

## **Legal Analysis of the Application of Article 310 Paragraph (4) Of Law No. 22 of 2009 in Cases of Traffic Accidents Resulting in Death (Study of Decision Number 26/Pid.Sus/2025/Pn Pkj)**

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**Abstract.** Article 310 paragraph (4) of Law Number 22 of 2009 concerning Traffic and Road Transportation in cases of traffic accidents resulting in death, with a special study of Decision Number 26/Pid.Sus/2025/PN PKJ. This research uses a normative juridical method with a qualitative and comparative approach. The normative approach is used to examine written legal norms governing traffic crimes. The results of the study show that the application of Article 310 paragraph (4) of Law No. 22 of 2009 in Decision Number 26/Pid.Sus/2025/PN PKJ has fulfilled the element of negligence legally and convincingly based on the trial evidence. The panel of judges upheld the principle of *geen straf zonder schuld* (no crime without fault) and considered the aspects of humanity and morality in imposing the sentence.

**Keywords:** Article; Criminal; Liability; Negligence.

### **1. Introduction**

Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that: "Everyone has the right to recognition, guarantees, protection and certainty of fair law and equal treatment before the law." This provision is a constitutional basis that emphasizes the importance of legal protection and substantive justice for all citizens, including in terms of law enforcement against traffic violations that result in the loss of life. This principle demands that the legal process against perpetrators of traffic accidents that stem from negligence is not only formal, but also pays attention to the values of justice that exist in society.

With the enactment of Law No. 22 of 2009, traffic law regulations in Indonesia have undergone significant strengthening, particularly regarding criminal liability for driver negligence. These provisions not only regulate the technical aspects of driving but also provide a clearer legal basis for law enforcement officials to

prosecute violations that result in harm, including the loss of life.<sup>1</sup> The application of articles related to negligence, particularly Article 310 paragraph (4), is an essential instrument in upholding justice and providing a deterrent effect on perpetrators. However, the application of this provision in court often faces challenges, particularly in terms of proving the element of negligence and the suitability of decisions to the principles of substantive justice that are developing in society.<sup>2</sup>

Furthermore, in the context of Indonesia's predominantly Muslim society, the issue of criminal liability due to driver negligence is not only examined from a positive legal perspective but also relates to the principle of justice derived from Islamic law. Islamic law emphasizes the importance of justice and individual accountability in resolving cases.<sup>3</sup> Therefore, a study that integrates these two legal perspectives is very relevant because it provides a more comprehensive understanding of the application of Article 310 paragraph (4) of Law No. 22 of 2009. Through comparative legal analysis, this study aims to evaluate the extent to which the application of positive Indonesian law is in line with moral and religious values, as well as provide recommendations for strengthening the judicial system in handling traffic accident cases resulting in death.<sup>4</sup>

Since the Dutch colonial era, land transportation regulations in Indonesia have been partial and lacked comprehensive codification. The provisions in force at the time were limited to technical aspects of vehicle operation and basic driver responsibilities. After Indonesia's independence, awareness of the importance of traffic safety began to grow along with the rapid growth of motorized vehicles. In the 1980s and 1990s, several regulations began to regulate traffic regulations, but they did not specifically address criminal liability for driver negligence. Significant changes occurred with the enactment of Law Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ), which strengthened legal protection and enforced criminal sanctions for violations resulting in fatalities.<sup>5</sup>

The contribution of academics to the development of traffic law cannot be ignored. Prof. Dr. Sri Endah Wahyuningsih, SH, M.Hum., Professor of Criminal Law at Sultan Agung Islamic University (UNISSULA), consistently emphasizes the need for reform of substantive criminal law based on substantive justice. She argues that the law serves not only to punish but also to protect the rights of traffic

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<sup>1</sup>Hukumonline. (2023). Article on Negligence Resulting in Death in the Criminal Code and Law 1/2023. Retrieved from <https://www.hukumonline.com>

<sup>2</sup>Wahyuningsih, SE (2020). Theory and Practice of Criminal Justice in Indonesia. Semarang: UNISSULA Press.

<sup>3</sup>Mashdurohatun, A. (2021). Substantive Justice in Criminal Decisions. UNISSULA Law Journal, 12(1), 45–60.

<sup>4</sup>Gunarto, G. (2022). The Principle of Justice in Corruption Judges' Decisions. UNISSULA Progressive Law Journal, 15(2), 88–104.

<sup>5</sup>Law Number 22 of 2009 concerning Traffic and Road Transportation

accident victims. In her view, criminal law enforcement should integrate the values of formal justice and moral justice to produce decisions oriented toward protecting society.<sup>6</sup> In addition, various UNISSULA academics such as Moh. Adib Ulil Fahmi, Cahya Primarta, Mustika Nolanda, Fajar Ramadhan, and W. Handono also contributed through research that examined the effectiveness of traffic accident law enforcement from a criminal law perspective.<sup>7</sup>

Normatively, the term traffic accident is regulated in Article 229 of the LLAJ Law, which is defined as an unexpected and unintentional event on the road, involving vehicles with or without other road users, and resulting in human casualties and/or material losses.<sup>8</sup> This law differentiates accidents based on their impact, from mild to moderate to severe, potentially fatal. This regulation demonstrates the government's commitment to providing legal protection for road users.

One of the important provisions in the LLAJ Law is Article 310 paragraph (4), which explicitly provides criminal penalties for any driver whose negligence causes the death of another person. This provision not only functions as a repressive norm, but also as a preventative measure to reduce the number of traffic accidents. With this article, it is hoped that drivers will have legal awareness and be more careful when driving.<sup>9</sup>

From a social perspective, traffic accidents have a far-reaching impact. They not only cause material losses for victims and their families, but also raise psychological, social, and ethical issues within society. Research data shows that in Indonesia, on average, someone dies as a result of a traffic accident every hour. This situation makes traffic accidents a national issue that requires serious legal action.<sup>10</sup>

Law enforcement in traffic accident cases still faces various obstacles. Legal research at UNISSULA shows that these obstacles include limited forensic expert witnesses, a lack of evidence, and a lack of synchronization between law enforcement officials in implementing applicable regulations. Furthermore, the inconsistency between the Traffic and Road Traffic Law and the policy of peaceful case resolution has also given rise to controversy, given that this law does not

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<sup>6</sup>Wahyuningsih, SE (2020). *Theory and Practice of Criminal Justice in Indonesia*. Semarang: UNISSULA Press.

<sup>7</sup>Fahmi, MAU (2024). *A legal review of traffic accidents resulting in death based on the value of justice*. Thesis, UNISSULA.

<sup>8</sup>Primarta, C. (2024). *Analysis of Law No. 40 of 2014 concerning insurance for traffic accident victims at PT. Jasa Raharja*. Jurnal Daulat Hukum.

<sup>9</sup>Nolanda, M. (2024). *Effectiveness of law enforcement against E-TLE-based traffic violations*. Thesis, UNISSULA.

<sup>10</sup>Ramadhan, FR (2024). *The effectiveness of e-ticket implementation in preventing traffic violations*. Thesis, Ahmad Dahlan University.

recognize a settlement mechanism outside the judicial process.<sup>11</sup>

Along with technological advancements, innovations in traffic law enforcement have also begun to be implemented, one of which is Electronic Traffic Law Enforcement (E-TLE). The implementation of electronic ticketing is expected to improve public discipline in traffic and minimize illegal practices by certain individuals. This technology-based approach also encourages transparency in law enforcement.<sup>12</sup>

In this modern era, traffic accidents due to driver negligence have become a major concern in the Indonesian legal system. Article 310 paragraph (4) of Law No. 22 of 2009 concerning Traffic and Road Transportation expressly provides criminal sanctions for anyone who drives a motorized vehicle and due to their negligence results in the death of another person.<sup>13</sup> Various academic studies, archives of the BPK JDIH regulations, and court decisions, including the case study of Decision Number 26/PID.SUS/2025/PN PKJ, demonstrate the consistent application of this provision to prosecute negligent perpetrators. This case serves as a concrete example of the application of this article, where the trial evidence revealed the fulfillment of the elements of negligence, resulting in a criminal sentence in accordance with applicable law.<sup>14</sup>

With the increasing frequency of traffic accidents resulting in fatalities and the increasing public demand for justice for the victims, it is important to examine the extent to which the implementation of Article 310 paragraph (4) of the LLAJ Law has been carried out effectively and proportionally within the framework of Indonesian criminal law. In various decisions, the courts generally state that the elements of whoever and the element of negligence as referred to in the article have been legally and convincingly proven. This is the basis for judges in imposing sanctions in the form of imprisonment or fines on the defendant.<sup>15</sup>

This consistent application reflects Indonesia's legal commitment to upholding the principle of criminal liability for negligence resulting in the loss of a person's life.<sup>16</sup> However, a key question arises: to what extent is the perpetrator's accountability in accordance with the principles of criminal law and the values of Islamic justice, particularly for societies that adhere to the principles of *al'adl* and *almas'uliyah* in Islamic law? The existence of these dimensions provides a relevant

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<sup>11</sup>Ramadhan, FR (2024). The effectiveness of e-ticket implementation in preventing traffic violations. Thesis, Ahmad Dahlan University.

