

## Analysis of Criminal Action Settlement for Negligence in Traffic that Resulting in the Loss of Other People's Life

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### Abstract.

*This study aims to find out and analyze the settlement of criminal acts of negligence in traffic which resulted in the loss of other people's lives in case number 24/Pid.Sus/2020/PN Kds and to find out and analyze how the judge's legal considerations in making decisions on negligence offenses traffic that resulted in the loss of other people's lives in case number 24/Pid.Sus/2020/PN Kds. This research is a sociological juridical research by combining legal materials (which are secondary data) with primary data obtained in the field. Based on the research, it is concluded that the analysis of the settlement of criminal acts in traffic that resulted in the loss of other people's lives in Case Number 24/Pid.Sus/2020/PN Kds based on the theory of punishment, there are several processes for handling criminal cases by law enforcement in order to conduct investigations, investigation, arrest, detention, prosecution and imposition of criminal sanctions. The judge's legal considerations in passing a decision on the offense of traffic negligence which resulted in the loss of another person's life in Case Number 24/Pid.Sus/2020/PN the existence of Kds is that the panel of judges saw an element of criminal responsibility in the case of driver negligence that caused a traffic accident as follows: (1) must commit a crime, (2) be able to take responsibility (3) intentionally or negligently (4) there is no excuse for forgiveness. The judge in imposing a prison sentence of 1 year and three months and a fine of IDR 5,000,000 for the actions of the perpetrators according to the researcher is still not optimal.*

*Keywords: Accident; Action; Crime; Acts; Negligence; Traffic.*

### 1. Introduction

Road traffic and transportation have a strategic role in supporting the realization of national development as part of efforts to promote public welfare as mandated by the 1945 Constitution of the Republic of Indonesia.<sup>1</sup> Traffic is regulated in legislation, namely Act No. 22 of 2009 concerning Road Traffic and Transportation, where the regulation is made to ensure security, order and public welfare which needs to be determined regarding prohibited and required actions.<sup>2</sup>

Activities and efforts to reduce the very high number of traffic accidents occur every year so that in the future this law will focus on comprehensive tackling efforts to foster, prevent, regulate and enforce the law. Such development efforts are

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<sup>1</sup>Reja A. Simanjuntak, *Penerapan Hukum Terhadap Pelaku Tindak Pidana Kecelakaan Lalu Lintas Yang Menyebabkan Korban Meninggal Dunia Sesuai Dengan Undang-Undang No. 22 Tahun 2009 (Studi Kasus Di Polres Bengkayang Ditinjau Dari Perspektif Pluralisme Hukum)*, <https://media.neliti.com/media/publications/10676-ID-penerapan-law-terhadap-pelaku-tindak-pidana-kecelakaan-lalu-yang-sebakan> accessed on 17 November 2021.

<sup>2</sup>Muhammad Dani Hamzah, "Penegakan Hukum pada Kasus Tindak Pidana Kecelakaan Lalu Lintas yang Menyebabkan Hilangnya Nyawa Orang", *Jurnal Daulat Hukum* Vol. 1. Number 1 March 2018 <http://dx.doi.org/10.30659/jdh.v1i1.2563> accessed on March 19, 2022.

carried out through increasing the intensity of traffic education and legal counseling as well as human resource development.<sup>3</sup>

Provisions regarding criminal and administrative sanctions are also threatened to road officials or administrators. On the other hand, in order to increase the effectiveness of law enforcement, a reward and punishment system is applied in the form of providing incentives for outstanding officers. However, at the empirical level, traffic accidents continue to increase which in turn gives rise to traffic and road transportation crimes.<sup>4</sup>

In Kudus Regency there are often traffic accidents, in 2019 there were 964 accidents, in 2020 there were 831 cases and in 2021 there were 584 cases. The number of traffic accidents in Kudus Regency has decreased every year, as well as the number of victims of minor injuries in 2019 as many as 1083 people, victims of minor injuries in 2020 as many as 979 people, and victims of minor injuries in 2021 as many as 634 people. The death toll in 2019 was 97 people, in 2020 as many as 106 people, and in 2021 as many as 63 people, seriously injured in 2019 as many as 1 person, in 2020 and 2021 there were no serious injuries.<sup>5</sup>

Traffic violations are actions that are contrary to traffic and or its implementing regulations, both of which may or may not cause loss of life or property as well as traffic law and order.<sup>6</sup>With the existence of a regulation mentioned above and if people are willing to apply these rules in driving, it is likely to reduce the number of accidents that often occur on the highway. A lot of carelessness results in a person's lack of caution which often causes accidents and with this carelessness has an impact on other people.

