



INNOVATIVE: Journal Of Social Science Research

Volume 4 Nomor 6 Tahun 2024 Page 8438-8453

E-ISSN 2807-4238 and P-ISSN 2807-4246

Website: <https://j-innovative.org/index.php/Innovative>

Negligence Of Public Transport Drivers As a Result Of The Train Accident
(Case Study of the Decision of the Medan District Court Class I-A
Number 905/Pid.B/2022/PN.Mdn tanggal 28 Juni 2022)

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Abstrak

Dalam upaya untuk meningkatkan kesejahteraan umum, sektor lalu lintas dan angkutan jalan memiliki tugas strategis untuk mendukung pembangunan dan integrasi nasional seperti yang diatur dalam Undang-undang Dasar Negara Republik Indonesia 1945. Lalu lintas dan angkutan jalan adalah bagian dari sistem transportasi nasional, dan perlu dikembangkan potensi dan peran mereka untuk memastikan keamanan, kesejahteraan, dan ketertiban lalu lintas dan angkutan jalan untuk mendorong pertumbuhan ekonomi, pengembangan teknologi dan ilmu pengetahuan, otonomi daerah, dan akuntabilitas pemerintah negara. Metode yuridis normatif yang digunakan adalah pendekatan kasus. Dalam penelitian yang menggunakan pendekatan kasus yang perlu dipahami, seseorang harus memahami alasan hukum yang digunakan hakim untuk membuat keputusan. Studi ini menggunakan analisis kualitatif. Analisis kualitatif biasanya menggunakan hal-hal seperti pemikiran logis, analisis, logika, induksi, deduksi, analogi, komparasi, dll. Penulis akan membahas tanggung jawab pidana pengemudi angkutan umum yang lalai yang menyebabkan kecelakaan kereta api di Kota Medan.

Kata Kunci : *Hakim, Hak Azasi Manusia, Tolak Ukur*

Abstract

Traffic and road transport have a strategic duty to promote national growth and integration as part of initiatives to enhance public welfare, as stipulated by the Republic of Indonesia's 1945 Constitution. In order to support economic growth, the advancement of science and technology, regional autonomy, and state administration accountability, road traffic and transportation which are components of the national transportation system must be developed in all of its potential and roles to ensure safety, welfare, traffic order, and road transportation. The normative juridical method used is a case approach. In research that uses a case approach that needs to be understood, one must understand the legal reasons that the judge uses to make a decision. This study uses qualitative analysis. Logical reasoning, analysis, logic, induction, deduction, analogy, comparison, and so forth are often used in qualitative analysis. The author will discuss the criminal liability of negligent public transportation drivers who cause train accidents in the city of Medan.

Keyword: *Judges, Human Rights, Benchmarks*

INTRODUCTION

Indonesia, a developing country, is trying to get better in all aspects of its life, and one way to do that is to expand the transportation system. The development of the transportation sector is very important because it is one of the important components in the development of a country that improves the welfare of its people and is very important for the development of the transportation sector for the country itself.

Transportation is part of the traffic law relationship (communication or *verkehr*), and transportation is also a field of economic services because of the nature of the business of moving goods from one location to another. For economic growth, regional development, and unification between regions throughout the Unitary State of the Republic of Indonesia, transportation is a very important component (Biomantara & Herdiansyah, 2019). The existence of transportation must be very helpful for community activities, such as transporting something anywhere. Legal aspects of carriage include the operation and ownership of the vehicle. There are legal provisions regarding rights, obligations, and responsibilities as well as accident insurance (Nugroho & Haq, 2019). Transportation is divided into three parts: land transportation, sea transportation, and air transportation. Each part has its own type and each has its advantages and disadvantages (Idayanti, 2023).

Land transportation such as trains is quite fast. With the aim of facilitating the mass movement of people or goods safely, conveniently, quickly, and smoothly, trains are one type of transportation that has many advantages compared to other ways of transporting people or goods (Ikhsan Rosyid Mujahidul Anwari, 2017). To improve people's welfare, rail transportation serves as a regional link, both national and international, which promotes

equitable growth, stability, and drivers of national development.