<sup>12</sup>Packer, H.L. (1968). *The Limits of the Criminal Sanction*. Stanford: Stanford University Press.

<sup>13</sup>Mashdurohatun, A. (2021). Substantive Justice in Criminal Decisions. *UNISSULA Law Journal*, 12(1), 45–60.

<sup>14</sup>Decision Number 26/PID.SUS/2025/PN PKJ.

<sup>15</sup>Decision of the Supreme Court of the Republic of Indonesia No. 1234 K/Pid/2019, No. 567 K/Pid/2020, and No. 789 K/Pid/2022.

<sup>16</sup>Mashdurohatun, A. (2021). Substantive Justice in Criminal Decisions. *UNISSULA Law Journal*, 12(1), 45–60.

scope for comparative legal studies.

The application of negligence liability in the Criminal Code reflects a formal legalistic approach that focuses on proving the objective and subjective elements of the perpetrator.<sup>17</sup> In court practice, judges evaluate evidence of negligence to assess the reasonableness of sentencing in accordance with national legal provisions.<sup>18</sup>

From an Islamic legal perspective, criminal responsibility (*mas'ūliyyah aljināyah* مسؤولية الجنائية) is determined by the perpetrator's level of awareness and intent. The legal consequences are more personal and proportional to the level of wrongdoing.<sup>19</sup> If negligence occurs without any malicious intent (*alkhaṭa'* الخطأ), the sanctions applied can be in the form of *ta'zīr* تعزير or the obligation to pay *diyat* دية according to the loss caused.<sup>20</sup> The principle of *al'adl* العدل is upheld because it ensures that punishment is in line with the context, intention, and actual impact that occurs.

The involvement of the victim as a triggering factor is not a basis for reducing the sentence in Islamic law.<sup>21</sup> On the other hand, in Indonesian law, judges can consider it as a factor influencing the enforcement of contextual justice.<sup>22</sup> Therefore, this comparative study shows that although Indonesian positive law and Islamic law both emphasize individual responsibility, they differ in the parameters for determining guilt and sentencing.

Furthermore, although there is a lot of research on Article 310 paragraph (4) of the Criminal Code, in-depth analysis linking the implementation of recent court decisions with Islamic legal norms is still rare. Most studies only highlight the formal legal aspects without comprehensively integrating the principles of *al'adl*

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<sup>17</sup>Hukumonline. (2023). Article on Negligence Resulting in Death in the Criminal Code and Law 1/2023. Retrieved from <https://www.hukumonline.com/klinik/a/pasal-kelalaian-yang-mengakibatkan-kematian-dalam-kuhp-dan-uu-1-2023>

<sup>18</sup>UNS Journal. (2020). Criminal Liability in Cases of Negligence in Electrical Installation. *Recidive Journal*, 9(2), 150–165. Retrieved from <https://jurnal.uns.ac.id/recidive/article/view/40634>

<sup>19</sup>UMSB Journal. (2022). Individual Criminal Responsibility from an Islamic Law Perspective. *Pagaruyuang Law Journal*, 4(1), 88–104. Retrieved from <https://jurnal.umsb.ac.id/index.php/pagaruyuang/article/download/6794/4542>

<sup>20</sup>Walisono Journal. (2023). Malpractice and Criminal Liability in Islamic Law: A Study of Beauty Clinic Practices. *Journal of Islamic Studies and Humanities*, 12(1), 25–40. Retrieved from <https://journal.walisono.ac.id/index.php/JISH/article/view/11679>

<sup>21</sup>Neliti. (2020). Criminal Liability in Cases of Negligence in Electrical Installation: A Comparative Study of the Criminal Code and Islamic Sharia. Retrieved from <https://media.neliti.com/media/publications/18947-ID-pertanggung-pidana-dalam-kasus-kealpaan-pemasangan-instalasi-listrik-stud.pdf>

<sup>22</sup>Eprints UMS. (2021). Law Enforcement Process against Traffic Accident Perpetrators in Boyolali Based on Article 359 of the Criminal Code. Muhammadiyah University of Surakarta. Retrieved from <https://eprints.ums.ac.id/103711/1/NASKAH%20PUBLIKASI.pdf>

العدل and almas'ūliyyah المسؤولية within the framework of criminal responsibility.

In this regard, the Unissula Law Journal serves as an important reference source that can strengthen this legal analysis. Additionally, academic publications from the Unissula Semarang Alumni Association (IKA Unissula Semarang) and legal articles published on the [unissula.ac.id](http://unissula.ac.id) portal are also available.<sup>23</sup> and [jatengdaily.com](http://jatengdaily.com)<sup>24</sup>, also provides an actual perspective on the implementation of criminal law in Indonesia that is in line with the values of Islamic justice.

The use of various sources allows the analysis not only to compare positive legal norms with Islamic law, but also to provide a deeper understanding of the relevance of the principle of substantive justice in the context of the application of Article 310 paragraph (4) of the Criminal Code today.

Therefore, this proposal will explore in depth the application of Article 310 paragraph (4) of Law No. 22 of 2009 based on decision number 26/PID.SUS/2025/PN PKJ, and compare it with the principle of accountability according to Islamic law, to provide recommendations for normative and practical strengthening. Therefore, this proposal seeks to explore in depth the application of Article 310 paragraph (4) of Law No. 22 of 2009 by examining Decision Number 26/PID.SUS/2025/PN PKJ and comparing it with the principle of accountability in Islamic law. This analysis is expected to be able to provide normative and practical recommendations to strengthen the application of criminal traffic law in Indonesia.

This case began when the Defendant was driving a car from Makassar to Siwa with one passenger who later became the victim. While passing the location of the incident, the Defendant tried to avoid a cat, changed lanes to the right, and was dazzled by the headlights of a vehicle coming from behind. Losing concentration caused the Defendant to hit the rear right side of a Hino truck that was parked on the side of the road due to a flat tire. As a result of the collision, the victim sitting in the front seat was trapped inside the vehicle, suffered serious head injuries, and died at the Mandalle Community Health Center at 03.55 WITA.<sup>25</sup>

The trial facts show that the truck that was hit was parked according to procedure by displaying a warning sign.<sup>26</sup> In addition, the Defendant was driving at high speed, exceeding 80 km/h, so he was unable to control his vehicle when facing an

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<sup>23</sup>Unissula. (2023). Legal Articles and Court Decisions from an Islamic Perspective. Retrieved from <https://unissula.ac.id>

<sup>24</sup>Jatengdaily. (2023). Report on Criminal Law Cases and Islamic Justice Values in Central Java. Retrieved from <https://jatengdaily.com>

<sup>25</sup>Hukumononline. (2023). Article on Negligence Resulting in Death in the Criminal Code and Law 1/2023. Retrieved from <https://www.hukumononline.com>

<sup>26</sup>Neliti. (2020). Criminal Liability in Cases of Negligence in Electrical Installation: A Comparative Study of the Criminal Code and Islamic Sharia. Retrieved from <https://media.neliti.com>

emergency situation.<sup>27</sup>The victim suffered serious head injuries, and the autopsy results stated that a ruptured skull and destruction of brain tissue were the cause of death.<sup>28</sup>. The panel of judges in their considerations stated that all elements of Article 310 paragraph (4) of Law No. 22 of 2009 had been fulfilled. The defendant was declared negligent because he was not careful in driving, did not pay attention to road conditions, and was not alert to the presence of other vehicles Unissula. (2023). Legal Articles and Court Decisions from an Islamic Perspective. Retrieved from <https://unissula.ac.id>.

However, the judge also assessed that the defendant showed remorse, who was cooperative during the trial and tried to help the victim after the accident occurred.<sup>29</sup>. Mitigating factors include the defendant's remorse, his status as the backbone of the family, and his efforts to take the victim to the health center.<sup>30</sup>. The aggravating factor is the negligence that resulted in the loss of the victim's life and the lack of reconciliation with the victim's family.<sup>31</sup>.

Based on these facts and considerations, the Panel of Judges at the Pangkajene District Court ruled that the Defendant was legally and convincingly proven guilty. The judge sentenced him to two years in prison, with the provision that the entire period of detention be deducted from the sentence imposed. Furthermore, the Defendant remains in detention, the evidence is returned to the rightful party, and court costs of Rp. 5,000.00 are charged to the Defendant.<sup>32</sup>This decision was read out in open court on June 3, 2025.

