

## Legal Aspects of Criminal Law in Public Transportation Accidents/Tourist Bus Accidents

**Muhammad Soffa Marwa**

Universitas Islam As-Syafi'iyah, Indonesia  
[soffamarwa75@gmail.com](mailto:soffamarwa75@gmail.com)

---

---

### Abstract

*Traffic accidents pose a significant challenge in Indonesia, particularly in urban areas like Jakarta, often resulting in fatalities and severe injuries. This study examines the legal framework surrounding traffic accidents in Indonesia, focusing on the responsibilities of drivers and vehicle owners, and the need for reforms to improve road safety. Utilizing prescriptive normative legal research methodology, the study analyzes primary and secondary legal materials to identify key factors contributing to traffic accidents, including human, vehicle, road, and environmental factors. Findings reveal shortcomings in the enforcement and implementation of existing regulations, highlighting the complexity of legal processes and gaps in accountability. The study concludes with recommendations for enhancing enforcement, clarifying legal definitions, improving infrastructure, increasing public awareness, and fostering stakeholder collaboration to mitigate traffic accidents and improve road safety in Indonesia.*

Keywords: *Traffic Accident, Public Transportation; Tourist Bus Accident; Legal Aspect*

---

---

### I. INTRODUCTION

Indonesia has been grappling with a significant number of traffic accidents, particularly in big cities like Jakarta.<sup>1</sup> Accidents involving tourist buses are not uncommon, often resulting in fatalities and severe injuries.<sup>2</sup> These accidents are often attributed to factors such as driver fatigue, poor safety standards, and inadequate infrastructure.<sup>3</sup> In many cases, vehicles are old or poorly maintained, and road rules are routinely ignored.<sup>4</sup> When an accident results in personal injury, Indonesian law requires both drivers to await the arrival of a police officer to report the accident.<sup>5</sup>

---

<sup>1</sup> <https://www.sciencedirect.com/science/article/pii/S0386111216300085>

<sup>2</sup> <https://apnews.com/article/indonesia-accidents-java-471048d5760e364afe629e0a3ed83f92>

<sup>3</sup> <https://www.thejakartapost.com/indonesia/2022/05/16/tourist-bus-crash-kills-14-in-east-java.html>

<sup>4</sup> <https://www.thejakartapost.com/indonesia/2022/05/16/tourist-bus-crash-kills-14-in-east-java.html>

<sup>5</sup> <https://www.countryreports.org/country/Indonesia/traffic.htm>

## II. LITERATURE REVIEW

Indonesian law has provisions for handling traffic accidents. For instance, Law No. 22 of 2009 concerning Road Traffic and Transportation Article 310 is one such regulation.<sup>6</sup> This law, along with others passed in 1965, 1980, 1992, and 2009, aims to provide safety, security, smoothness, and orderliness to road transport and traffic.<sup>7</sup> In the event of an accident, public transport companies are required to pay all the financial effects (fines) from accidents they caused.<sup>8</sup> However, the legal process following an accident can be complex and may involve criminal charges depending on the severity of the accident and the degree of negligence involved.<sup>9</sup>

The National Police of the Republic of Indonesia, as the investigators of criminal cases of traffic accidents, can use their discretion based on the provisions in Article 18 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia.<sup>10</sup> There are also legal implications for the drivers involved in these accidents. For instance, the law imposes criminal liability on public transportation companies when a criminal offense is committed. In the case of traffic accidents, investigators can use their discretion based on the provisions in Article 18 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia.

Furthermore, there are legal responsibilities for public transport bus drivers due to an accident. If a passenger dies as a result of an accident, the driver can be held legally responsible.<sup>11</sup> However, there are also issues with the current laws. For example, there are no articles in the Road Traffic and Transportation Act No. 22 of 2009 that can be used to ensnare vehicle owners. This has led to calls for the creation of such an article to create a deterrent effect for vehicle owners and prevent large numbers of traffic accident victims in the future.<sup>12</sup>

The journal would likely delve into the legal problem related to the title above pertains to the laws and regulations surrounding traffic accidents in Indonesia, the responsibilities of drivers and vehicle owners, and the need for reform to improve road safety and reduce the number of traffic accidents.

