



## Legal protection of passengers in a train accident

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### ABSTRACT

*Train accidents consist of train-to-train collisions, derailments, rollovers, and fires. Legal protection for train accident victims has an essential role so that the victims' rights are protected. The method used in this research is the Legal Research Method with Juridical Review. Legal protection for train accident victims is contained in the 1945 Constitution, and regulations from the Ministry of Transportation include Law No. 23 of 2007, Government Regulation No. 62 of 2013. There is also a separation of powers between the government and train operators related to their duties and authority in responsibility for train accidents and train accident victims. The results obtained were that apart from the statutory regulations governing railway accidents, there was a need for a unified system between technical operations, human resource capabilities in the railway sector, and public awareness as train users.*

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## 1. Introduction

The government is encouraging the use of public transportation among the public. Public transportation includes land, sea and air transportation. Trains are the favourite mode of choice for the Indonesian people because trains are more efficient and economical transportation than road transportation in terms of efficient use of fuel and service of economic resources. Economic benefits will have more potential if the movement of goods and passengers is diverted from roads to rail transportation (Andiyan & Rachmat, 2021). Based on data the number of train passengers in Indonesia from 2018 to 2022 from the Directorate General of Indonesian Railways for 2018 to 2022, data on the number of passengers in Indonesia from 2018 to 2022 shows that the number of train passengers in 2018 was 47,552,496 passengers; in 2019, there were 47,157,593 passengers; in 2020, there were 14,085,584 passengers; in 2021, there were 10,191,208 passengers, and in 2022 there will be 28,977,970 passengers (Perhubungan, 2022).

There are times when passengers experience losses when operating trains. Losses experienced include accidents, cancellation of departure and loss of luggage (Agata, 2020). A train accident

is an event or event in the operation of railway facilities that results in damage to railway facilities, loss of life, and loss of property (Peraturan Pemerintah No 62 Tahun 2013 Tentang Investigasi Kecelakaan Transportasi, 2013). A train accident is an incident that not only impacts the individuals directly involved but also affects society as a whole. In many cases, train accidents can result in serious injuries, financial losses, and even loss of life. As a result, legal protection for train accident victims has become an issue that requires serious attention in the transportation legal and regulatory system. However, in the event of an accident, there is also a train accident information system, which is expected to be the latest information system about events that occur along the train track. The speed and accuracy of the information provided must be the standard in conveying news about train accidents (Djajasinga, 2015).

In the Republic of Indonesia, government regulation number 62 of 2013 concerning transportation accident investigations, Article 7 Train accidents as referred to in Article 6 letter consist of collisions between trains, train overturning, The train derailed, and and the train catching fire (Peraturan Pemerintah No 62 Tahun 2013 Tentang Investigasi Kecelakaan Transportasi, 2013). People often misunderstand that accidents at level crossings are considered train accidents, even though these accidents are considered traffic accidents. Based on data from the Directorate General of Indonesian Railways, data on types of train accidents in Indonesia from 2018 to 2022 include train accidents in the form of collisions between trains and trains. In 2021, there was one incident, and in 2022, there was one incident. Meanwhile, data on train accidents in the form of derailments in 2018 saw 14 incidents; in 2019, there were 11 incidents; in 2020, there were 17 incidents; in 2021, there were ten incidents; in 2022, there were 10 incidents. Meanwhile, data on train accidents in the form of rolling over occurred in 2018; there was one incident; in 2021, there was one incident; and in 2022, there was one incident. For train accidents in the form of fires, in 2018, there was one incident; in 2020, there was one incident; in 2021, there was one incident; and in 2022, there were two incidents (Perhubungan, 2022).

Legal protections for train accident victims include the right to obtain compensation for physical injuries, financial losses, and emotional suffering, as well as access to appropriate medical care. Based on data from the Directorate General of Indonesian Railways, data on the number of train accident victims in Indonesia from 2018 to 2022 consists of one person who died in 2018, one person who was seriously injured in 2018 and nineteen people who were slightly injured in 2019 (Perhubungan, 2022). Based on research from discussing the protection of passengers related to Indonesian train accidents in Operation Area 4 Semarang, this research discusses train accidents in general (Agata, 2020). In the research (Rosanda Hendrawanto Bintara Putra, 2021) and (Rusmiyah, 2022), the focus is on accountability and the need for socialization from PT KAI; the focus is on transportation responsibility by PT KAI, whereas in this research, the focus is on railway operators in Indonesia today, not just PT KAI.

Legal protection for train accident victims also plays an essential role in encouraging train operators and transport authorities to improve the safety of their operations. By implementing strict norms and providing clear incentives for train operators to adhere to higher safety standards, we can help prevent accidents and protect society as a whole. The responsibility of the carrier is to move the transport object to its destination; this includes the arrival of the transport object accompanied by payment of the transport costs in full. The things of the transportation agreement include the cargo and passengers, transportation costs and transportation equipment.