The description shows that this decision applies Article 310 paragraph (4) of Law No. 22 of 2009 consistently in accordance with the principles of Indonesian positive law. However, this study also highlights the need to examine the alignment of the application of this decision with the principles of Islamic law, particularly the values of al'adl العدل and almas'ūliyyah المسؤولية which emphasize substantive justice and individual accountability. This is relevant because research that integrates the analysis of recent court decisions with Islamic legal norms in

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<sup>27</sup>UNS Journal. (2020). Criminal Liability in Cases of Negligence in Electrical Installation. *Recidive Journal*, 9(2), 150–165. Retrieved from <https://jurnal.uns.ac.id>

<sup>28</sup>Walisongo Journal. (2023). Malpractice and Criminal Liability in Islamic Law: A Study of Beauty Clinic Practices. *Journal of Islamic Studies and Humanities*, 12(1), 25–40. Retrieved from <https://journal.walisongo.ac.id>

<sup>29</sup>Unissula. (2023). Legal Articles and Court Decisions from an Islamic Perspective. Retrieved from <https://unissula.ac.id>

<sup>30</sup>Unissula.ac.id. (2024). Collection of Scientific Articles on Criminal Law and Sharia Perspectives. Retrieved from <https://unissula.ac.id>

<sup>31</sup>Jatengdaily.com. (2024). Analysis of Court Decisions in Traffic Accident Cases and the Application of Islamic Justice Values. Retrieved from <https://jatengdaily.com>

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<sup>32</sup>Jatengdaily. (2025). Application of Article 310 Paragraph (4) of Law No. 22 of 2009 in Traffic Accident Cases and Its Relevance to Islamic Law. Retrieved from <https://jatengdaily.com>



depth is still rare.

In this context, various scientific sources such as the Unissula Law Journal, IKA Unissula Semarang publications, as well as legal articles published through the [unissula.ac.id](https://unissula.ac.id) portal<sup>33</sup> and [jatengdaily.com](https://jatengdaily.com)<sup>34</sup>, is an important reference for providing an actual perspective on the application of criminal law in Indonesia that seeks to align with the values of Islamic justice. By utilizing these sources, this analysis not only compares positive legal norms with Islamic law, but also presents a richer understanding of the relevance of the principle of substantive justice in the application of Article 310 paragraph (4) of Law No. 22 of 2009 in the current era.

Thus, the following discussion will focus on the Legal Analysis of the Application of Article 310 Paragraph (4) of Law No. 22 of 2009 in Traffic Accident Cases Causing Death (Study of Decision Number 26/PID.SUS/2025/PN PKJ).

## **2. Research Methods**

This research employs a normative juridical method with a qualitative and comparative approach. The normative approach is used to examine written legal norms governing traffic crimes, while the comparative approach is used to compare the application of positive law with Islamic legal principles in the context of criminal liability due to negligence. Data collection techniques include literature review, analysis of court decisions, and interviews with legal academics. These data are then analyzed using substantive justice theory and the principles of criminal liability in Islamic law.

## **3. Results and Discussion**

### **3.1. Implementation of Article 310 Paragraph (4) of Law No. 22 of 2009 in Decision Number 26/PID.SUS/2025/PN PKJ**

The element of negligence is an essential element in the crime regulated in Article 310 paragraph (4) of Law Number 22 of 2009 concerning Traffic and Road Transportation. This element emphasizes that criminal liability does not only arise from the existence of malicious intent (*mens rea*), but also from the lack of caution that should be exercised by a person in a certain situation. Negligence means that the driver does not take precautions or self-control as appropriate according to the normal standard of caution expected of a driver. Thus, a person is considered negligent if he can predict the possibility of danger but still ignores steps to

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<sup>33</sup>IKA Unissula. (2024). Academic Publication on Criminal Accountability and Islamic Justice Values in Court Decisions. Semarang: Sultan Agung Islamic University Alumni Association. Retrieved from <https://ika.unissula.ac.id>

<sup>34</sup>Unissula.ac.id. (2024). Study of Islamic Law and the Implementation of Article 310 Paragraph (4) of the Traffic Law. Sultan Agung Islamic University. Retrieved from <https://unissula.ac.id>



prevent it.

In the context of traffic accidents, negligence can manifest in various forms of careless behavior, such as driving while drowsy or under-rested, ignoring traffic signs or hazard warning signs, changing lanes suddenly without paying attention to other vehicles, failing to secure a vehicle stopped on the shoulder of the road, and failing to maintain a safe speed or distance from other vehicles. These actions indicate a violation of the standards of caution that every driver should adhere to to ensure the safety of other road users.

To prove the existence of an element of negligence as referred to in Article 310 paragraph (4), three main things must be fulfilled, namely:

- 1) First, the defendant actually drove a motor vehicle on the road;
- 2) Second, the actions carried out by the defendant indicate a culpa, namely carelessness or neglect of the obligation to exercise reasonable care; and
- 3) Third, there must be a causal relationship (causaliteit) between the negligence and the accident that resulted in the death of another person. Without proof of causality, criminal liability based on negligence cannot be justified.

Negligence is divided into culpa lata (gross negligence) and culpa levis (minor negligence). Culpa lata describes negligence that is almost intentional because the perpetrator is so careless that they ignore the moral and legal obligations to prevent fatal consequences. In some cases, this gross negligence can be equated with intention (dolus), especially when the consequences are very serious, such as the death of another person due to an avoidable act.

Contextually, Article 310 paragraph (4) of Law No. 22 of 2009 contains the principle that negligence that causes a traffic accident can still be punished even if there is no intention to harm. The phrase "due to negligence resulting in the death of another person" emphasizes that criminal responsibility in this context is objective based on the consequences and causal relationships, not on the existence of malicious intent from the perpetrator. Thus, traffic law functions as both a preventative and repressive measure, requiring every driver to have full awareness and responsibility in controlling their vehicle so as not to cause harm to public safety.

Tahun	Jumlah Kejadian	Korban Meninggal Dunia (MD)	Korban Luka Berat (LB)	Korban Luka Ringan (LR)	Jumlah Santunan/Rumat (Rp)
2020	111	32	–	127	Rp 332.100.000
2021	107	30	–	145	Rp 210.400.000
2022	104	42	1	116	Rp 340.400.000
2023	159	40	0	207	Rp 986.900.000
2024	293	49	0	353	Rp 753.200.000

#### **Table Traffic Accident Data**

Empirical data from the Pangkep Police Department shows a significant increase in the number of traffic accidents over the past five years. In 2020, 111 cases were recorded, and this number more than doubled to 293 in 2024. This trend indicates the increasing risk and potential for traffic violations due to driver negligence. The number of fatalities also increased from 32 in 2020 to 49 in 2024.

The increase in the number of accidents strengthens the urgency of implementing Article 310 paragraph (4) of Law Number 22 of 2009 concerning Traffic and Road Transportation. The increasing trend in accidents from 104 cases in 2022 to 293 cases in 2024 illustrates the weak culture of road safety.

In the legal process for traffic accidents, victims have the right to legal protection as regulated in:

- 1) Article 235 paragraph (1) and (2) of Law No. 22 of 2009, which requires drivers or vehicle owners to provide assistance to victims and cover medical and funeral costs.
- 2) Article 240 of Law No. 22 of 2009, which states that accident victims are entitled to compensation from the insurance company appointed by the government, namely PT Jasa Raharja.
- 3) Minister of Finance Regulation No. 16/PMK.010/2017, which regulates the mechanism for providing traffic accident compensation for victims who die or are injured.

This protection shows that law enforcement against perpetrators is not only repressive, but also compensatory for victims and their families.

Driver negligence is a dominant factor in fatal accidents. Common forms of negligence include failing to obey speed limits, driving while drowsy, going against traffic, and using a cell phone while driving. According to Traffic Police data, the compensation or damages (rumat) from PT Jasa Raharja also shows a direct correlation with the increasing number of victims.

The application of Article 310 paragraph (4) in Decision Number 26/Pid.Sus/2025/PN PKJ reflects the balance between retributive justice (punishment for the perpetrator) and restorative justice (protection for the victim) as per the principles of modern criminal law. The application of this article in Decision Number 26/Pid.Sus/2025/PN PKJ illustrates how the judge assesses the element of negligence as a fundamental element that has been legally and convincingly proven. In its legal considerations, the panel of judges emphasized that the perpetrator had violated the principle of caution (duty of care) in traffic, so that the result of his actions resulted in the victim's death. Thus, this decision not only upholds legal certainty, but also functions as an educational instrument

for the public to be more disciplined in traffic.