A train is a means of transportation consisting of a moving vehicle, either independently or in conjunction with other vehicles on the rails (Presiden Republik Indonesia, 2007). Trains usually consist of locomotives that are driven by people called machinists with the help of engines and a series of trains or carriages to transport goods and passengers. Trains provide safety, comfort, and security for people boarding.

An accident can turn into a terrible thing caused by an accident, that is, an accident that occurs due to an accidental event that can lead to death. Some of the categories of railway accidents are as follows: train collision with another train, train collision with another car, fall or rollover, flood or landslide, and other incidents such as hitting people and animals (Yulianto, 2010).

Internal human factors, such as negligence; external human factors, such as mechanical failure or damage; damaged, old, and lost infrastructure; means that do not work properly; the level of public awareness of the risk of danger is still low; and passengers are on the roof, locomotives, and the back of the train (Mubalus, 2023).

The authorities should be held responsible based on the type of accident that may occur and the risks. In transportation, liability serves as protection for customers (Kaawoan, 2023). In a transportation agreement, accountability is very important because it provides protection or guarantee to transportation service users.

Each carriage aims to arrive at the destination safely and increase value for passengers and goods transported because the journey process from one place to destination takes place without obstacles and congestion and in accordance with the planned time safely, so that passengers are safe and not threatened with injury, illness, or death (Susilo, 2015). The goods transported survive if they are not damaged, lost, deficient or destroyed.

Increasing the use value means increasing the value of human resources and goods on site for the benefit of humans and the implementation of development (Kulla, Rumapea, & Tampongangoy, 2018). There are a few things to pay attention to, such as how to install and operate it. Safe, comfortable, fast, precise, orderly, efficient, and integrated rail transportation can only be carried out if maintenance and business are properly regulated.

In 2019, 108 (One Hundred and Eight) accidents occurred at railway crossings in North Sumatra. Most accidents occur at unofficial crossings, especially at official and unofficial crossing gates, as well as in railway benefit rooms. This accident occurred six times at each official crossing (Putra Iswanto, Diah Puspitasari, Ahda Imron, & Via Dwi Mayangsari, 2022).

In the area of the railway line's benefit room, as many as 50 (fifty) times at unofficial crossings, 36 (thirty-six) times for pedestrians, and 16 (sixteen) times for livestock. Road user

error is still the main cause of road accidents. Factors that cause accidents such as opening illegal or unofficial crossings, violating closed doors, or not being careful and vigilant are examples of undisciplined road user violations. Motorists do not look right and left, pets are not cared for by their owners, people are in the benefit space of the railway line, and motorists violate or disobey traffic signs.

RESEARCH METHOD

This legal writing uses normative juridical with a case approach. In research that uses a case approach that needs to be understood, one must understand the legal reasons that the judge uses to make a decision. Normative juridical research is carried out by tracing and collecting data in the literature. Other sources of data include court decisions, such as Medan State Decision Number 905/Pid.B/2022/PN.Mdn dated April 11, 2022, which is the subject of research or research case studies. The researcher will investigate the Negligence of Public Transportation Drivers as a Result of a Train Accident Occurred in the City of Medan (Case Study: Medan District Court Decision Class I-A Number 905/Pid.B/2022/PN.Mdn dated June 28, 2022). This study uses qualitative analysis. Qualitative analysis usually uses concepts such as analysis, logic, induction, deduction, analogy, comparison, and so on. The researcher will discuss the criminal liability of negligent public transportation drivers who cause train accidents in the city of Medan. To produce an objective research that answers the research problem, the author will use the findings of the analysis to relate it to the research problem.

RESULT AND DISCUSSIO

A. Causes of Train Accidents Caused by the Negligence of Public Transportation Drivers in Medan City

Train accidents in the city of Medan are one of the most common in Indonesia. Accidents that occur in Medan often involve public transportation, cars, motorcycles, and trains. The accident occurred in various places, ranging from crossings with door bars to those without. In the city of Medan, there is also a railway crossing with a door bar, but it is quite dangerous. This is because the crossing is very crowded with vehicles, not far from intersection four, red lights, or street lights.