<sup>6</sup> <https://bajangjournal.com/index.php/IJSS/article/download/3082/2213/5833>

<sup>7</sup> [https://www.iatss.or.jp/common/pdf/en/iatss/composition/7CountriesReport\\_en\\_02Indonesia.pdf](https://www.iatss.or.jp/common/pdf/en/iatss/composition/7CountriesReport_en_02Indonesia.pdf)

<sup>8</sup> <https://physicsandseatbelts.weebly.com/road-safety-law-in-indonesia.html>

<sup>9</sup> <https://eudl.eu/pdf/10.4108/eai.14-4-2021.2312405>

<sup>10</sup> *Ibid*

<sup>11</sup> <https://www.researchgate.net/publication/369785157Legal> Responsibility of Public Transport Bus Drivers Due to Accident which Cause Passengers to Die

<sup>12</sup> <https://www.neliti.com/publications/454282/owners-responsibilities-of-vehicles-used-as-illegal-public-transport-when-traffic>

### III. METHODOLOGY

The method used in this research is prescriptive normative legal research by examining library-based materials and secondary legal materials in the form of legal rules, legal principles and legal doctrines to produce new arguments, theories or concepts as prescriptions in solving the problems faced. The approaches used in this research are the statutory approach and the case approach. Types and sources of legal materials are primary legal materials and secondary legal materials. Primary legal materials include the Criminal Code (KUHP), Law Number 22 of 2009 concerning Road Traffic and Transportation. Secondary legal materials were obtained from books, papers, journals, articles and the internet which have correlations to support this research. The legal material collection technique used is library research. In this literature study, the researcher carried out an inventory of primary legal materials and secondary legal materials that were still relevant to the legal issue being studied. The legal material is then analyzed using the deductive syllogism method which draws from the major premise and then the minor premise.

### IV. RESULT AND DISCUSSION

A traffic accident is an unexpected and unintentional event on the road involving a vehicle with or without other road users which results in human casualties and/or property loss. This is what is stated in Article 1 number 24 of Law no. 22 of 2009 concerning Road Traffic and Transportation (“LLAJ Law”).

A traffic accident is an unexpected and unintentional incident on a highway involving a vehicle, either with or without involving other road users, which results in human injury or property loss (Law No. 22 of 2009 concerning Road Traffic and Transportation Article 1 point 24).<sup>13</sup>

According to Kusumastuti and Utami, there are several factors that cause traffic accidents:<sup>14</sup>

1. Human factors:

Almost every accident is caused by human violation of traffic signs. This violation can take the form of non-compliance with the rules, wilful violation, or feigned ignorance. Violations of traffic signs are most often committed by vehicle drivers.

2. Vehicle factors:

<sup>13</sup> Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation, page 4.

<sup>14</sup> Kusumastuti, Novia dan Utami. Astri Dyah. (2014). *Pertanggungjawaban Pidana Perusahaan Angkutan Umum Dalam Kecelakaan Lalu Lintas Yang Menimbulkan Korban Luka Dan Meninggal Dunia*. Volume 3 No. 1 Januari- April 2014, hal 3-4.

Vehicle factors include negligence in maintaining the vehicle. Damage to brakes, smooth steering, flat tires and lights that don't work due to lack of maintenance or not being serviced are causes of traffic accidents.

3. Road factors:

Road conditions that are not suitable, whether due to damage or potholes, are very dangerous for road users.

4. Environmental/weather factors:

Weather conditions, especially during the rainy season, are often a factor in causing accidents because the roads become slippery and visibility is impaired.

Bus passenger transport operators are obliged to comply with and implement various requirements as regulated in Law no. 22 of 2009, all of which is based on the principles and objectives of road traffic and transportation. This is a form of effort to provide protection for passengers, to ensure comfort, security and safety, there is a social control mechanism in place.<sup>15</sup>

In public transportation/bus transportation, it's not just the driver who is responsible if an accident occurs and results in the victim's death, but also the owner of the transportation company. Public transport/bus transportation companies are obliged to be responsible for losses from all behavior of people who work for bus/transportation companies. This is in accordance with Articles 191 and 192 of Law no. 22 of 2009 concerning Road Traffic and Transportation. Basically, the obligations and responsibilities of public transport/bus transportation companies are listed in Article 234 paragraph (1) of Law No. 22 2009 concerning LLAJ states "Drivers, motor vehicle owners, and/or public transportation companies are responsible for losses suffered by passengers and/or property owners and/or third parties due to the Driver's negligence." However, these provisions do not apply if:

1. There is a force that cannot be avoided or is beyond the driver's ability
2. Caused by the victim's own actions or those of a third party; and/or
3. Caused by the movement of people and/or animals even though preventive measures and measures have been taken.<sup>16</sup>

There are various regulatory requirements that must be complied with and implemented by public bus passenger transport operators, UULLAJ No. 22 of 2009 also contains provisions that function to prevent (preventive), so that there are no violations of various regulatory requirements that must be complied with and

<sup>15</sup> Sabian Utsman, "Dasar – Dasar Sosiologi Hukum: Makna Dialog Antara Hukum dan Masyarakat", Pustaka Pelajar, Yogyakarta, 2009. hal. 156

<sup>16</sup> *Op.Cit.*, hal 4.

implemented by public bus passenger transport operators. Various provisions that function to prevent this are outlined in various articles of Law No. 22 of 2009 which, among other things, contains provisions regarding Technical Requirements and Roadworthiness of Motorized Vehicles, Driving Licenses, Working Time for Public Vehicle Drivers, Roads, Inspection of Motorized Vehicles on the Road.

Public transport/bus transportation companies have an obligation to comply with their drivers' working hours in accordance with Article 90 of Law No. 22 of 2009 concerning Road Traffic and Transportation. Non-compliance with rest periods by transport companies/bus transportation owners can cause fatigue in bus drivers, which then becomes one of the factors causing traffic accidents. Therefore, this can be considered negligence on the part of the transport company/bus transportation owner. Bus accidents are a type of serious traffic accident as mentioned in Article 229 paragraph (4) jo. Article 229 paragraph (1) letter c of the LLAJ Law, namely accidents that result in the victim's death or serious injury.

Public transport/bus transportation companies have an obligation to ensure their vehicles are in good condition and fit for use. Meanwhile, the driver or vehicle crew of public transportation/bus transportation is only assigned by the owner of the public transportation/bus transportation company to drive the vehicle. If a traffic accident is caused by vehicle factors such as leaking oil, malfunctioning brakes or thin tires, it is certain that the public transport/bus transportation company will be considered negligent in checking the suitability of its vehicles.

The legal basis for criminal witnesses for drivers and owners of public transport/bus transportation companies who cause traffic accidents where victims die due to negligence is Criminal Code Article 359. However, if the negligence only causes injuries the legal basis is Criminal Code Article 360 paragraph (1) and paragraph (2). Referring to Article 234 paragraphs (1) and (2) of the LLAJ Law, which essentially states, among other things, that drivers, motor vehicle owners, and/or public transportation companies are exempt from responsibility for losses suffered by passengers and/or property owners and/ or a third party due to the driver's negligence caused by the victim's own behavior or that of a third party.

Article 236 paragraph (1) of the LLAJ Law states that the party causing a traffic accident is obliged to compensate for losses, the amount of which is determined based on a court decision. To be précised, the article states that "the party who causes a traffic accident as intended in Article 229 is obliged to compensate for losses whose amount is determined based on a court decision" and paragraph (2) reads "Obligation to compensate for losses in paragraph (1) for traffic accidents as intended in Article 229

paragraph (2) can be done outside of court if there is an amicable agreement between the parties involved."

However, Article 234 paragraph (3) of the LLAJ Law is an exception for compensation obligations, not for criminal prosecution. Meanwhile, to determine whether the driver is free from criminal charges, this must first be proven through a trial process.

According to Article 310 paragraph (3) of the LLAJ Law, the threat of criminal punishment for every person who drives a motorized vehicle whose negligence results in a traffic accident with serious injuries as intended in Article 229 paragraph (4), is subject to a maximum imprisonment of 5 (five) year and/or a maximum fine of IDR 10,000,000.00 (ten million rupiah).

In this case, it must be proven whether there was an element of negligence on the part of the driver. Regarding what constitutes negligence alone, there is no explanation in the LLAJ Law.