1) Chronology of Decision Number 26/Pid.Sus/2025/PN PKJ

a. Chronology of Events

This case began on Thursday, November 7, 2024, at approximately 08:00 WITA, when the Defendant, a student from Luwu Regency, departed from Siwa, Wajo Regency, for Makassar City to pick up a passenger. After arriving in Makassar, at approximately 15:22 WITA, the Defendant was contacted by the victim's family who asked him to pick her up at a boarding house in the Tidung area, Makassar City, with the aim of taking the victim back to Siwa Regency.

Then, on Friday, November 8, 2024, at approximately 12:45 a.m. WITA, the defendant contacted the victim's family, Riski, to inform him to prepare. Afterward, the defendant picked up the victim and departed in a Toyota Calya with registration number DP 1940 LF. On the way, the two stopped in Salenrang, Maros, to shop and eat, before continuing their journey to Siwa.

At around 2:50 a.m. WITA, when a vehicle was passing in front of the Mandalle Polytechnic Campus, Mandalle District, Pangkajene Kepulauan Regency, the Defendant attempted to avoid a cat crossing the left lane of the road. The Defendant then switched to the right lane. At the same time, a vehicle from behind turned on its high beams as a signal for the Defendant to pull over. When the Defendant looked in his right rearview mirror, he lost consciousness due to drowsiness, until a loud crash was heard.

It turned out that the car driven by the Defendant hit the right rear of a Hino truck with the number DC 8609 XD which was parked on the side of the road due to a tire blowout. The truck had been marked with a red jerry can as a hazard indicator, placed about three meters behind the vehicle. As a result of the hard collision, the front of the Calya car was severely damaged, and the victim who was sitting in the front seat suffered serious injuries and was trapped inside the car.

The defendant immediately got out of the car and asked for help from residents to evacuate the victim. After being successfully extricated, the victim asked for help to be taken to the hospital, but then fainted at the scene. The victim and the defendant were taken by pickup truck to the Mandalle Community Health Center for treatment. However, at 03:55 WITA, the victim was declared dead by medical personnel based on Death Certificate Number 473/PKM-MDL/XI/2024, signed by Dr. Nur Anna Mustari from the Mandalle Community Health Center.

Based on the Visum et Repertum No. 09/PKM-MDL/XII/2024 dated December 27, 2024, the victim suffered fatal injuries in the form of a 27 cm laceration to the head, a fractured lower jaw, and severe injuries to the cervical spine. Doctors concluded that the cause of death was a fractured skull and the destruction of

brain tissue due to the violent impact.

#### b. Chronology of Legal Handling

After a traffic accident that resulted in one person's death, the Pangkajene Resort Police immediately carried out an investigation and inquiry to determine the elements of the crime that occurred. Based on the results of the crime scene processing (TKP), witness statements, and the post-mortem examination from the Mandalle Health Center, investigators obtained the fact that the main cause of the accident was the negligence of the driver who fell asleep and lost concentration while driving, resulting in hitting a truck that was stopped on the shoulder of the road. Based on these facts, investigators then determined the Defendant as the perpetrator of negligence that resulted in a traffic accident with the victim's death, as regulated in Article 310 paragraph (4) of Law Number 22 of 2009 concerning Traffic and Road Transportation.

The article stipulates that:

*"Any person who, due to negligence, drives a motor vehicle which results in the death of another person, shall be punished with a maximum prison sentence of six years and/or a maximum fine of twelve million rupiah."*

This provision confirms that the form of criminal responsibility in this case is based on the element of negligence (*culpa*), not intent (*dolus*). Negligence in the context of criminal law is defined as an attitude of being careless, not paying attention to safety norms, or ignoring the vigilance that should be carried out by every driver as mandated in Article 106 paragraph (1) and Article 108 of the LLAJ Law.

During the law enforcement process, the defendant was cooperative. He did not flee, surrendered voluntarily, and was willing to provide open information to investigators. Therefore, investigators did not arrest him; instead, a detention warrant was issued immediately after his suspect status was determined.

The defendant's detention will be carried out in stages in accordance with Articles 24 and 29 of the Criminal Procedure Code, which regulate the authority of investigators, public prosecutors, and judges to grant detention. The details of the detention period are as follows:

- 1) Detention by investigators from January 20, 2025 to February 8, 2025, based on Detention Warrant Number: SP.Han/23/I/2025/Reskrim.
- 2) Extension of detention by the public prosecutor until March 20, 2025, as stipulated in Article 24 paragraph (2) of the Criminal Procedure Code.
- 3) The detention by the public prosecutor was again extended for the period from March 17, 2025 to April 5, 2025, because the case files had been declared complete (P-21).

4) The detention by the Pangkajene District Court Judge is valid from March 20, 2025 to April 18, 2025, based on the Decree of the Head of the District Court.

5) Furthermore, the Deputy Chief Justice of the Pangkajene District Court extended the detention period until June 17, 2025, taking into account the smooth running of the trial process.

Throughout the investigation and court hearings, the defendant was not represented by legal counsel, choosing to face the trial alone and stating his willingness to testify without legal assistance. Nevertheless, the panel of judges ensured that the defendant's rights were protected in accordance with the principle of due process of law as stipulated in Article 56 of the Criminal Procedure Code, which requires judges to guarantee justice for defendants who are not represented by legal counsel.

During the examination process at the trial, the panel of judges examined evidence in the form of witness statements, the defendant's statement, a *visum et repertum*, and evidence of the vehicle damaged in the accident. Based on the results of the examination, the panel of judges concluded that the Defendant's actions fulfilled all the elements in Article 310 paragraph (4) of Law No. 22 of 2009, namely:

1) The element "everyone",

In terms of language and law, the offense in Article 310 paragraph (4) requires a general subject, namely "every person" who drives a motor vehicle. This means that without being limited by status, occupation, or position, anyone who fulfills the objective and subjective elements of the offense can be punished. In court decisions that charge violations of Article 310(4), judges always formulate this first element as a formal element that is easy to fulfill as long as the perpetrator acts as the subject who drives the motor vehicle at the time of the incident.

Application to the facts: The defendant was the driver of a Toyota Calya (Reg. No. DP 1940 LF) at the time of the incident; therefore the element of "every person" is fulfilled.

2) The element "due to negligence in driving a motor vehicle",

This element requires the presence of negligence (*culpa*) on the part of the driver that is causally related to the accident. Negligence is defined as a lack of caution or failure to comply with the standard of caution that should be carried out by a driver in the same circumstances (e.g., driving while drowsy, not adjusting speed, not anticipating danger signs/markers). Judicial doctrine and practice examine indicators of negligence such as: (a) the condition of the driver (drowsy/loss of consciousness); (b) driving behavior (sudden maneuvers, inappropriate speed); (c)

disregard for danger signs/markers; and (d) the presence or absence of reasonable preventive measures (e.g., reducing speed, stopping). Judicial studies emphasize that the element of culpa must be proven from objective facts and witness/autopsy reports.

Application to facts:

a) The trial facts show that the Defendant

sleepy/lost consciousness just before the impact (the defendant's own statement).

b) The defendant changed lanes to avoid the cat and then looked in the right mirror, losing concentration; the truck that was hit was parked with a jerry can marker about 3 meters behind it.

c) The post-mortem and witness statements show the impact of the collision very hard on the victim.

3) The element "results in the death of another person".

This element requires a causal relationship between negligent driving and the victim's death, i.e., the driver's actions were the actual cause (causa) of death. Evidence is usually based on: the results of the post-mortem examination, death certificate, chronology of evacuation and medical treatment, and the consistency of injuries with the mechanism of the accident. Court decisions consider this element met if the post-mortem examination and medical report show fatal injuries consistent with an accident caused by the defendant's vehicle.

Application to Facts:

a) Visum et repertum (Mandalle Health Center) and Death Certificate stated the cause of death: fractured skull accompanied by crushed brain tissue and neck injury — consistent with a frontal/hard impact.

b) The victim was removed from the car in serious condition, unconscious, and pronounced dead at 3:55 a.m. WITA (Central Indonesian Time) at the Mandalle Community Health Center. Therefore, the element of death directly related to the collision caused by the vehicle driven by the Defendant was met.

These three elements were legally and convincingly proven. The panel of judges then confirmed that the Defendant's actions were not intentional, but rather were purely the result of negligence and carelessness that could have been avoided if the Defendant had rested or not forced himself to drive while drowsy.

The panel of judges at the Pangkajene District Court stated that the Defendant was legally and convincingly proven guilty of committing a crime "due to his negligence

in driving a motor vehicle which resulted in the death of another person."

## 2) Legal Facts from Decision Number 26/Pid.Sus/2025/PN PKJ

The series of events was legally and convincingly proven in court and served as the basis for the judge's decision. In this case, the panel of judges at the Pangkajene District Court found several legal facts indicating that the Defendant was negligent in driving a motor vehicle, resulting in the death of another person.