In one of the cases of a traffic accident that caused the death of another person in Getas Pejaten Village, the driver intentionally drove a motor vehicle under the influence of alcoholic beverages and drove at high speed so that it hit a pedestrian and resulted in the victim's death. The driver has undergone an examination by the competent authorities and the case has been tried and has been decided by the panel of judges guilty.

Based on this description, the researcher is interested in conducting research that aims to find out and analyze the settlement of criminal acts for negligence in traffic which resulted in the loss of other people's lives in case number 24/Pid.Sus/2020/PN Kds

## 2. Research Methods

The approach method in this research was a sociological juridical approach. The research specifications used by researchers in discussing the problem were

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<sup>3</sup>Rio Tumiyadi Maulana, Sri Kusriyah, "Penegakan Hukum Terhadap Kecelakaan lalu Lintas", Jurnal Hukum 1. Number 1 March 2018.

<http://dx.doi.org/10.30659/jdh.v1i1.2563> accessed on March 19, 2022.

<sup>4</sup>Ngatmin, "Law Enforcement Against Handling Traffic Accidents Through Non Line Under Penal of Legal Culture of Indonesian Police in Kudus", Jurnal Daulat Hukum Vol. 1 Number 4 December 2018.

<http://dx.doi.org/10.30659/jdh.v1i4.3991> accessed March 19, 2022

<sup>5</sup>Data Satlantas Polres Kudus

<sup>6</sup>Markas Besar Kepolisian Negara Republik Indonesia Akademi Kepolisian, 2009, *Fungsi Teknis Lalu Lintas*, Semarang : Kompetensi Utama, p. 6.

descriptively analytical, data obtained from observations, interviews, documents and field notes and data collection methods sourced from primary and secondary data, while the data analysis method used qualitative juridical methods.

### 3. Results and Discussion

#### 3.1. Analysis of the settlement of criminal acts in traffic that resulted in the loss of other people's lives in Case Number 24/Pid.Sus/2020/PN Kds.

According to Moeljatno and Roeslan Saleh, a criminal act is an act that is prohibited by a prohibition law which is accompanied by threats (sanctions) in the form of certain crimes, for anyone who violates the prohibition.<sup>7</sup> Criminal acts in traffic that result in the loss of other people's lives have been regulated in Article 310 paragraphs (1) and (4) with imprisonment for 6 (six) years and a fine of IDR 12,000,000.-.

Against case number 24/Pid.Sus/2020/PN Kds with the convict Dinar Ayu Yuliana Binti Darsono, a series of examinations have been carried out by the Kudus Resort Police investigators which are stated in the Minutes of Investigation (BAP) number: BP/01/I/2020/Lantas, January 17, 2020. According to an interview with the Kudus Police Investigator, Mr. IPDA Didik Eko Setiawan said,<sup>8</sup> that there has been a traffic accident on Wednesday, December 18, 2019 at 04.00 WIT, on Getas Pejaten Street, Getas Pejaten Village, Kec. Jati Kab. Kudus, between Honda City motorized vehicles Police Number: K-7788-K which was driven by the suspect An. Dinar Ayu Yuliana Binti Darsono walking from south to north at a speed of approximately 60 km/hour hit a pedestrian. Widyarini so that he bounced and fell on the shoulder of the road. As a result of the accident, the pedestrian suffered a torn head and bleeding, was treated and died at the Kudus Hospital.<sup>9</sup>

A series of investigations and investigations have been carried out by the Kudus Police investigator against the suspect by listening to witness statements, expert statements, suspect statements and found sufficient evidence so that investigators proceed to the prosecution stage carried out by the Kudus District Attorney.

