WIB the Defendant immediately left by riding pillion with the Defendant's son, namely sdr. Mansur to the post office and during the journey in a quiet traffic flow in both directions, precisely on Jalan Raya Siliwangi near Gg Laksana, Hegarmanah Village, Sawahgede Village, Cianjur District, Cianjur Regency at a speed of 60 km/hour in a distance of approximately 20 (twenty) meters, the Defendant saw a man, namely the Victim Witness Sudrajat Bin (the late) Tjetje, who was going to cross from the left side of the road to the right side of the road. Seeing this, the Defendant did not reduce his speed so that when the Victim Witness crossed the road, the Defendant hit the Victim Witness until he was unconscious and was immediately taken to Sayang Cianjur Hospital.;

That the location of the accident was on a straight road from Pasir Hayam towards Cianjur, the road was two-way, the traffic flow was smooth, there were broken straight line road markings, the weather was drizzling at night, the view ahead was clear and because at that time the weather was rainy apart from that the Defendant was chasing time to go to the post office because he was afraid it would close too soon, therefore the Defendant forced himself to drive the motorbike at a fairly high speed.;

The Defendant was aware of his negligence in driving his motorbike at a fairly high speed so that when someone was crossing the road, the Defendant could not control the brakes on his motorbike and in the end he hit the pedestrian.

The defendant had been riding a motorbike for quite some time, the defendant had a driving license (SIM) because the defendant was not careful or alert enough in driving the truck which resulted in an accident which resulted in the victim suffering serious injuries;

Based on the Defendant's actions due to his negligence resulting in a traffic accident with the victim being seriously injured, this has been proven and fulfilled;

That because all elements of Article 310 paragraph (3) of the Republic of Indonesia Law No. 22 of 2009 concerning Road Traffic and Transportation have been fulfilled, the Defendant must be declared to have been legally and convincingly proven to have committed the criminal act as charged in the single indictment;

During the trial, the Panel of Judges did not find anything that could eliminate criminal responsibility, either as a justification or excuse, therefore the Defendant must be held responsible for his actions;

That because the Defendant is capable of being responsible, he must be declared guilty and sentenced to a criminal penalty;

In this case, the Defendant has been subject to legal arrest and detention, so the

period of arrest and detention is...

That because the Defendant is being detained and the detention of the Defendant is based on sufficient grounds, it is necessary to determine that the Defendant remains in detention;

That regarding the evidence in the form of 1 (one) Honda Beat motorcycle unit with registration number F-2160-ZO. Following the STNK, regarding the evidence, because the goods belong to the victim which were found at the time of the traffic accident, according to the Panel of Judges, it is appropriate that the car be returned to witness Ace Apit;

In order to impose a criminal sentence on the Defendant, it is necessary to first consider the aggravating and mitigating circumstances of the Defendant;

circumstances :

- The Defendant's actions resulted in the victim witness Sudrajat suffering serious injuries.;

- The Defendant's actions have caused unrest in the community;

circumstances :

- The defendant was frank and regretted his actions;

- The defendant was polite during the trial;

- The defendant has never been convicted;

That because the Defendant was convicted, he must also be charged with paying the court costs;

Taking into account Article 310 paragraph (3) of the Republic of Indonesia Law No. 22 of 2009 concerning Road Traffic and Transportation, and Law Number 8 of 1981 concerning Criminal Procedure Law and other relevant laws and regulations, the Panel of Judges in Decision Number 238/Pid.Sus/2024/PN Cjr is appropriate and fair as in its ruling as follows:

1. Declare that the Defendant Rian Bin Alm Usup; has been proven legally and convincingly guilty of committing a criminal act due to his negligence in driving a motor vehicle resulting in a traffic accident that caused a person to suffer serious injuries, as per the sole indictment of the Public Prosecutor;
2. Sentencing the Defendant to imprisonment for 1 (one) year and 6 (six) months;
3. Determine that the period of arrest and detention that has been served by the Defendant is deducted in full from the length of the sentence imposed;
4. Determine that the Defendant remains in detention;
5. Order evidence in the form of:
 - 1 (one) Honda Beat motorcycle unit with police number F-2160-ZO. The following is the STNK;
 - Returned to witness Ace Apit.
6. Charge the Defendant to pay court costs in the amount of Rp. 5,000.00 (five thousand rupiah);

CONCLUSION

Handling of criminal acts of negligence that cause traffic accidents and result in serious injury or death of other people? According to Law Number 22 of 2009 concerning Traffic and Road Transportation, this is regulated in Article 229 paragraph (1) of Law Number 22 of 2009 concerning Traffic and Road Transportation, hereinafter abbreviated as the Law on Traffic and Road Transportation, traffic accidents are divided into three groups, namely: Minor Traffic Accidents, namely accidents that result in damage to vehicles and/or goods, Moderate Traffic Accidents, namely accidents that result in minor injuries and damage to vehicles and/or goods, Serious Traffic Accidents, namely accidents that result in death or serious injuries.

Although Article 229 paragraph (1) letter c of the Traffic and Road Transportation Law regulates the rights of victims regarding compensation for losses suffered by victims, compensation for losses is limited to medical expenses and/or funeral expenses and

compensation for losses the amount of which is determined by a court decision, which means that compensation for losses may not necessarily be able to restore the losses suffered by the victim's family.

Implementation of the Panel of Judges' Decision on Criminal Acts of Negligence Causing Traffic Accidents and Resulting in Serious Injuries and Death of Others In Decision Number 212/Pid.Sus/2023/PN IdM, and Decision Number 238/Pid.Sus/2024/PN Cjr. The Panel of Judges has correctly considered that the element of Causing Serious Injuries has been proven and fulfilled. Therefore, because all elements of the Public Prosecutor's indictment have been proven and fulfilled, the defendant must be declared legally and convincingly proven guilty of committing a crime: "Because his negligence resulted in a traffic accident resulting in serious injuries" and no things were found that could eliminate the defendant's sentence or any reason that could eliminate criminal responsibility for the defendant, therefore the defendant must be found guilty and sentenced according to his mistake by considering and paying attention to Article 310 paragraph 3 of Law No. 22 of 2009 and Article 193 of the Criminal Procedure Code is correct. In fact, Article 235 paragraph (1) of Law Number 22 of 2009 concerning Traffic and Road Transportation explains that in the case of a driver who has caused death and has provided assistance to the victim's heirs in the form of medical expenses and/or funeral expenses, this will not result in the criminal case being dropped.

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