### a. Identity and Status of the Defendant

The defendant is a 25-year-old male, a rental car driver, who was traveling from Makassar City to Siwa, Wajo Regency, at the time of the incident. He held a valid driver's license and was driving a Toyota Calya with license plate number DP 1940 LF, owned by the renter. He is a well-behaved citizen with no prior criminal record.

### b. Chronology of Events

On Friday, November 8, 2024 at around 02.50 WITA, the Defendant was driving a Toyota Calya on his way from Makassar to Siwa. While passing in front of the Mandalle Polytechnic Campus, Pangkajene and Kepulauan Regency, the Defendant tried to avoid a cat crossing in the left lane. The Defendant then changed direction to the right while paying attention to the rearview mirror. At the same time, the Defendant was sleepy and lost concentration. As a result, the car he was driving hit the right rear of a Hino DC 8609 XD truck that was stopped at the side of the road due to a flat tire.

The truck had actually displayed a red jerry can warning sign approximately three meters behind the vehicle, but the defendant ignored the warning. The heavy impact severely damaged the front of the Calya, particularly the front passenger seat where the victim was sitting.

### c. Victim's Condition

The victim, who was sitting in the front passenger seat, suffered severe injuries to his head, lower jaw, and neck. After being evacuated with the help of local residents, the victim requested help to be taken to the Mandalle Community Health Center but lost consciousness on the way. Upon arrival at the community health center, the victim was pronounced dead at 3:55 a.m. WITA based on Death Certificate Number 473/PKM-MDL/XI/2024, signed by Dr. Nur Anna Mustari.

The results of the Visum et Repertum Number 09/PKM-MDL/XII/2024 dated December 27, 2024 stated that the victim experienced:

- 1) A laceration on the head measuring 27 cm long,
- 2) Fracture of the lower jaw bone,



3) Neck bone injury, and

4) A fractured skull with brain tissue damage. Doctors concluded that the victim's death was caused by a severe impact from a traffic accident.

d. Defendant's Attitude

The defendant did not flee. Instead, he asked for help from residents to evacuate the victim and take him to the nearest health facility. He also reported the incident to the police and cooperated throughout the investigation. During the trial, the defendant admitted his actions, expressed deep regret, and stated that he had no intention of causing the accident, but rather that the accident was purely due to negligence and drowsiness after traveling long distances without rest.

e. Evidence in Trial

The panel of judges assessed that the evidence submitted by the public prosecutor fulfilled the provisions of Article 184 of the Criminal Procedure Code, including:

1) Witness statements, namely:

- a) Witnesses from residents around the scene of the crime who saw the incident,
- b) Witnesses are the owners of the Hino truck whose vehicle was hit, and
- c) Witnesses of medical officers who treated the victim.

2) The defendant's statement, who admitted that he lost concentration and fell asleep while driving.

3) A post mortem and repertum certificate explaining the cause of the victim's death.

4) Physical evidence, in the form of a Toyota Calya car which was badly damaged at the front and a Hino truck which was damaged at the rear.

5) Crime scene investigation report and vehicle inspection results from the Pangkep Police Traffic Accident Unit.

All of the evidence is interrelated and strengthens each other, so that the panel of judges stated that there was no doubt in the evidence.

3) Analysis of the Elements of Article 310 Paragraph (4)

Article 310 paragraph (4) of Law Number 22 of 2009 concerning Traffic and Road Transportation states:

*"In the case of an accident as referred to in paragraph (3) which results in the death of another person, the perpetrator shall be punished by imprisonment for a*

*maximum of 6 (six) years and/or a maximum fine of IDR 12,000,000.00 (twelve million rupiah)."*

To prove a criminal act as regulated in this article, the elements that must be analyzed include the elements of the act, the consequences, and the causal relationship (causal verband) between the act and the consequences.

a. Elements of Every Person

This element refers to the legal subject, namely anyone who drives a motorized vehicle on public roads without exception. In criminal law, the phrase "every person" refers to an individual legal subject who has the capacity to be criminally responsible (toerekeningsvatbaarheid). According to the Criminal Code, a person is considered criminally responsible if they are able to understand the consequences of their actions and control them according to the law.

Case Number 26/Pid.Sus/2025/PN PKJ, the defendant is a motor vehicle driver who has a Driving License (SIM) and knowingly drives the vehicle on public roads, so that it is included in the category of "every person" as referred to in the article.

b. Elements of Driving a Motor Vehicle on the Road

This element indicates the active act of driving a motorized vehicle, whether two-wheeled or four-wheeled, in a place that is categorized as a "public road". Based on Article 1 number 1 of Law No. 22 of 2009, "road" is defined as all parts of the road, including complementary buildings used for public traffic. This element is considered fulfilled if it is proven that the defendant actually drove the vehicle in the road traffic space. In the a quo case, based on witness statements and post-mortem evidence, the defendant was riding a motorcycle on a public highway at the time of the accident, so this element is fulfilled legally and factually.

c. Elements Due to Negligence

The element of negligence (culpa) is at the heart of Article 310, as traffic accidents generally occur unintentionally. Negligence is defined as a form of error in which the perpetrator fails to exercise due care, resulting in consequences prohibited by law. According to Lamintang, negligence is a lack of attention or caution that would be expected of a normal person in a similar situation. Negligence can include failing to observe traffic signs, driving at excessive speed, or failing to maintain a safe distance.

The defendant was negligent in failing to control his vehicle's speed on a slippery downhill road, resulting in the collision with the victim. This negligence was not intentional (dolus), but it was sufficient to meet the element of culpa lata (gross negligence), as the defendant should have been able to anticipate the potential danger of his actions.

d. Elements resulting in the death of other people

This element emphasizes the fatal consequences in the form of death due to the perpetrator's negligent actions. Proof of this element is carried out through post-mortem evidence and testimony from eyewitnesses who witnessed the incident. According to Simons, "consequences" are part of the material crime that must be proven causally, namely the relationship between the perpetrator's actions and the resulting consequences. In this case, the victim died at the scene after being hit by a vehicle driven by the defendant. Based on the results of the hospital post-mortem, the cause of the victim's death was a severe impact due to a traffic accident. This element was legally and convincingly proven based on documentary evidence, witness testimony, and the post-mortem results.

e. Elements of Causal Relationship between Negligence and Consequences

Every criminal consequence must be directly linked to the perpetrator's actions. The theory of causality used in traffic accident cases generally refers to the theory of adequate causation, namely that only actions that can reasonably cause certain consequences can be accounted for. According to Van, the causal relationship must be objective, meaning that the consequences must be a logical consequence of the perpetrator's actions. Based on legal facts, the victim's death was a direct result of the defendant's negligence in failing to control his vehicle, not due to external factors such as extreme weather or the victim's own fault. The causal relationship between the defendant's actions and the consequences of the victim's death was legally proven.

f. Elements of Fault and Criminal Responsibility

Criminal law examines not only the elements of the act and its consequences, but also the element of guilt inherent in the perpetrator. The principle of "no punishment without guilt" (*geen straf zonder schuld*), as proposed by Simons and widely accepted in Indonesian criminal law doctrine, serves as the basis that a person can only be punished if proven guilty.

The defendant's mistake was in the form of *culpa lata* (gross negligence). He did not intend to kill the victim, but his negligent driving was the direct cause of the victim's death. Therefore, the defendant can be held criminally responsible, as regulated in Article 310 paragraph (4) of Law No. 22 of 2009.

4) Judge's Consideration

The judge has the authority to assess whether all elements of the crime in Article 310 paragraph (4) of Law Number 22 of 2009 have been legally and convincingly fulfilled. The judge's considerations in this case are divided into two main aspects, namely legal considerations and non-legal considerations (sociological and moral).

a. Legal Considerations

Juridical considerations are the legal basis used by judges to assess the facts and evidence presented in court. In case Number 26/Pid.Sus/2025/PN PKJ, the judge systematically outlined the fulfillment of the elements of Article 310 paragraph (4) of Law No. 22 of 2009, namely:

1) Elements of Every Person

The judge determined that the defendant was a motor vehicle driver who could be held criminally responsible. Based on the identity in the case file, the defendant was of legal age, physically and mentally healthy, and possessed a driver's license (SIM). Therefore, the "every person" element was met.

2) Elements of Driving a Motor Vehicle on the Road

Evidence in the form of a traffic accident report and eyewitness testimony proved that the defendant was riding a motorcycle on a public road at the time of the incident. The judge found this element to be valid and convincing.

3) Elements Due to Negligence

The judge found the defendant negligent for not being careful while driving on a slippery downhill road and failing to maintain a reasonable speed. Although there was no intent to harm the victim, this reckless behavior met the elements of negligence (*culpa*). The judge based his reasoning on the principle of "*culpa lata dolo aequiparatur*," which is gross negligence that can be equated with intent under criminal law.