Against the suspect. Dinar Ayu Yuliana Binti Darsono has been sentenced for negligence in traffic which resulted in the loss of other people's lives. Based on the legal analysis, there are indications of a criminal act, namely: "every person who intentionally drives a motorized vehicle in a manner or condition that is dangerous to life or property, resulting in the death of another person" or "everyone who drives a motorized vehicle which due to negligence causes a traffic accident that results in the death of another person and damage to vehicles and or goods".

The legal basis for investigating traffic crimes by the Indonesian National Police are (1) Act No. 8 of 1981 concerning the Criminal Procedure Code, (2) Act No. 2 of 2002 concerning the Indonesian National Police, (3) Law No. Act No. 22 of 2009 concerning Traffic and Road Transportation, (4) Regulations of the Chief of Police of

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<sup>7</sup>Moeljatno, (2008), *asas-asas hukum pidana cet-8 edisi revisi*, Jakarta : Rineka Cipta, p. 59.

<sup>8</sup>Interview with IPDA Kudus Police Investigator Didik Eko Setiawan, SH.

<sup>9</sup>Berita Acara Pemeriksaan No.: BP/01/I/2020/LANTAS

the Republic of Indonesia Number 15 of 2013 concerning Procedures for Handling Traffic Accidents, (5) Regulation of the Chief of Police of the Republic of Indonesia Number 6 of 2019 concerning Management of Criminal Investigations.

### **3.2. The judge's legal considerations in passing a decision on a traffic negligence offense that resulted in the loss of another person's life in Case Number 24/Pid.Sus/2020/PN Kds**

Criminal liability if a perpetrator must commit a criminal act; able to be responsible; intentionally or negligently, and without forgiving reasons.<sup>10</sup> Liability related to the case with the suspect an. Dinar Ayu Yuliana Binti Darsono in the case of negligence in traffic which resulted in the loss of another person's life case number 24/Pid.Sus/2020/PN Kds contains the following elements:

#### *3.2.1. Have to commit a crime*

Criminal liability can only occur before someone has committed a crime. Moeljatno said "it is impossible for people to be held accountable (to be sentenced) if they do not commit a crime."<sup>11</sup> Criminal liability will only occur if someone has previously committed a crime.

On the other hand, the existence of a crime does not depend on whether there are people who in fact committed the crime. Based on the judge's decision, the form of the defendant's responsibility for negligence in traffic is that in the case of the defendant Dinar Ayu Yuliana Binti Darsono, it has been legally and convincingly proven guilty of committing the crime of "driving a motorized vehicle because his negligence resulted in a traffic accident that resulted in the death of another person" and sentenced him to death the defendant Dinar Ayu Yuliana Binti Darsono, therefore, with imprisonment for 1 year and 3 (three) months and a fine of IDR 12,000,000, - (twelve million rupiah) months in prison.

This is in accordance with the applicable regulations as regulated in Article 193 paragraph (1) of the Criminal Procedure Code which reads as follows: "If the court is of the opinion that the defendant is guilty of committing the crime he is accused of, the court shall impose a sentence.

In this case, the criminal responsibility given has fulfilled the element of criminal responsibility, namely having to commit a criminal act, namely an accident that caused the victim to die, so that this element is fulfilled. The decision made by the judge is still under the provisions of Article 310 paragraph (4) of the LLAJ Law which states that "In the event of an accident as referred to in paragraph (3) which results in the death of another person, the punishment is a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 12,000,000.00 (twelve million rupiahs)."

In the decision Number 24/Pid.Sus/2020/PN Kds, the decision-making process carried out by the Panel of Judges is based on at least two valid pieces of evidence, in which case, the evidence used by the judge is witness testimony, goods

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<sup>10</sup>Roslan Saleh, (1982), *Perbuatan Pidana dan Pertanggungjawaban Pidana*: Jakarta: Aksara baru, p. 75-76

<sup>11</sup>Moeljatno, (2008), *Asas-asas Hukum Pidana*, Jakarta : Rineka Cipta , p. 59.

evidence and testimony of the accused. Then then consider criminal liability, in this case the Panel of Judges based on the facts that emerged at the trial judged that the defendant could be accounted for for the actions committed with the consideration that at the time of committing his actions the defendant was aware of the consequences, the perpetrator in carrying out his actions was in a state of healthy and capable to consider his actions.