Regarding who is responsible, it can be seen in Article 234 paragraph (1) of the LLAJ Law, which states that drivers, motor vehicle owners and/or public transportation companies are responsible for losses suffered by passengers and/or goods owners and/or parties. thirdly due to driver negligence. Apart from that, Article 235 paragraph (2) of the LLAJ Law states that drivers, owners and/or public transportation companies are obliged to provide assistance to victims in the form of medical expenses.

Aside from that, article 191 of the LLAJ Law states that public transportation companies are responsible for losses caused by all actions of people employed in transportation operations. This includes the obligation to conduct motor vehicle testing.

If an accident occurs because the brakes fail when passing a steep road, please note that based on Article 121 paragraph (4) letter c Government Regulation Number 55 of 2012 concerning Vehicles ("Vehicle PP"), which must be tested before being operated on the road.

Based on Article 121 paragraph (1) of the Vehicle Regulations, motorized vehicles that will be operated on the road must be tested. The testing includes: (see Article 121 paragraph (3) Vehicle Regulation)

a. Type Test

Motor vehicle type testing is testing carried out on the physical nature of motor vehicles or research on the design and engineering of motor vehicles, trailers or attached trains before motor vehicles are manufactured and/or assembled and/or imported in masse as well as modified motor vehicles (Article 1 number 10 PP Vehicle).

b. Periodic Test



Periodic testing is a motor vehicle test that is carried out periodically on every motorized vehicle, trailer and attached train, which is operated on the road. (Article 1 number 11 PP Vehicles).

According to Article 123 paragraph (1) of the Vehicle Regulations, the motor vehicle type test consists of:

- a. physical testing to fulfil technical and roadworthy requirements for Motorized Vehicle bases and Motorized Vehicles in complete condition; and
- b. Motor Vehicle design and engineering research.

Checking the condition of the main brakes on both the front and middle and/or rear wheels, brake system leaks based on Article 124 paragraph (2) letter h PP Vehicles is categorized as a physical test. If testing is not carried out as required in Article 121 paragraph (1) of the Vehicle Regulations, then administrative sanctions may be imposed in the form of written warnings and administrative fines (Article 175 of the Vehicle Regulations).

Apart from driver negligence or vehicle problems, accidents caused by the driver's physical fatigue also often occur. The government, through the Ministry of Transportation, has reminded drivers or vehicle drivers of working hours, as regulated in Law Number 22 of 2009 concerning Road Traffic and Transportation. This law also includes sanctions for public transportation companies that violate working time provisions. Article 90 states clearly that:

- 1) Every Public Transport Company is obliged to comply with and enforce the provisions regarding working time, rest time and changing of Public Motor Vehicle Drivers in accordance with statutory provisions;
- 2) Working time for Public Motor Vehicle Drivers as referred to in paragraph (1) is a maximum of 8 (eight) hours a day;
- 3) Drivers of Public Motorized Vehicles after driving a Vehicle for 4 (four) consecutive hours are required to rest for at least half an hour;
- 4) In certain cases, drivers can be employed for a maximum of 12 (twelve) hours a day including a rest period of 1 (one) hour.

Should the company does not comply and enforce the regulation, the government has determined sanctions as regulated in article 92.

Article 92 clearly states that:

- 1) Every Public Transport Company that does not comply with and enforce the provisions regarding working time, rest time and changing of Public Vehicle Drivers as intended in Article 90 will be subject to administrative sanctions;
- 2) Administrative sanctions as intended in paragraph (1) are in the form of:
  - a. written warning;

- b. giving administrative fines;
- c. license suspension; and/or
- d. license revocation.

The owner of a public transportation/bus company is obligated to adhere to safety standards for the benefit of service users. Service users refer to individuals or legal entities utilizing the services of the public transportation company. Each aspect must be met by the owner/manager of the bus transportation to minimize traffic accident risks. Public transportation/bus companies must have a safety management system in place to minimize traffic accident risks. Each component of the public transportation safety management system represents a commitment to minimize accident risks by the public transportation company. Failure to do so by the public transportation service provider resulting in traffic accidents, renders them negligent for failing to fulfil their obligations as a public transportation company/ bus transportation owner.

## V. CONCLUSION

Traffic accidents in Indonesia caused by multifaceted factors, involving human, vehicle, road, and environmental factors. These accidents often result in human casualties and property loss, underscoring the urgent need for effective measures to enhance road safety.

