

## The Responsibilities of the Board of Directors of a Limited Liability Company for Workers Who Have Work Accidents

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**Abstract.** *This study aims to determine the fulfillment of responsibilities in legal protection efforts given by Limited Liability Companies (Directors) to workers who experience work accidents. The formulation of the research problem looks at the responsibilities and rights possessed by workers, as well as the obligations of the Limited Liability Company in guaranteeing its workers who experience work accidents as well as those who are not registered for employment guarantees and death benefits. The research used is the Normative Juridical research method. While the conclusion from this study is that the directors are responsible for the management of a limited liability company, morally entrepreneurs have an obligation to increase protection, and the company is obliged to provide guarantees to workers so that the risks of harm and potential for risks in the work environment and the rights and obligations of each party are fulfilled. It needs to be known as a form of protection for all workers to fulfill company obligations and workers' rights, and maintain and avoid things that are not desirable in the future by providing a sense of security in the form of adequate facilities and employment guarantees to all employees/workers.*

**Keywords:** *Employment; Guarantee; Limited Liability Company; Responsibility.*

### 1. Introduction

Indonesian law has legal entity business entities, as well as non-legal entity business entities. The forms of business entities known in the Indonesian commercial law system are firm companies (Fa), limited liability companies (CV, namely *Comanditaire Vennootschap*), and limited liability companies (PT). These forms are regulated in book one Chapter III part 1 of the Code of Commercial

Law (KUHD). Other forms of business entities regulated in the Civil Code are called *matschap* and/or partnerships.

The type of company from its legal status can be distinguished into a legal entity company and a non-legal entity company. There are legal entity companies owned by private parties such as Limited Liability Companies (PT) and cooperatives, and some are owned by the state such as Public Companies (Putri, 2020).

A limited liability company as a legal entity whose capital amount is listed in the articles of association of a limited liability company. The existence of assets from the company is separated from the personal assets of the company owner because this has separate assets. In concept, everyone can have many, in the sense that not only one share is used as proof of company ownership. Shareholders in this case have limited liability, which depends on the number of shares they own.

Limited liability company (PT) legal arrangements in the Act No. 40 of 2007 concerning Limited Liability Companies. Limited Liability Company is a legal entity which is an artificial person, namely something created by law to meet the development needs of life. One thing that is quite prominent about the definition of a Limited Liability Company is a business entity that is formed based on the Law, has an existence that is separate from its owners and does business within certain limits as usual human beings. A Limited Liability Company is also a legal subject which, like other legal subjects, can sue and can be sued and has its own assets. In fact, in the modern legal system, a legal entity is a certain juridical understanding, namely the existence of a body that is recognized as a person who can carry out legal actions regardless of the individual human being. (Nadapdap, 2016).

A Limited Liability Company can also act like a person or in Dutch it is called *natuurlijk person*, who can be burdened or have rights and obligations like the person or *natuurlijk person*. As a legal entity, a limited liability company carries out its own legal relationship with a third party represented by the directors of the limited liability company. According to the provisions of Article 92 of Act No. 40 of 2007 concerning Limited Liability Companies, where the Directors are fully responsible for managing the limited liability company in the interests and objectives of the company, and participate in representing the limited liability company both inside and outside the court.

According to the Limited Liability Company Law, the Board of Directors is entrusted with managing the Company in accordance with the aims and objectives of the company, in Article 1 paragraph (5), Article 92 paragraph (1) and paragraph (2), and Article 97 paragraph (1) of Act No. 40 of 2007 concerning the Company Limited. In addition, the second task of the board of directors is that of a representative.

It is the board of directors who have the authority to represent the company for all actions that must be carried out for and on behalf of the company, both for internal actions and for external actions against third parties, including to represent the company in court. The Board of Directors carries out not only the task of managing the company, but also supervises and monitors the company's activities organized by the company's officers. (Widjaja, 2008) Article 97 paragraph (3) of the 2007 Law states that each member of the Board of Directors is personally responsible for the company's losses if the person concerned is guilty or negligent in carrying out his duties.