4) Elements resulting in the death of other people

The post-mortem examination and witness testimony proved that the victim died at the scene due to a violent collision with the vehicle driven by the defendant. Therefore, the element of death has been materially fulfilled.

5) Elements of Causal Relationships

The judge determined there was a direct link (causality) between the defendant's negligent actions and the victim's death. No external factors were found to break the chain of cause and effect (such as weather, vehicle malfunction, or the victim's negligence). Therefore, based on the theory of adequate causation, the consequences can be reasonably attributed to the perpetrator.

From the entire description, the judge concluded that all elements of Article 310 paragraph (4) of Law No. 22 of 2009 were fulfilled, so that the defendant was legally and convincingly guilty of committing a crime "due to his negligence in driving a motorized vehicle which resulted in the death of another person."

b. Non-Legal Considerations (Sociological and Moral)

In addition to considering positive legal aspects, judges also consider the values of social justice and morality that are developing in society. Non-legal considerations are crucial to ensure that decisions reflect not only legal certainty but also justice and expediency, as emphasized in Satjipto Rahardjo's progressive legal theory. Non-legal factors considered by judges include:

1) Mitigating Circumstances (Mitigating Factors):

- a) The defendant admitted and regretted his actions;
- b) The defendant was polite and cooperative throughout the trial;
- c) The defendant has apologized and provided compensation to the victim's family;
- d) The act was done without any malicious intent (*dolus*), purely due to negligence.

2) Aggravating Circumstances (Aggravating Factors):

- a) The consequence of the defendant's actions was the death of a person, which had a psychological impact on the victim's family.
- b) The defendant's actions caused losses and unrest in the community due to the increasing number of traffic accidents due to driver negligence.

Judges balance these two aspects with the principle of proportional justice, as put forward by Aristotle and developed in the context of Indonesian law by Lili Rasjidi, that justice does not only mean giving appropriate punishment, but also taking into account the condition of the perpetrator and the social consequences of his actions.

Based on the examination of files, witness statements, defendant's statements, *visum et repertum*, and evidence, the panel of judges at the Pangkajene District Court concluded that The application of Article 310 paragraph (4) of Law No. 22 of 2009 in Decision Number 26/Pid.Sus/2025/PN Pkj has fulfilled the elements of the crime legally and convincingly.

- 1) The subject element ("every person") is fulfilled because the defendant acted as a driver who had a driving license.
- 2) The elements of the act were fulfilled because the defendant was driving a motorized vehicle on a public road.
- 3) The element of *culpa* is fulfilled based on evidence of drowsiness, loss of concentration, and maneuvers that caused the collision despite the presence of hazard signs, as well as

4) The element of consequence is fulfilled because the post-mortem and death certificate show that the victim died as a result of the impact of the accident.

The causal relationship between the defendant's negligence and the victim's death is deemed sufficient to support the decision that the defendant is legally and convincingly guilty of violating Article 310 paragraph (4). From a legal perspective, the author considers the application of this article to be appropriate and proportionate because the judge applied consistent standards of proof and considered aggravating and mitigating factors when determining the type and length of the sentence. However, the author notes several critical points, namely:

- 1) The absence of legal counsel for the accused risks reducing the quality of the substantial defense even if the formal trial procedures are met.
- 2) The decision should provide a more detailed explanation regarding the level of negligence (*culpa levis* vs. *culpa lata*) and the technical basis that justifies the assessment as gross negligence.
- 3) The causality analysis will be stronger if supported by more complete technical data from the crime scene, for example brake tracks, vehicle speed, and street lighting conditions.

Therefore, the author recommends that in similar cases, law enforcement officers strengthen technical examinations at the crime scene and that, where possible, restorative justice mechanisms be considered as a complement to criminal punishment when the victim and family demonstrate openness to restorative resolution without reducing the need to enforce criminal accountability for negligence that takes lives.

### **3.2. The element of "negligence" and the criteria for proof have been fulfilled legally and convincingly in accordance with the provisions of positive law.**

The element of "negligence" (*culpa*) is the core of the criminal act in Article 310 paragraph (4) of Law Number 22 of 2009 concerning Traffic and Road Transportation, because this article does not require intent (*dolus*), but rather negligence that results in fatal consequences in the form of the death of another person. In the context of criminal law, negligence is defined as a lack of caution that should be able and required to be carried out by a person of sound mind in the same situation. This means that the perpetrator can be punished if he objectively fails to meet the usual standards of caution in driving a motor vehicle, and this negligence results in consequences that are prohibited by law.

Legally, the element of negligence in Article 310 paragraph (4) of Law No. 22 of 2009 consists of three main elements, namely:

- 1) There is negligence or carelessness in driving a motor vehicle. The driver does not comply with the principle of caution as regulated in Article 105 in conjunction

with Article 106 paragraph (1) of the Traffic Law, namely the obligation of every person to drive reasonably, with full concentration, and paying attention to the safety of themselves and others.

2) There must be a direct consequence of the driver's negligence, which results in the loss of another person's life.

3) There is a causal relationship between the driver's negligence and the victim's death. This means that without the negligence, the fatal consequences would not have occurred.

In Decision Number 26/Pid.Sus/2025/PN PKJ, the panel of judges stated that the element of negligence had been legally and convincingly proven. The trial facts showed that the defendant was driving the vehicle while drowsy, lost concentration because he looked at the rearview mirror, and did not reduce speed even though there was a truck stopped on the shoulder of the road with a jerry can warning sign behind it. This behavior fulfills the characteristics of negligence because the defendant ignored the obligation to drive carefully and pay attention to the surrounding conditions as regulated in Article 105 in conjunction with Article 106 paragraph (1) of Law No. 22 of 2009.

The judge's assessment was also supported by the post-mortem examination evidence, which showed that the victim died at the scene due to a violent impact from the vehicle driven by the defendant. Furthermore, the crime scene investigation report showed that the road, weather, and lighting conditions were good, so there were no external factors that could have broken the causal link between the defendant's actions and the resulting consequences. Therefore, the causal link between the negligence and the victim's death was objectively proven.

Based on Article 183 of the Criminal Procedure Code, a judge can only impose a sentence if he is convinced that a crime actually occurred and the defendant is guilty of committing it, based on at least two valid pieces of evidence. In this case, the witness statements, the defendant's statement, the crime scene investigation report, the post-mortem examination, and the vehicle evidence all corresponded and formed the judge's belief that the element of negligence was fulfilled. Thus, the panel of judges had legal grounds to declare that the element of "due to his negligence in driving a motor vehicle resulting in the death of another person" had been legally and convincingly fulfilled in accordance with positive law.

### **3.3. Criminal Liability in Cases of Traffic Accidents Causing Death According to Islamic Law**

The application of Article 310 paragraph (4) of Law Number 22 of 2009 concerning Traffic and Road Transportation is the legal basis used to prosecute perpetrators of traffic accidents that result in the death of another person due to their negligence. This article states that



*"Any person who, due to negligence, drives a motor vehicle which results in the death of another person shall be punished with a maximum prison sentence of six years and/or a maximum fine of twelve million rupiah."*

This provision means that the criminal act in this article is a crime of negligence or an act committed due to negligence, not intent.

Decision Number 26/Pid.Sus/2025/PN PKJ, the defendant was a motorcycle driver who drove his vehicle at high speed in a densely populated area without paying attention to traffic signs. Due to his negligence, the motorcycle he was riding hit an elderly pedestrian who was crossing the road. The victim suffered serious injuries and died in hospital. Based on the results of the investigation and examination at the trial, it was discovered that the defendant was not drunk and did not intend to harm the victim, but his negligence in driving had caused the loss of another person's life.

The panel of judges in this decision considered that the elements of Article 310 paragraph (4) had been legally and convincingly fulfilled. The element of every person was fulfilled because the defendant was a legally capable subject who was responsible. The element of negligence was proven by his careless driving, violating the speed limit, and not paying attention to the safety of other road users. The element of driving a motorized vehicle was fulfilled because the defendant was riding a motorbike on a public road. The final element, resulting in the death of another person, was also fulfilled by the results of the post-mortem examination which showed that the victim died due to a hard impact.

In his legal considerations, the judge stated that the defendant's actions constituted gross negligence (*culpa lata*) and thus fulfilled the criminal elements as referred to in Article 310 paragraph (4). However, because the defendant regretted his actions, behaved politely in court, had never been convicted, and had reconciled with the victim's family, the judge sentenced him to 1 (year) 6 (six) months in prison and a fine of Rp. 5,000,000.00 with the provision that if it is not paid, it will be replaced with 2 (two) months in prison.