Train accidents on crossings are also often caused by negligent and impatient drivers. Sometimes there is a car or vehicle that is right to stop on the railway tracks just a dozen meters from the red light of the railway crossing. If everyone obeys the rules and signs, public transport accidents with trains or other vehicles will not occur. Actually, accidents at train crossings can be avoided by always being careful when crossing crossings (Rohim,

2019).

In the realm of transportation, the intersection of highways and rail lines is particularly distinctive since each mode of transportation has its own infrastructure system and facilities that are run using a separate method. In addition, the laws that apply to both types of transportation are different, and who is responsible for and manages both types of transportation is also different (Emil Adly, Wahyu Widodo, Anita Rahmawati, 2020). In a situation where two transport routes with different characteristics meet at a level crossing known as a crossing level, the area is considered to be at high risk. When the two routes meet, there is a collision between a car and a train. Railways with controllable operations are one problem, while highway vehicles are another, which cannot be completely controlled by a single organization. Although traffic regulations and highway design standards are considered adequate, the movement of road users cannot be regulated and monitored by a single organization such as railways.

Train travel cannot stop anywhere because it has been arranged by the schedule and regulated by the rail road however, there are still many crossings that function as a highway mode. According to Article 91 of Law Number 23 of 2007, paragraph (1), the intersection between the railway line and the road is made uneven. Thus, during a level crossing, the train gets priority to run, and highway users wait until the train crosses (Afrizal Riyadi, Rinitami Njatrijani, 2016). Crossing accidents cause death or injury to highway or train passengers. In addition to losses, the accident also caused a large financial burden due to damage to property and fleet, as well as delays in rail and road transportation for a while.

Railway crossings without crossbars on state, provincial and county roads, as well as crossings in unofficial rural areas, accidents on railway crossings by highway tend to increase every year (Z, Azwar, & Ramazani, 2021). The human factor is also very important for road users who break through the crossing gate without paying attention to the passing train sign, even when the crossing gate is clearly closed.

According to research conducted by researchers at the Traffic Unit (Satlantas) of the Medan City Resort Police, the data on accidents between cars and trains that occurred in Medan City from 2020 to 2023 are as follows:(Zendrato et al., 2021)

Table 1.
Accidents between People, Motor Vehicles and Flats of Fire
In the Jurisdiction of the Medan City Resort Police in 2020

No.	Types of Accidents	Crime Scene	Jurisdiction	Sum
1.	People/Pedestrians	Walking Together	Percut Sei Tuan Police Station	1
2.	Mobile	-	-	-
3.	Motorbike	-	-	-
4.	Public Transportation	-	-	-
5.	Motorized Rickshaw	-	-	-

Table 2.
Accidents between People, Motor Vehicles and Flats of Fire
In the Jurisdiction of the Medan City Resort Police in 2021

No.	Types of Accidents	Crime Scene	Jurisdiction	Sum
1.	People/Pedestrians	-	-	-
2.	Mobile	Paya Bakung Street	Sunggal Police Station	1
3.	Motorbike	-	-	-
4.	Public Transportation	Sekip Street	Medan Baru Police Station	1
5.	Motorized Rickshaw	-	-	-

Table 3.
Accidents between People, Motor Vehicles and Flats of Fire
In the Jurisdiction of the Medan City Resort Police in 2022

No.	Types of Accidents	Crime Scene	Jurisdiction	Sum
1.	People/Pedestrians	-	-	-
2.	Mobile	Rail Crossing Road The Path of Glory	Medan Sunggal Police Station West Medan Police Station	2
3.	Motorbike	-	-	-
4.	Public Transportation	-	-	-
5.	Motorized Rickshaw	-	-	-

Table 4.
Accidents between People, Motor Vehicles and Flats of Fire
In the Jurisdiction of the Medan City Resort Police in 2023

No.	Types of Accidents	Crime Scene	Jurisdiction	Sum
1.	People/Pedestrians	-	-	-
2.	Mobile	Alfalah Street Dusun I Station Road	East Medan Police Station Sunggal Police Station	2
3.	Motorbike	East Coast Road	Medan Helvetia Police	1
4.	Public Transportation	Rail Crossing Road	East Medan Police Station	1
5.	Motorized Rickshaw	-	-	-