Directors in a limited liability company can be likened to the soul of the company. It is not permissible for a company not to have a Board of Directors. Conversely, it is not possible to have a Board of Directors without a company. The presence of the Board of Directors is to take care of the company in accordance with the aims and objectives of the company along with good faith and full sense of responsibility. Therefore, the presence of the Board of Directors is very important for the company. Running a company is not easy. Therefore, in order for the company to run according to the aims and objectives of forming the company, to serve as a director requires good qualifications and expertise (Setyarini, Mahendrawati, & Arini, 2019).

Safety or safety is "an effort to be able to carry out work without accidents, provide a safe working atmosphere or environment, so that profitable results can be achieved and free from all kinds of hazards". Safety is the safety and security of an environment, but actually nowhere in this world is it said 100%. However, we can take precautions against work hazards or risks that may occur. By realizing working conditions, working environment and safe working actions. We must make these three things a guideline to create safety, security and occupational health. The following are examples of safety standards that must be applied to companies in general:

1. Act No. 01 of 1970

-Employees in the workplace must be safe and healthy

Safety in the production process

Fulfillment of a safe place and work environment

2. Act No. 23 of 1992

- Occupational health is manifested in order to achieve productivity
- Occupational health includes providing work equipment, health services and disease prevention
- Each employee works healthily and without danger.

Occupational safety is a major factor in producing a production, both in quantity and quality. If used as a formula, production is equal to quantity plus quality plus work safety. So work safety has a very big influence on the production to be achieved or work safety is the key to production. Therefore, work safety is the key to success in achieving a production target and is a shared responsibility (company board of directors, leaders, supervisors and workforce). Realizing work safety will provide the following benefits:

1. Reducing company expenses
2. Guarantees a good result
3. Guarantee work
4. Benefit society(Prasetya, Atmaja, & Perwira, 2021).

Occupational accidents not only cause fatalities or material losses for workers and employers, but can also disrupt the production process as a whole, damage the environment which will ultimately have an impact on the wider community. Occupational Health and Safety is a protection effort proposed for all potential hazards(Work, 2023). The general public is engaged in a familiar world of work within the scope of workers in companies (limited liability companies), providing legal protection which technically means providing human rights by providing or seeking a sense of security, both mentally and physically from disturbances and various threats from anyone, including workers who work in the business sector in all fields, because in this sector a work accident is an incident that is sudden, unexpected and unplanned which results in losses to humans, machines and materials. Accidents are caused by unsafe acts and unsafe conditions. Accidents will have an impact on production results, losses for all parties, machine damage,

minor injuries to death and family suffering. Accidents can be prevented by eliminating their causes. Knowing and analyzing the causes of accidents must always be carried out in all actions. There are two causes of accidents:

a. unsafe act

- Not using personal protective equipment
- Dangerous working methods
- Tool use error
- Unfocused work concentration

b. unsafe conditions

- Unavailability of personal protective equipment
- Communication between employees is not established
- Lack of awareness on safety.

c. The consequences of an accident have 3 factors, namely:

- 88% unsafe action factor (unsafe action)
- 10% unsafe condition factor
- 2% destiny factor (God act).(Work, 2023)

Basically, this guarantee is in the form of a Labor Guarantee Program which emphasizes protection for workers who are relatively in a weaker position. Therefore, employers are the main responsibility and morally employers have an obligation to improve the protection and welfare of workers.(Wijayanti, 2016)Including workers who experience work accidents are entitled to guarantees provided by the company in the form of Labor Social Security. With one of the objectives of the Workers' Social Security is to provide peace of mind, increase discipline, and labor productivity. This program provides protection for workers who do work, both in work relations and outside work relations. And strengthened by the foundation in the form of the Worker's Social Security program regulated in Act No. 3 of 1992, namely Article 3 Paragraph 1 which states "To provide protection to workers, a program for social security is

organized for workers whose management can be carried out with an insurance mechanism". And Paragraph 2 which reads "Every worker has the right to Worker Social Security". In Article 6 Number 1 of Act No. 3 of 1992 the scope of the Workers' Social Security program that it organizes includes:

- a. Occupational Accident Insurance
- b. Death Guarantee
- c. Old Age Security
- d. Health Care Guarantee.