Therefore, this research will explore the existing legal framework for legal protection for train accident victims for train users if they experience a train accident from all train operators in Indonesia today. It will discuss the rights of victims, the obligations of train operators, as well as the role of transportation law in dealing with this issue. Through a better understanding of this legal protection, it is hoped that it can contribute to efforts to improve the safety of rail transportation and safeguard the rights of victims affected by these accidents. So the problem formulation in this research is: How can legal protection for train accident victims be improved to achieve better results in the aspect of transportation safety?

## **2. Method**

This research uses a research method with a juridical review, meaning that the initial stage of this research will involve an in-depth literature review and legal review. The author will collect various legal sources related to legal protection for train accident victims. This includes transport laws, railway safety regulations, and relevant civil laws. The author will also search for related court decisions and relevant case studies in the legal literature.

In addition, the research will include a thorough analysis of the existing legal framework, both at national and regional levels. This will consist of identifying the rights and obligations of train accident victims based on applicable regulations. In addition, the research will analyze the latest legal developments in terms of legal protection for train accident victims.

## **3. Analysis and Results**

### **3.1 Legal Framework for the Legal Protection of Train Accident Victims**

The idea of separation of powers began with John Locke's theory. Montesquieu in Indonesia continued it, but he did not explicitly say that he would use the Trias Politics theory in his government system. It is just that several Trias Politics concepts have been outlined in the 1945 Constitution, namely in the form of separation of authority between the executive, legislative and judiciary (Syamsuddin, 2018). Indonesia is a unitary state with a republic form where sovereignty is in the hands of the people whom the Constitution guides. Through this Constitution, the Indonesian government has divided several powers in running the Indonesian government organization, namely into four power institutions: Executive (President), Legislative (MPR, DPR and DPD), Judiciary (MA and MK) and Examination (BPK) (Syamsuddin, 2018).

In Article 28 of the 1945 Constitution, the state guarantees comprehensive human rights, which include the right to life, the right to form a family, receive protection from violence and discrimination, develop oneself through fulfilling basic needs, equal treatment under the law, the right to embrace one's religion and worship according to one's religion, and other rights (Wulandari, 2021). Based on this, train passengers have the right to life, meaning they have the right to receive public services related to safe and secure train transportation.

Based on the separation of powers, legislative regulations in the transportation sector are made by the president and the DPR RI; in this case, the president is assisted by ministers according to their respective fields. In the field of transportation, the president is assisted by the Minister of Transportation. In the organizational structure at the Ministry of Transportation for the field of railway transportation, there is the Directorate General of Railways. As for the hierarchy of legal regulations, the order is as contained in Law No. 12 of 2011; the order includes the 1945 Constitution, MPR Decree, UU/Perpu, Government Regulations, Presidential Decree, and Regional Regulations at the Provincial, City and Regency levels. (Government of the Republic of Indonesia, 2011)

In accordance with Article 3 of Law No. 23 of 2007 concerning Railways regarding the principles and objectives of Article 3, Railways are organized with the aim of facilitating the mass movement of people and goods safely, securely, comfortably, quickly and smoothly, precisely, orderly and orderly, efficiently, as well as supporting equality, growth, stability, driving and driving national development (Government of the Republic of Indonesia, 2007). Based on this, train passengers and their luggage have the right to a safe, secure, comfortable, fast, smooth, precise, orderly and orderly train journey. Part Eight Responsibilities of Railway Infrastructure Operators Article 87 in Law No. 23 of 2007 means that Railway Infrastructure Operators are responsible to Railway Facilities Operators and third parties for losses as a result of accidents caused by errors in the operation of railway infrastructure. This responsibility is based on the cooperation agreement between the Railway Infrastructure Operator and the Railway Facilities Operator. Railway Infrastructure Operators are responsible to third parties for property losses, injuries or deaths caused by the operation of railway infrastructure (Government of the Republic of Indonesia, 2007).

A clear separation of functions between the Government and operators will improve the administration of railways in Indonesia. The strict separation of parts means that the Government only functions as a regulator, carrying out regulatory, supervisory and control functions. In contrast, the railway operator only acts as an operator that carries out railway operations and business (Masdini Agustriana et al., 2023). Regulations in the field of railway transportation under the law include Minister of Transportation Regulations. Even though it is not included in the hierarchy of statutory rules as contained in Article 7 of Law No. 12 of 2011, in accordance with Article 8 of that law, the Minister of Transportation's Regulations are recognized as existing and have binding legal force as long as they are ordered by higher Legislative Regulations or formed based on authority.