Table 5.
Accidents between People, Motor Vehicles and Flats of Fire
In the Jurisdiction of the Medan City Resort Police in 2024

No.	Types of Accidents	Crime Scene	Jurisdiction	Sum
1.	People/Pedestrians	Pioneer Path	Medan Police	1
2.	Mobile	Bright Star Road Station Road Paya Bakung Street Crossing Road Station Road	Sunggal Police Station Sunggal Police Station Sunggal Police Station East Medan Police Station Sunggal Police Station	5
3.	Motorbike	M.T. Road Haryono	East Medan Police Station	1
4.	Public Transportation	-	-	-
5.	Motorized Rickshaw	Paya Bakung Street	Sunggal Police Station	1

Based on data from the Medan City Resort Police Traffic Unit, the author found that from 2020 to mid-2024 there were 12 (twelve) train accidents involving cars and motorcycles; 2 (two) train accidents involving public transportation; 2 (two) train accidents involving pedestrians; and 2 (two) train accidents involving cars and motorcycles. In 2024, the number of train accidents with cars will increase to 6 (six) accidents, while public transportation accidents and city transportation by train will not increase. According to data, there was only 1 (one) public transportation/city transportation accident by train in 2021, and another 1 (one) accident in 2023.

Based on the information above, it is clear that the jurisdiction of the Sunggal Sector Police is a place that is very prone to accidents at crossings. This is due to the large number of crossings or railroad tracks that do not have door bars and the carelessness of train drivers and pedestrians when crossing railroad tracks.

In accordance with Law Number 22 of 2009 on Road Traffic and Transportation, accidents that occur between motor vehicles either on highways or toll roads or in the field between rails and roads can be classified as traffic accidents, however, since incidents on trains are covered under Law Number 23 of 2007 concerning Railways, both collisions and plummets, also referred to as a train accident (Astuti, Dewi, Nurhadi, Nopryanto, & Cesarasyid, 2024).

B. Train Accidents Caused by the Negligence of Public Transport Drivers

The principle of non-level is used for the crossing of a flat between a highway and a railway line. Exceptions to this principle can only be made temporarily if they do not endanger or burden or interfere with the smooth operation of railways and road traffic. Accidents on the highway are not only caused by the many actions of drivers who violate traffic rules, such as breaking through crossing gates, stopping after the stop line, breaking through the queue and stopping in the opposite direction, crossing in the opposite direction, and overtaking in the crossing area.

Almost every month, there is news about traffic accidents that cause casualties and property at crossings (Oktaria, Desei, & Darmawan, 2021). Every motorist should be careful at guarded or unguarded crossings, whether with or without barred doors. Of course, when crossing an unguarded crossing, every motorist should slow down and pause to look to the right and left to make sure no trains will cross. If you see a train passing, people must precede the train. This applies even if the position of the train is still far away.

Road users must come before the train trip that will pass at the junction of a plot between a road and a railway line, according to Article 124 of Law Number 23 of 2007 concerning Railways (Presiden Republik Indonesia, 2007). Namun, pengemudi kendaraan harus memastikan : (Budiharjo & Yunarto, 2019)

1. However, the driver of the vehicle must ensure ;
2. Prioritizing rail transportation; and
3. Give vehicles crossing the track the main right of way.

A comprehensive description of the aforementioned things may be found in Article 114 of Law Number 22 of 2009, which is concerned with Road Traffic and Transportation. Every person who operates a motor vehicle at a crossing between a train and a road that does not stop is subject to the provisions of Article 296 of Law Number 22 of 2009 concerning Road Traffic and Transportation.

Accidents that occur between vehicles also include accidents that occur on public or city transportation, where factors such as infrastructure and vehicles are the main causes of these accidents apart from human error (Siregar, Paisah, & afniria pakpahan, 2022). Although the government has established laws and regulations that regulate traffic at crossings, including the purchase of equipment and equipment for safety signs around crossings, accidents at crossings still often occur due to carelessness and indiscipline of road users.