One of these guarantees is in the form of the Labor Guarantee Program, which emphasizes protection for workers who are relatively in a weaker position. Therefore, employers are the main responsibility and morally employers have an obligation to improve the protection and welfare of workers.(Wijayanti, 2016)Which also serves as legal protection for workers in Indonesia. According to Soepomo, legal protection is divided into 3 (three), namely:

- a. Economic protection, namely protection of workers in the form of sufficient income, including when workers are unable to work against their will.
- b. Social protection, namely protection of workers in the form of occupational health insurance, and freedom of association and protection of the right to organize.
- c. Technical protection, namely labor protection in the form of work security and safety.

Directors in running the company, can recruit employees to help carry out their duties in the function of the directors as company management. The employees are divided into several groups and levels. This is necessary to make it easier for the directors to supervise their employees when assisting the directors' duties. The relationship between the directors and their employees is regulated in the work agreement. Work agreements are regulated in the Civil Code (hereinafter referred to as the Civil Code) and Act No. 13 of 2003 concerning Manpower(Waskito, 2013). An agreement is an event where one person promises another person or where two people promise each other to do something. According to Article 1313 of the Civil Code, which determines: "An

agreement is an act by which one or more people bind themselves to one or more other people."

Whereas Article 1 Number 14 of Act No.13 of 2003 states that: "A work agreement is an agreement between a worker/laborer and an entrepreneur or employer which contains working conditions, rights and obligations of the parties." Article 1 point 15 of Act No. 13 of 2003 concerning Manpower states that: "Work relations are relations between employers and workers/laborers based on work agreements, which have elements of work, wages and orders".

As part of an agreement in general, a work agreement both in writing and orally must fulfill the legal requirements of an agreement both subjectively and objectively as stipulated in Article 52 of Act No. 13 of 2003 concerning Manpower that:

a. Work agreements are made on the basis of:

- 1) Both side agreement
- 2) Ability or ability to carry out legal actions
- 3) There is an agreed job, and
- 4) The agreed work does not conflict with public order, decency and applicable laws and regulations.

b. Work agreements made by the parties that conflict with the provisions referred to in Paragraph (1) letters a and b can be cancelled.

c. Work agreements made by the parties that conflict with the provisions as referred to in Paragraph (1) letters c and d are null and void by law.

Due to the nature of the binding work agreement between workers and employers (Directors), it is mandatory to carry out and fulfill the conditions that already exist in the work agreement by carrying out their rights and obligations according to the applicable regulations. Companies must understand that good work safety is to provide employees with personal protective equipment, pay attention to the condition of work equipment, carry out equipment maintenance, provide good raw materials, provide good lighting/lighting in the work location, and maintain cleanliness and order. If the company can fulfill

these things, employees will work more comfortably without worrying about work accidents, so that employees will be more productive at work.<sup>1</sup>

Even though the company has implemented an OHS (Occupational Health & Safety) system, namely employee health and safety. So that from year to year not many work accidents occur in the work environment but the system must continue to be evaluated in order to achieve a zero accident level (no work accidents at all)(Bhastary & Dwipayani, 2018).

Fulfilling workers' rights by providing a sense of security at work, this sense of security is provided in the form of guarantees According to the provisions of Article 1 Number 1 of Act No. 3 of 1992 concerning Workers' Social Security, Workers' Social Security is a protection for workers in the form of compensation in the form of money as a partial replacement for lost or reduced income and services as a result of events or conditions experienced by workers in the form of work accidents, illness, pregnancy, maternity, old age, and death. Therefore, it is true that labor law does not only regulate work relations, but also includes arrangements outside of work relations, and needs to be heeded by all parties and the need for third party protection.

The theory used is the theory of responsibility, namely the Board of Directors Limited liability or also called limited liability or *limitatief aansprakelijkheid* is a condition in which shareholders or shareholders or *andeelhouder* of a company are only responsible for the number of shares they own in the company. Limited liability is done as a more profitable investment option. This limited liability does not only bind shareholders but also company management, namely directors and commissioners. Limited liability requires shareholders, directors and commissioners to be able to distinguish with certainty which actions are an organ of the company and which are actions as individuals. All actions of shareholders, directors.