Currently, train operators consist of PT KAI, PT KCI, PT MRTJ, LRT Jakpro, LRT Jabodetabek, and LRT Palembang. The Minister of Transportation's regulation relating to service to train passengers is PM No 63 of 2019 concerning Minimum Service Standards for Transporting People by Train, so there must be a minimum service standard including information and safety facilities, namely the availability of information and emergency rescue equipment in danger (fire, accidents, or natural disasters) at intercity and urban train service stations (short distance trains and KRD), at electric train service stations, Light Rail Transit (LRT), Mass Rapid Transit (MRT), and trains airport fire, and minimum service standards for transporting people by train while travelling (Minister of Transportation, 2019). Train operators have a legal obligation to ensure the safety of train passengers. If the train operator fails to fulfil this obligation, it can be sued by the accident victim. This includes the duty to maintain and maintain trains properly, provide training to employees, and comply with established safety standards. As in statutory regulations, in general, the principles of legal responsibility can be differentiated as follows: the principle of responsibility based on the principle of fault, the focus of responsibility based on presumption and the direction of absolute responsibility (Alhadi, 2020).

Based on the regulations in force in Indonesia, accident categories are defined as follows (Djajasinga, 2015).

- a. Extraordinary Great Event (PLH): i. PLH has a severe accident if it results in people dying or being seriously injured, ii. PLH becomes very confused if it results in: a) damage to the railroad to the point that it cannot be passed for at least 24 hours, b) the train partially or completely derails or crashes, c) trains, carriages or other means that are badly damaged due to being hit by a train or part of a slender, d) elements of danger due to employee negligence in carrying out train or shunting activities; And e) suspected or attempted sabotage.
- b. Extraordinary events are not significant (PL): i. Accidents or dangerous elements that occur are not included above.

Dismantling accident victims require mechanical equipment that can be placed at strategically located large stations. This equipment is used to evacuate victims affected by collapsed facilities

or infrastructure and for lifting and repairing facilities or infrastructure to normalize rail traffic. The mechanical equipment includes cranes, equipment for cutting metal, lighting equipment, communication devices, preparation of railroad components to deal with damage to the railroad, and other equipment needed for picking up victims and railroad facilities (Tirtana et al., 2023).

Train operators can work with third parties to have insurance that covers train accidents. This insurance can be used to compensate for losses suffered by victims, including medical costs, disability compensation, and financial compensation.

Train accident victims can file a civil lawsuit against the train operator to obtain compensation for injuries or other losses suffered. The civil legal process is one of the main ways for victims to seek justice. The legal protection for train accident victims is in the form of the right to compensation. Namely, the accident victim has the right to receive compensation for physical injuries, financial losses, and suffering suffered. This right allows victims to receive fair compensation for the losses they have experienced. Then, the right to medical treatment means that accident victims have the right to adequate medical treatment and rehabilitation to recover from the injuries suffered. Then, the right to information, namely accident victims, have the right to obtain clear and accurate information about the causes of accidents and their rights in the legal process. Finally, the right to justice, namely accident victims, have the right to obtain justice through a fair legal process. This includes the right to an independent trial and the right to be represented by a lawyer.

The challenges and obstacles that must be faced in matters of legal protection for train users include having to pay attention to the strict time limits for submitting compensation claims, and this can be a challenge for victims who may need time to realize their injuries. Apart from that, you must be able to provide evidence where the victim needs to prove that the train operator or third party is responsible for the train accident, and this can be a complicated process. Lastly, there is the complexity of the legal process, namely that the legal process can be complicated, and victims may need legal assistance to file a claim.

#### **4. Conclusion**

Legal protection for train accident victims is an essential aspect of the legal system that functions to protect the rights of individuals who are injured or suffer losses as a result of the incident. In dealing with various existing legal frameworks, victims need to understand their rights and make the best use of them. On the other hand, train operators also have a responsibility to maintain operational safety and provide adequate protection for train passengers. Thus, legal protection and train operational safety must be in line to minimize the risk of accidents and protect victims when an accident occurs. In order to achieve the vision of safer and fairer rail transportation for all parties involved, legal protection for victims must continue to be improved and strengthened.

Legal protection for train accident victims is a must in safeguarding the rights of individuals who are injured or suffer losses as a result of this incident. The existing legal framework provides an essential basis for protecting victims and giving confidence for train operators to improve the operational safety of train operations. However, there are still several challenges that need to be overcome to ensure better protection for victims. Cooperation is required between stakeholders, including victims, train operators, and authorities, to ensure that victims' rights are respected and the safety of train operations is improved. It is hoped that this research will provide input for regulators, in this case the Ministry of Transportation, and railway facilities operators and railway infrastructure operators, in this case PT. KAI, PT. KCI, PT. MRTJ, PT. Jakpro LRT, Jabodetabek LRT, Palembang LRT, Whoosh Fast Train. The following research will provide expert opinions in the field of railways, both from regulators and train operators in Indonesia, as well as opinions from train accident victims so that they can contribute to improving railway regulations and operations in Indonesia

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