### 3.2.2. *Able to be responsible*

From the point of view of the ability to be responsible, only someone who is able to be responsible can be held accountable for criminalization. It is said that a person is capable of being responsible, if in general his mental state is not disturbed and his soul is able to realize the nature of his actions, he can determine his will for the action, whether it will be carried out or not and can know the reproach of the action.<sup>12</sup>

The ability to be responsible in this case is that the defendant is over the age of 17 where that age is the age that is legally responsible for his actions. And in the consideration of the judge's decision, no reason was found for the abolition of criminal liability.

### 3.2.3. *By intention or negligence*

In case Number 24/Pid.Sus/2020/PN Kds the panel of judges has decided that the defendant was negligent and caused the accident so that the victim died, based on this, the element of criminal responsibility has been fulfilled, then based on the four elements in Article 310 of the Traffic Law Road Traffic and Transportation, generally the third element, which requires more time to be proven. Through investigations, law enforcement officers, in this case the police, should have to prove that there was an element of negligence.

For these two rules, if in the case of an accident resulting in the death of a person, then according to the law what must be imposed on the driver of the vehicle is criminal entanglement as regulated in the Transport and Road Traffic Law, in this case in accordance with the provisions referred to in Article 63 paragraph (2) of the Criminal Code states that: "If an act is included in a general criminal code, it is also regulated in a special criminal rule, then only the specific one will be applied." The reference in Article 63 paragraph (2) of the Criminal Code, because cases of traffic accidents resulting in death have been regulated in the Traffic and Road Transport Law as a special regulation (*lex specialis derogat legi generali*)<sup>13</sup>.

In case Number 24/Pid.Sus/2020/PN Kds, it is known that the Defendant was negligent so that in the case of the accident causing the victim to die, this element of criminal responsibility is the result of intentional or negligence in this case being fulfilled.

### 3.2.4. *There is no excuse for forgiveness*

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<sup>12</sup>EY Kanter and SR Sianturi, (2002). *Asas-Asas Hukum Pidana di Indonesia*, Jakarta : Stora Grafika, p. 249

<sup>13</sup> Ong Argo Victoria, Ade Riusma Ariyana. 2020. *Policy Analysis Study Of The Traffic Accident Of Criminal System Which Make Loss Of Life*, International Journal of Law Reconstruction, Vol. 4 No. 2, p. 136-144, <http://jurnal.uniisula.ac.id/index.php/lawreconstruction/article/view/11382>



In this forgiving reason, a subject who commits a crime is faced with such a situation that his mental state leads him to take an action that is included in a criminal act. This means that in this forgiving reason, the element of guilt from the perpetrator is eliminated. Included in the excuses are:

- Inability to take responsibility for the perpetrator (Article 44 paragraph (1) of the Criminal Code)
- Forced defense that exceeds the limit (Article 49 paragraph (2) of the Criminal Code)
- The matter of carrying out in good faith, an invalid position order (Article 51 paragraph (2) of the Criminal Code)

The case shows that the driver did not run away to avoid responsibility but the driver consciously stated that he was guilty so that the driver first stopped and helped the accident victim and between the two parties between the defendant and the victim's family there was an amicable agreement by providing compensation in the amount of IDR 2,000 .000, - (two million rupiah).

#### 4. Conclusion

The public is expected to always be careful in traffic on the highway in order to prevent traffic accidents, because with a traffic accident the perpetrator can be subject to criminal sanctions. It is hoped that in the future the Police will further improve the quality of investigations into criminal acts of traffic negligence that result in the loss of other people's lives. The Panel of Judges is expected to give a decision on the crime of traffic negligence with the maximum possible decision so that the sense of justice felt by the victim and the victim's family can be fulfilled.

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