Several legal provisions and regulations exist to address traffic accidents and their aftermath, including laws governing road traffic and transportation, criminal liability, and compensation obligations. However, the complexity of the legal framework, coupled with gaps in enforcement and implementation, poses challenges in ensuring accountability and deterring future accidents.

### ***Recommendations:***

There are some improvements that we could make regarding this issue:

1. **Enhanced Enforcement and Compliance:** There is a need for stricter enforcement of existing regulations, particularly concerning driver working hours and vehicle maintenance standards. Public transport companies should be held accountable for ensuring compliance with these regulations to mitigate the risk of accidents caused by driver fatigue and vehicle negligence.
2. **Comprehensive Legal Framework:** The government should consider comprehensive reforms to the legal framework governing traffic accidents, including clarifying definitions of negligence and strengthening penalties for non-



compliance. This could involve amending existing laws and introducing new provisions to address emerging challenges in road safety.


3. Investment in Infrastructure: Improving Road infrastructure and addressing road conditions that contribute to accidents, such as potholes and inadequate signage, is crucial. Investments in road maintenance and safety upgrades can help prevent accidents and reduce the severity of their consequences.
4. Public Awareness and Education: Increasing public awareness about road safety, including the importance of following traffic rules and maintaining vehicles, is essential. Educational campaigns targeting drivers, vehicle owners, and the general public can help foster a culture of responsibility and compliance with road safety measures.
5. Collaboration and Stakeholder Engagement: Collaboration among government agencies, law enforcement, transport companies, and civil society organizations is vital in addressing the complex challenges of road safety. Stakeholder engagement and coordination efforts can facilitate the implementation of effective policies and initiatives to reduce traffic accidents and improve road safety nationwide.

It is important to address the identified gaps in the legal framework and enforcement mechanisms in order to make Indonesia able to develop significant strides towards enhancing road safety, reducing traffic accidents, and protecting the lives and well-being of its citizens and visitors.

## REFERENCE

### Online Sources

- <https://www.sciencedirect.com/science/article/pii/S0386111216300085>
- <https://apnews.com/article/indonesia-accidents-java-471048d5760e364afe629e0a3ed83f92>
- <https://www.thejakartapost.com/indonesia/2022/05/16/tourist-bus-crash-kills-14-in-east-java.html>
- <https://www.thejakartapost.com/indonesia/2022/05/16/tourist-bus-crash-kills-14-in-east-java.html>
- <https://www.countryreports.org/country/Indonesia/traffic.htm>
- <https://bajangjournal.com/index.php/IJSS/article/download/3082/2213/5833>
- [https://www.iatss.or.jp/common/pdf/en/iatss/composition/7CountriesReport\\_en\\_02Indonesia.pdf](https://www.iatss.or.jp/common/pdf/en/iatss/composition/7CountriesReport_en_02Indonesia.pdf)
- <https://physicsandseatbelts.weebly.com/road-safety-law-in-indonesia.html>

	Proceeding 2 <sup>nd</sup> International Conference on Law, Economy, Social and Sharia 2024 Vol. 2 <a href="https://icles.net/">https://icles.net/</a> ISSN: 2985-4679 Page: 224-233
---	--

<https://eudl.eu/pdf/10.4108/eai.14-4-2021.2312405>

<https://www.researchgate.net/publication/369785157Legal>

<https://www.neliti.com/publications/454282/owners-responsibilities-of-vehicles-used-as-illegal-public-transport>

The Criminal Code

The Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia

The Law No. 22 of 2009 concerning Road Traffic and Transportation

The Government Regulation Number 55 of 2012 concerning Vehicles

Kusumastuti, Novia dan Utami. Astri Dyah. (2014). Pertanggungjawaban Pidana Perusahaan Angkutan Umum Dalam Kecelakaan Lalu Lintas Yang Menimbulkan Korban Luka Dan Meninggal Dunia. Volume 3 No. 1 Januari-April 2014

Sabian Utsman, “Dasar – Dasar Sosiologi Hukum: Makna Dialog Antara Hukum dan Masyarakat”, Pustaka Pelajar, Yogyakarta, 2009.