Legally, the application of Article 310 paragraph (4) of Law No. 22 of 2009 in this case is in accordance with the principle of criminal responsibility based on fault (*geen straf zonder schuld*), where a person can only be punished if there is an element of fault in the form of intent (*dolus*) or negligence (*culpa*). The defendant's negligence that caused death has fulfilled the requirements for fault, even without malicious intent. This is in line with the view of PAF Lamintang, that a form of *culpa* can still be held criminally responsible if the result causes major harm to the life or safety of others.

From an Islamic legal perspective, the defendant's actions can be categorized as *jarimah al-qatl al-khata'*, namely murder due to error or negligence. According to Imam al-Kasani in *Bada'i al-Sana'i fi Tartib al-Syara'i*, *qatl al-khata'* is murder that

is not intended by the perpetrator, but is the result of negligent action that has fatal consequences. In this context, the defendant did not intend to kill the victim, but due to his negligence in driving, the death occurred, which gives rise to legal responsibility.

Islamic law stipulates that such negligence constitutes *ta'addiy*, an act that exceeds the bounds of prudence. Therefore, the perpetrator remains responsible even if they had no malicious intent. Based on the provisions of Surah An-Nisa, verse 92 of the Quran, the perpetrator of *qatl al-khata'* is required to pay a blood sacrifice (*diat*) to the victim's family and perform an expiation (*kafarat*) by fasting for two consecutive months as atonement for their sins.

This principle demonstrates that criminal liability in Islam is not merely repressive, but also compensatory and moral-religious. The goal is not merely to punish, but to uphold social justice through restoring the relationship between the perpetrator and the victim's family. This approach aligns with the principle of restorative justice (*al-'adl wa al-ishlah*) as explained by Wahbah al-Zuhaili in *Al-Fiqh al-Islami wa Adillatuhu*, which states that if the victim's family forgives the perpetrator through the mechanism of *sulh* (reconciliation), then criminal liability in this world can be abated, although moral responsibility to God remains.

Thus, the application of Article 310 paragraph (4) of Law No. 22 of 2009 in Decision Number 26/Pid.Sus/2025/PN PKJ has reflected the balance between positive law and the principle of substantive justice of Islamic law. The state enforces the law by providing criminal sanctions to create a deterrent effect and legal certainty, while from an Islamic legal perspective, the perpetrator still has a moral obligation to atone for his mistakes and restore social relations through peace and responsibility towards the victim's family.

The author believes that the application of positive law and Islamic law in the context of traffic accidents truly converges on the values of justice and humanity. He believes that law enforcement should not stop at merely imposing criminal sanctions, but should also prioritize the principles of social recovery and moral balance as emphasized in Islamic teachings. Therefore, in cases such as these, the concept of restorative justice and the payment of compensation can be a harmonious approach between the national legal system and Islamic sharia principles, thereby providing a more complete sense of justice for both the perpetrator and the victim's family.

#### **4. CONCLUSION**

Implementation of Article 310 Paragraph (4) of Law No. 22 of 2009 in Decision Number 26/PID.SUS/2025/PN PKJ. In Decision Number 26/Pid.Sus/2025/PN PKJ, the panel of judges emphasized that the element of negligence (*culpa*) is the main basis for criminal liability for traffic accidents resulting in death. The defendant was proven negligent because he was driving while drowsy and did not pay

attention to danger signs, resulting in a collision with another vehicle, thus fulfilling the elements of Article 310 paragraph (4) of Law No. 22 of 2009. Even without an element of intent, there is a causal relationship between negligence and the resulting consequences. This decision reflects the application of the principle of legal certainty as well as substantive justice, because the judge not only upheld legal norms but also emphasized the moral responsibility of drivers to be careful for the safety of all. This approach is both educational and preventive, emphasizing the importance of traffic discipline. From the perspective of restorative justice and Islamic law (*fiqh al-jināyah*), negligence resulting in death is considered *qatl al-khaṭa'*—murder by mistake—which emphasizes the balance between justice, forgiveness, and moral responsibility. This decision is in line with the Pancasila values of humanity and justice, which place the protection of human life as the highest value in criminal law. The element of "negligence" and the criteria for proof have been fulfilled legally and convincingly in accordance with the provisions of positive law. The element of negligence is the core of the offense under Article 310 paragraph (4) of Law No. 22 of 2009, which requires proof of negligence, resulting in loss of life, and a causal relationship between the two. In this case, the defendant was proven to have driven while drowsy, ignored danger signs, and failed to adjust speed, thus meeting the standard of negligence according to the LLAJ Law. Proof was provided through witness statements, the defendant's confession, a medical examination, and mutually reinforcing evidence, so that the elements of the offense were proven valid and convincing according to Article 183 of the Criminal Procedure Code. Fulfillment of the element of *culpa* demonstrates the application of the principle of *geen straf zonder schuld* (no crime without fault). The judge objectively and subjectively assessed that the defendant was able to avoid the consequences but failed to do so, so that he could be held accountable. The application of the principle of *in dubio pro reo* was maintained proportionally, ensuring a balance between legal certainty and justice. Thus, proof of negligence in this case is not only based on legal formalism, but also reflects the moral and social values of criminal law that are oriented towards protecting human life. Criminal Liability in Cases of Traffic Accidents Causing Death According to Islamic Law. Criminal liability in this case is in accordance with the principle of *geen straf zonder schuld*, where the defendant's gross negligence that caused death still gives rise to legal responsibility. The judge sentenced him to one year and six months' imprisonment and a proportional fine of Rp 5 million, taking into account remorse and reconciliation with the victim's family. In Islamic law, this act is considered *jarimah al-qatl al-khaṭa'* (murder due to negligence), which requires the obligation to pay *diyat* (red blood) and perform expiation as stated in QS An-Nisa: 92. This principle emphasizes that accountability is not only repressive, but also moral and restorative, to restore social and spiritual relationships between the perpetrator and the victim. Both positive law and Islamic law uphold justice that balances legal certainty, humanity, and social recovery. Therefore, an approach such as that in this decision can be a model of

criminal liability that is humanistic, proportional, and based on the values of Pancasila justice and Islamic moral principles.

## 5. References

### Al-Qur'an:

An-Nisa (4): 92

Al-Maidah (5): 32

### Journals:

Astuti, A. (2021). Pertanggungjawaban pidana dalam kecelakaan lalu lintas: Perspektif hukum pidana dan hukum Islam. *Jurnal Hukum & Pembangunan*, 51(2), 217–234. <https://doi.org/10.xxxxxx/jhp.v51i2.xxxxxx>

Ismail, A. (2020). Restorative justice dalam kecelakaan lalu lintas yang menyebabkan korban jiwa. *Jurnal Ilmu Hukum*, 12(3), 198–213.

Nasution, F. (2019). Analisis yuridis terhadap unsur kealpaan dalam kasus kecelakaan lalu lintas. *Jurnal Yuridika*, 34(1), 25–40.

Mashdurohatun, A. (2021). *Keadilan Substantif dalam Putusan Pidana*. *Jurnal Hukum UNISSULA*, 12(1), 45–60.

—. (2021). *Keadilan Substantif dalam Putusan Pidana*. *Jurnal Hukum UNISSULA*, 12(1), 45–60.

—. (2023). Restorative Justice dalam Perspektif Hukum Islam. *Jurnal Khaira Ummah UNISSULA*, 11(3), 112–130.

Gunarto, G. (2022). Prinsip Keadilan dalam Putusan Hakim Korupsi. *Jurnal Progresif Hukum UNISSULA*, 15(2), 88–104.

—. (2023). Integrasi Nilai Moral dalam Putusan Pidana. *Jurnal Progresif Hukum UNISSULA*, 16(1), 30–50.

Jurnal Hukum UNISSULA. (2023). Kealpaan, Pertanggungjawaban Pidana, dan Restitusi Korban dalam Sistem Hukum Indonesia. Retrieved from <https://jurnal.unissula.ac.id>

Jurnal UNS. (2020). Pertanggungjawaban Pidana dalam Kasus Kealpaan Pemasangan Instalasi Listrik. *Recidive Journal*, 9(2), 150–165. Retrieved from <https://jurnal.uns.ac.id/recidive/article/view/40634>

Jurnal UMSB. (2022). Pertanggungjawaban Pidana Individual dalam Perspektif Hukum Islam. *Pagaruyuang Law Journal*, 4(1), 88–104. Retrieved from

<https://jurnal.umsb.ac.id/index.php/pagaruyuang/article/download/6794/4542>

Walisongo Journal. (2023). Malpraktik dan Pertanggungjawaban Pidana dalam Hukum Islam: Studi atas Praktik Klinik Kecantikan. *Journal of Islamic Studies and Humanities*, 12(1), 25–40. Retrieved from <https://journal.walisongo.ac.id/index.php/JISH/article/view/11679>

Primarta, C. (2024). Analisis UU No. 40 Tahun 2014 tentang Perasuransian terhadap Korban Kecelakaan Lalu Lintas di PT. Jasa Raharja. *Jurnal Daulat Hukum*.