The company has an independent business form (legal entity) with limited liability (limited liability). The will and will that the company wants is carried out by its equipment or organs. These organs have their respective authorities and responsibilities in accordance with the laws and regulations and the company's organs are responsible for representing the company for and on behalf of the company.(Hapsah, 2015). Occupational accidents are accidents that occur in connection with work relations, including illnesses that arise due to work

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<sup>1</sup>The Effect of Occupational Safety and Health (K3) on Employee Work Productivity at PT. Kutai Timber Indonesia. Spread Journal, Vol.12(No.01).



relations, as well as accidents that occur on the way from home to work, and returning home via normal or normal roads.

In conducting research on this Journal, the authors included several previous Journal Article studies with almost the same discussion, including research on Journal Articles conducted by Siti Hapsah Isfardiyana, entitled "Responsibility of the Directors of a Limited Liability Company in Violating Fiduciary Duty" in the research conducted with a view to normative legal aspect. This study concludes that the company's Directors in managing the company are based on the trust given by the company. This mandate is called fiduciary duty, which requires directors to be careful and have good faith in carrying out their management. And Irwan Saleh Indrapradja, entitled "Juridical Study of the Responsibilities of the Board of Directors and the Board of Commissioners in the Organizational Structure of a Collegiate Limited Liability Company According to Act No. 40 of 2007 concerning Limited Liability Companies" in this study was conducted from a legal perspective of Juridical Analysis. This study concludes that the responsibility of the directors and the board of commissioners to third parties for the policies they take is jointly and severally responsible, unless they can prove that the losses, negligence or mistakes incurred are not a fault of their management actions.

This article is different from the articles above, namely by discussing the role and responsibilities of the directors of a limited liability company for workers who experience work accidents, and the rights possessed by workers and the obligations of the limited liability company in guaranteeing workers.

## **2. Research Methods**

The research used is normative juridical research using 3 (three) research approaches including: concept approach, statutory approach and case approach. There are 3 (three) legal materials used including: primary legal materials, secondary legal materials and tertiary legal materials. Normative Juridical Approach In research or study of normative legal science which to explain the law do not need the support of data or social facts, because the science of law. Normative does not recognize data or social facts that are known only as legal material, so to explain the law or to find meaning and give value to the law, only legal concepts are used and the steps taken are normative steps.

### **3. Results and Discussion**

#### **3.1. Responsibilities of the Board of Directors of a Limited Liability Company for Workers Who Have Work Accidents**

The board of directors is one of the company's organs that is most responsible for the management/management of the company, the directors as a party that greatly influences the success or destruction of a company, the important thing related to its existence is the duties, authorities and responsibilities in a limited liability company. The existence of directors is to manage the company in accordance with the aims and objectives of the company in good faith and full responsibility, thus, the existence of directors is needed by the company, it is impossible to have a company without directors.

However, the authority of the directors listed in the articles of association cannot be exercised absolutely due to the existence of statutory provisions that regulate and limit this authority. In this case, what needs to be considered is what sanctions will be given if the laws and regulations are violated. Because there are not a few laws and regulations that do not provide strict sanctions for violations and thus, the norm loses meaning. The responsibility of the Board of Directors relates to the basis of authority possessed by a Director of the Company to act for and on behalf of the company. Directors as managers of a company must pay attention to 2 (two) things, namely: as company organs and as a director who must carry out their duties professionally on the basis of fiduciary duty principles (Subekti, 2018).

The consequence of the independence of the PT is that all risks arising from the actions of the PT become the responsibility of the limited liability company itself. In addition, a PT must have its own assets apart from the personal assets of the shareholders and/or the people who run the Company. So that if in carrying out its activities there is a loss or gain, then the act becomes a burden and or profit for the PT itself (Indrapradja, 2018).