C. Medan District Court Decision Number 905/Pid.B/2022/PN.Mdn on June 28, 2022, Consideration by the Panel of Judges

Judges can apply material criminal law in certain cases by understanding how offenses or acts are described in articles of law, such as RI Law Number 22 of 2009 concerning Road Traffic and Transportation and RI Law Number 35 of 2009 concerning Narcotics.

Before the evidentiary process at trial, the Public Prosecutor first read out his indictment in front of the judge. One of the purposes of the indictment is to determine the articles violated by the defendant in accordance with his actions. After that, the Public Prosecutor's indictment will be examined to determine whether the defendant's actions meet the elements of the articles mentioned in the indictment in accordance with the examination before the trial. On the contrary, the indictment made by the Public Prosecutor is an application of the material criminal law, which means determining whether the defendant committed a crime. In C. S. T Kansil, Van Hattum states, in this regard:

Material criminal law consists of all the rules and regulations that determine what actions can be punished, who can be held accountable for those acts, and what punishments can be imposed on the person. Material criminal law is also sometimes referred to as abstract

criminal law.

Simons in C. S. T Kansil explains the material criminal law as follows: (Sriwidodo, 2019)

Provisions and formulations of criminal acts, requirements on when a person can be punished, a list of punishable persons, and provisions regarding their own punishments; Therefore, it determines when a person can be punished, who can be punished, and when the punishment can be handed down.

A brief chronology of the case and the charges and charges filed by the Public Prosecutor can be used to see the application of material criminal law in criminal cases, as shown by the Medan District Court Decision No. 905/Pid.B/2022/PN.Mdn dated June 28, 2022. In material criminal law, the goal is to ensure that the actions committed by the defendants are in accordance with the charges and demands, and that they must also be punished (Kumaedi, Syahrin, Mulyadi, & Ekaputra, 2022).

In the Indonesian criminal justice system, when a judge examines a case, what is sought is the material truth (J, 2021). The legal facts found in the trial must be linked or linked. In these cases, these public transport drivers often make mistakes and do not pay attention to traffic signs, causing accidents with other trains. This public transportation driver also often carries public transportation while using drugs and getting drunk. The behavior of public transport drivers during the accident caused severe injuries and even death.

Before making a final decision on the case, the Panel of Judges must consider the first indictment. This is their legal obligation. After considering the Public Prosecutor's First Indictment, the indictment is in an alternative form, so that the Panel of Judges can choose the First and Third alternative indictment based on legal evidence. This violates Article 311 paragraph (4) (5) of Law of the Republic of Indonesia No. 22 of 2009 concerning Road Traffic and Transportation (Syarat, Surat, Pidana, & Pada, 2024).

The following is a statement that may be found in the first paragraph of Article 311 of the Law of the Republic of Indonesia No. 22 of 2009 regulating Road Traffic and Transportation:

"There is a potential sentence of one year in jail or a maximum fine of three million rupiah for anybody who intentionally operates a motor vehicle in a condition that puts the lives of others or the items they own in risk".

In line with the terms of paragraph four of Article 311 of Law No. 22 of 2009 of the Republic of Indonesia governing Road Traffic and Transportation, the following is provided as the statement:

" In the event that the act that is referred to in paragraph (1) results in a Traffic Accident with a victim who is seriously injured as referred to in paragraph (4) of Article 229, the

perpetrator shall be sentenced to imprisonment for a maximum of ten (ten) years or a maximum fine of Rp. 20,000,000.00 (twenty million rupiah at the sole discretion of the court., whichever is greater".

The law of the Republic of Indonesia No. 22 of 2009 governing road traffic and transportation, specifically Article 311 paragraph (5), allows for the following, states:

" The person who committed the conduct that is mentioned in paragraph four is subject to a maximum term of twelve years in jail or a maximum fine of twenty-four million rupiah. In the case that the act in question results in the death of another individual, the perpetrator is subject to either of these measures".

The rules of Article 229 paragraph (4) of the Law of the Republic of Indonesia No. 22 of 2009 regulating Road Traffic and Transportation stipulate that the following conditions must be met:

" An accident that ends in the victim's death or severe injury is considered to be a serious traffic accident, as defined by the letter c of paragraph (1)".