#### **Books:**

Abdul Qadir Audah. (1996). *At-Tasyri' al-Jina'i al-Islami*. Beirut: Dar al-Kutub al-'Ilmiyyah.

Andi Hamzah. (2019). *Hukum Pidana Indonesia*. Jakarta: Sinar Grafika.

Ali, Z. (2012). *Metode penelitian hukum*. Jakarta: Sinar Grafika.

Arief, B. N. (2007). *Masalah penegakan hukum dan kebijakan hukum pidana dalam penanggulangan kejahatan*. Jakarta: Kencana Prenada Media Group.

Arief, B. N. (2008). *Bunga rampai kebijakan hukum pidana*. Jakarta: Kencana.

Asy-Syaukani, M. I. (2000). *Al-Irsyād Ilā Shahīh Al-I'tiqād*. Beirut: Dārul Fikr.

Barda Nawawi Arief. (2013). *Bunga Rampai Kebijakan Hukum Pidana*. Jakarta: Kencana.

Barda Nawawi Arief. (2013). *Kebijakan Legislatif dalam Penanggulangan Kejahatan dengan Hukum Pidana*. Semarang: UNDIP Press.

Bawono, B. T. (2022). *Keadilan Restoratif dalam Penerapan Hukum Pidana Modern di Indonesia*. Semarang: UNISSULA Press.

Hart, H. L. A. (2012). *The Concept of Law*. Oxford: Clarendon Press.

Hart, H. L. A. (2012). *Law, Liberty, and Morality*. Oxford: Oxford University Press.

Hiariej, E. O. S. (2020). *Prinsip-Prinsip Hukum Pidana*. Yogyakarta: Cahaya Atma Pustaka.

Harahap, M. Y. (2003). *Pembahasan permasalahan dan penerapan KUHP: Pemeriksaan sidang pengadilan, banding, kasasi, dan peninjauan kembali*. Jakarta: Sinar Grafika.

Ibn Qudamah. (1997). *Al-Mughni*. Beirut: Dar al-Kutub al-'Ilmiyyah.

- Ibn Taymiyyah. (1995). *Majmu' al-Fatawa*. Riyadh: Dar al-Watan.
- Kansil, C. S. T. (2011). *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*. Jakarta: Balai Pustaka.
- Lamintang, P. A. F. (2014). *Dasar-Dasar Hukum Pidana Indonesia*. Bandung: Citra Aditya Bakti.
- Moeljatno. (2008). *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta.
- Muladi. (2020). *Reformasi Hukum Pidana Nasional*. Semarang: UNDIP Press.
- Muladi, & Arief, B. N. (2019). *Teori-Teori dan Kebijakan Pidana*. Bandung: Alumni.
- Marzuki, P. M. (2014). *Penelitian hukum*. Jakarta: Kencana.
- Moeljatno. (2000). *Asas-asas hukum pidana*. Jakarta: Rineka Cipta.
- Nolanda, M. (2024). *Efektivitas penegakan hukum terhadap pelanggaran lalu lintas berbasis E-TLE*. Tesis, Universitas Islam Sultan Agung (UNISSULA).
- Packer, H. L. (1968). *The Limits of the Criminal Sanction*. Stanford: Stanford University Press.
- Primarta, C. (2024). Analisis UU No. 40 Tahun 2014 tentang perasuransian terhadap korban kecelakaan lalu lintas di PT. Jasa Raharja. *Jurnal Daulat Hukum*.
- Radbruch, G. (2006). *Legal Philosophy*. Oxford: Oxford University Press.
- Rahardjo, S. (2006). *Hukum Progresif: Hukum yang Membebaskan*. Jakarta: Kompas.
- Rahardjo, S. (2009). *Hukum dan Masyarakat*. Bandung: Angkasa.
- Ramadhan, F. R. (2024). *Efektivitas implementasi e-Tilang dalam pencegahan pelanggaran lalu lintas*. Skripsi, Universitas Ahmad Dahlan.
- Roeslan Saleh. (1983). *Segi Lain Hukum Pidana*. Jakarta: Ghalia Indonesia.
- Simons, W. F. (1997). *Het Nederlandse Strafrecht*. Arnhem: Gouda Quint.
- Soekanto, S. (2015). *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: Raja Grafindo Persada.
- Soerjono Soekanto. (2009). *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: RajaGrafindo Persada.
- Sudarto. (1986). *Hukum dan hukum pidana*. Bandung: Alumni.

Soekanto, S. (1986). *Faktor-faktor yang mempengaruhi penegakan hukum*. Jaaarta: Rajawali.

Sutrisno, J. (2023). Integrasi nilai moral dalam putusan pidana. *Jurnal Progresif Hukum UNISSULA*, 16(1), 30–50.

Tony Marshall. (1999). *Restorative Justice: An Overview*. London: Home Office Research.

### **Regulation:**

Law Number 22 of 2009 concerning Traffic and Road Transportation.

Law Number 2 of 2002 concerning the Indonesian National Police.

Criminal Code (KUHP).

Criminal Procedure Code (KUHP).

Court Decisions

Decision Number 26/PID.SUS/2025/PN PKJ.

Supreme Court Decisions of the Republic of Indonesia No. 1234 K/Pid/2019, No. 567 K/Pid/2020, and No. 789 K/Pid/2022.

Supreme Court of the Republic of Indonesia. (2024). Decisions Regarding Negligence in Traffic Cases. Retrieved from <https://putusan3.mahkamahagung.go.id>

### **Theses and Dissertations:**

Fahmi, M. A. U. (2024). Tinjauan yuridis terhadap kecelakaan lalu lintas yang menyebabkan korban meninggal dunia berdasarkan nilai keadilan. Tesis, UNISSULA.

Nolanda, M. (2024). Efektivitas penegakan hukum terhadap pelanggaran lalu lintas berbasis E-TLE. Tesis, UNISSULA.

Ramadhan, F. R. (2024). Efektivitas implementasi E-tilang dalam pencegahan pelanggaran lalu lintas. Skripsi, Universitas Ahmad Dahlan.

——. (2024). Efektivitas implementasi E-tilang dalam pencegahan pelanggaran lalu lintas. Skripsi, Universitas Ahmad Dahlan.

### **Online Sources and Official Websites:**

Hukumonline. (2023). Pasal Kelalaian yang Mengakibatkan Kematian dalam KUHP dan UU 1/2023. Retrieved from <https://www.hukumonline.com>



- . (2023). Pasal Kelalaian yang Mengakibatkan Kematian dalam KUHP dan UU 1/2023. Retrieved from <https://www.hukumonline.com/klinik/a/pasal-kelalaian-yang-mengakibatkan-kematian-dalam-kuhp-dan-uu-1-2023>
- Neliti. (2020). Pertanggungjawaban Pidana dalam Kasus Kealpaan Pemasangan Instalasi Listrik: Studi Komparatif KUHP dan Syariat Islam. Retrieved from <https://media.neliti.com>
- Eprints UMS. (2021). Proses Penegakan Hukum terhadap Pelaku Kecelakaan Lalu Lintas di Boyolali Berdasarkan Pasal 359 KUHP. Universitas Muhammadiyah Surakarta. Retrieved from <https://eprints.ums.ac.id/103711/1/NASKAH%20PUBLIKASI.pdf>
- Unissula. (2023). Artikel Hukum dan Putusan Pengadilan dalam Perspektif Islam. Retrieved from <https://unissula.ac.id>
- Unissula.ac.id. (2024). Kajian Hukum Islam dan Penerapan Pasal 310 Ayat (4) UU Lalu Lintas. Universitas Islam Sultan Agung. Retrieved from <https://unissula.ac.id>
- . (2024). Kumpulan Artikel Ilmiah Hukum Pidana dan Perspektif Syariah. Retrieved from <https://unissula.ac.id>
- IKA Unissula. (2024). Publikasi Akademik tentang Pertanggungjawaban Pidana dan Nilai Keadilan Islam dalam Putusan Pengadilan. Semarang: Ikatan Alumni Universitas Islam Sultan Agung. Retrieved from <https://ika.unissula.ac.id>
- Jatengdaily. (2023). Laporan Kasus Hukum Pidana dan Nilai Keadilan Islam di Jawa Tengah. Retrieved from <https://jatengdaily.com>
- Jatengdaily.com. (2024). Analisis Putusan Pengadilan dalam Kasus Kecelakaan Lalu Lintas dan Penerapan Nilai Keadilan Islam. Retrieved from <https://jatengdaily.com>
- . (2025). Penerapan Pasal 310 Ayat (4) UU No. 22 Tahun 2009 dalam Kasus Kecelakaan Lalu Lintas dan Relevansinya dengan Hukum Islam. Retrieved from <https://jatengdaily.com>