The duties and authorities of the directors can be divided, in practice there are several types of positions for directors such as director of personnel and finance. Therefore, all members of the board of directors can carry out the management actions entrusted to them. Although in Article 97 paragraph (4) of Act No. 40 of 2007 concerning Limited Liability Companies it is stated that if the members of the board of directors consist of 2 people, the responsibility for managing the PT applies jointly to all members of the board of directors. Whereas in Article 92 paragraph (1) Act No. 40 of 2007 concerning Limited Liability Companies, the directors have the duty to represent the company, namely:

1. Organize and carry out the company's business activities.
2. Manage company assets.
3. Representing the company inside or outside the court.

In order to prevent work accidents, the company, in this case represented by a director of a limited liability company, is obliged to provide training for all workers, both in the context of preventing work accidents, overcoming fires, and improving K3, as well as providing first aid when an accident occurs.

Protection of workers is intended to protect the basic rights of workers/laborers and guarantee equal opportunities and treatment without discrimination on any basis to realize the welfare of workers/laborers. In the Government Regulation of the Republic of Indonesia Number 14 of 1993 concerning the Implementation of the Workers' Social Security Program in article 3 (three), it reads: "Participation of freelance workers, piece workers and contract workers in the workers' social security program is further regulated by the Minister ."We can find the definition of work accidents in Article 1 point 6 of the Act No. 3 of 1992 concerning Workers' Social Security, which reads: "Work accidents are accidents that occur in connection with work relations, including diseases that arise due to work relations, thus also accidents that occur on the way to go from home to work, and return home via the usual or reasonable route. Accidents can be interpreted as an unplanned event.

The concept of occupational safety and health (K3) is an important concept in carrying out work procedures. Occupational safety and health (K3) is a thought and effort to guarantee the integrity and perfection of both body and soul which aims to maintain the safety and comfort of the workforce in order to achieve physical endurance, work power and a high level of health. Occupational accidents caused by workers during work time must be responsible for the workers, namely the company. Because workers are company assets, the welfare guarantee provided by the company to workers is an obligation that must be adjusted to legal certainty. Thus it can be concluded that labor law is closely related to the legal relationship between workers and companies. Occupational accidents may not occur if workers are given occupational health and safety guarantees. Workers who get guarantees provided by the company will feel that they have their rights as workers.

Someone said to be legally responsible for a particular action is that he can be subject to a sanction in the case of the opposite act. According to traditional theory, two types of responsibility (responsibility) are distinguished, namely:

responsibility based on an element of error, and absolute responsibility. Because of the legal relationship that occurs between workers and If a company is led by a director, then the fulfillment of the obligation to provide health and safety guarantees for workers in a company is the responsibility of the directors of the company where he works.

Article 1367 BW (Civil Code) which confirms that employers and people who appoint other people to represent their affairs are responsible for losses caused by their servants or subordinates in carrying out the work assigned to those people. This article makes it impossible for employers to escape responsibility in the event of a work accident. Besides that, Hadi reminded that workers who experience illness due to work accidents or work relations should not be terminated. This is as mandated by Article 153 paragraph (1) letter j of the Manpower Law.

### **3.2. Rights Owned by Workers and Obligations of Limited Liability Companies in Guaranteeing Workers**

Good employee performance can have a positive impact on the company as a whole. One of them is the increase in the completion of responsibilities given by the company to workers. Safety and protection factors at work are one of the factors that affect employee performance. When employees feel safe and comfortable because they feel they are getting good protection from the company, then these employees will also work with a calm feeling and will work well. It is expected that employees of companies like this will have maximum performance. One of the efforts to implement protection for employees is to implement the Occupational Safety and Health (K3) program.(G, Diah, & Zen, 2017).

To ensure the safety of workers which has its own impact on each party, the company is required to have efforts such as providing guarantees to workers so that risks of danger and potential risks in the work environment can be controlled and prevented so that accidents that can cause harm do not occur. or disaster to the company. The various impacts if workers or employees experience work accidents are:

#### **a. Impact on Employees or Workers**

1) Accidents can cause illness or injury and can even result in permanent disability or death.

2) Employees will lose work time because they have to undergo treatment either by company nurses/paramedics or by hospital doctors.

3) Employees will have less income due to lost work time to undergo treatment.

b. Impact on the Company

1) The company will lose a workforce that has been trained and has skills.