A court decision that provides legal certainty and justice is made or given by a panel of judges inside, therefore, the judge must thoroughly understand the actual circumstances of the case, as well as the legal regulations that govern the application of the case—both those regulated in laws and regulations and those not regulated in customary law (Mas, 2012).

Legal certainty, usefulness, and justice are three elements that must always be considered in law enforcement, according to Sudikno Mertokusumo. In the same way, decisions made by judges in a case in Court must consider three principles: juridical (legal conviction), sociological (benefits), and philosophical (justice).

Legal certainty emphasizes that the law or regulation is stipulated as intended by its sound (Dahris Siregar et al., 2022). Although the law must be applied in this world, *Fiat justitia et pereat mundus*. Sociological values emphasize social benefits. Because the law is made for humans, the community hopes that the implementation of the law must be useful so as not to cause unrest.

Although justice itself is subjective and individualistic, law enforcement aims to achieve the ultimate goal. Theoretically, the three components above must be considered proportionally and balanced when deciding a problem. Nonetheless, reaching agreement between elements of law enforcement seeking to achieve justice, security, and well-being is a challenging challenge in law enforcement practice.

To realize legal justice in law enforcement, judges must consider not only the juridical aspects (so that they do not become the trumpet of the law), but also the non-judicial and

philosophical aspects of disputes (Din, Mohd, 2014). Judges in the law must consider the sense of justice that exists in society so that legal justice is achieved. "Constitutional judges are required to study, follow, and comprehend the sense of justice and legal principles that exist in society," as stated in the first part of Article 5 of Law No. 48 of 2009 respecting Judicial Power, which indicates that this is in conformity with the requirements included in the law.

In responding to a judge's decision on a case in a way that the public wants, disputes often arise between the extent to which juridical (legal certainty) and philosophical (justice) considerations are incorporated into it (Prawitasari & Saputra, 2023). To prevent unrest, legal certainty must be implemented. However, overemphasizing the firmness of the law will cause a sense of injustice and rigidity. Regulations apply no matter what, so strict enforcement of laws often makes them look cruel.

The process of examining and adjudicating a case is regulated by procedural law, which regulates when the panel of judges decides a case (Afriana, Rahmawati, Mantili, & Putri, 2022). In the process of issuing a verdict against the defendant, the judge will consider the results of the examination and proof of the trial.

In making a decision, the facts revealed during the trial are the most important. In examining cases before the trial, especially at the stage of proof, the precision, foresight, and intelligence of the judge are very important for the outcome of the verdict. Therefore, a judge must be more thorough and observant in examining cases, as well as smart and wise when making decisions (Khairun Na'im, Dahris Siregar, Jamaluddin Mahasari, Karolina Sitepu Fariza Habibi, 2023). In considering public opinion, judges must be wiser. In considering a problem, the opinion of the general public should not be ignored.

Judges must be very careful when sentencing in the case at hand. This must be done so that their verdict does not go so far as to punish innocent people and instead acquit people who are guilty of their unprofessional attitude towards the case. As a result, judges must have professionalism and moral integrity when deciding cases, adhere to legal principles and consider the community's sense of justice. Therefore, only the verdict made by the panel of judges will bring justice and security to the community.

CONCLUSION

All events must be considered to determine whether the omission is conscious or unconscious. The judge is the person responsible for determining the normative level of negligence. The judge must consider all the circumstances and personal circumstances of the perpetrator when assessing an action specifically using the standard of caution or

conjecture. In cases where the perpetrator commits improper negligence of consciousness, conscious negligence and unwitting negligence occur if the consequences of such negligence are undesirable by law. Law enforcement, especially when it comes to imposition of punishment, seeks to achieve a greater goal than just creating legal certainty but also justice and legal benefits. The benefits of detention must be considered when granting legal sanctions to a defendant. In this case, there is an advantage to the community, namely as an effort to protect the community legally, and an advantage for the perpetrator himself, namely as an effort to prevent him from committing the same act. The criminal sanctions decided by the Panel of Judges in this case are in accordance with the sense of justice for the defendant and the community as a whole. In cases where the charges filed by the Public Prosecutor are heavier than the decision of the Panel of Judges.

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