2) Loss of money for accident costs either victims or work units damaged by accidents.

3) Production losses, of course production will be disrupted due to accidents.

Prevention of work accidents can be learned from the accident itself as well as from accidents that almost happened. With an accident investigation, it can be known about the causes of accidents and can determine steps to prevent or minimize the possibility of work accidents (Sucipto, 2014). To seek occupational accident insurance for workers, the Company must implement an occupational health and safety program for workers. According to Suyadi Prawirosentono, safety and health programs at work, namely:

1) Prevent, reduce, and minimize the possibility of accidents at work

2) Prevent, reduce and extinguish fires of explosion hazard

3) Making facilities as a way to escape in the event of a fire or other dangerous event

4) Provide assistance in accidents

5) Provide personal protective equipment to employees

6) Prevent and control the generation or distribution of temperature, humidity, dust, dirt, smoke, vapor, drafts, radiation, sound and vibration.

7) Prevent and control the occurrence of occupational diseases, both physically (infectious poisoning and transmission), and psychologically (mental fatigue, depression, and so on)

8) Obtain sufficient and appropriate application of light

9) Regulates temperature and humidity properly

- 10) Maintain environmental cleanliness and order
- 11) Creating harmony in the work process
- 12) Streamlining the loading and unloading and storage of goods or materials
- 13) Prevents dangerous electric current
- 14) Improving supervision of work that has a high potential for accidents(Prawirosentono, 2018).

If it has been implemented, the K3 concept will have a positive impact on work productivity and can improve the performance of each workforce in a better direction. The risk of work accidents that can harm the workforce and affect work productivity can be minimized if the K3 concept has been properly implemented(SN, 2016). In Article 5 and Article 6 of Act No. 13 of 2003 concerning Manpower it is emphasized that every worker and worker or laborer has the right to have the opportunity and receive equal treatment without discrimination to get a job from an employer.

Workers have their rights as stipulated in Article 86 Paragraph (1) which contains: Every worker/laborer has the right to obtain protection for occupational safety and health, morals and decency, and treatment according to human dignity and values and religious values. And Paragraph (2) which contains: To protect the safety of workers/laborers in order to realize optimal work productivity, work safety and health measures are implemented. The implementation of government provisions in protecting workers will be achieved if the company is responsible for the implementation of all obligations by providing guarantees that have been set by the government is one of the efforts that must be given by the company so that all the rights of its workers are carried out properly.

Occupational health, safety and security aims to ensure the perfection or physical and spiritual health of the workforce as well as their work and culture. There are several K3 objectives, namely as follows:

- 1) Maintaining a healthy work environment
- 2) Prevent and treat accidents caused by work
- 3) Prevent and treat poisoning caused by work
- 4) Maintain morale

5) Adjust the ability and plan of work done while working

6) Rehabilitate workers who are injured or sick as a result of work.

Article 15 Paragraph (1) No. 24 of 2011 Law on the Social Security Administering Body which states that employers are gradually required to register themselves and their workers as participants with the Social Security Administering Body, and Articles 5 and 6 of Act No. 13 of 2003 concerning Manpower, treats all workers the same regardless of whether they are contract workers or not, in accordance with the social security program they participate in and workers have the right to register as social security participants at the expense of the employer if the employer has clearly registered their work with the Agency. Social Security Administrator.

#### **4. Conclusion**

The Board of Directors as an organ of a limited liability company is legally responsible for carrying out work safety and for any work accidents that occur in the company they lead. Responsibility must be taken to prevent work accidents from happening because the impact is very bad not only for the workers who experience it but also for the company. The effort the company provides protection and first aid by seeing whether the type of accident it is experiencing is not severe enough or can still be handled by a first aid company, while a work accident that is severe enough is given first aid by a doctor. The medical expenses will be borne by the company before claiming BPJS costs. Every worker and worker or laborer has the right to have the opportunity and receive equal treatment without discrimination to get a job from the company. The company in its provisions continues to register workers in the Employment Security and Death Security in accordance with Articles 5 and 6 of Act No. 13 of 2013 concerning Manpower, and without distinguishing the validity period of work.

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