



# REGULATION OF COMPENSATION FOR VICTIMS BY PERPETRATORS OF TRAFFIC ACCIDENTS ACCORDING TO LAW NUMBER 22 YEAR 2009 ON ROAD TRAFFIC AND TRANSPORTATION

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## Keywords

regulation, compensation, victims and perpetrators of traffic accidents.

## Abstract

The purpose of this article is to examine the provisions of Law No. 22 of 2009 that govern victims' compensation in the event of a traffic accident. In order to hasten the progress that will be made in society, traffic is a crucial mode of communication. The four primary causes of traffic accidents include elements related to nature, humans, roads, and vehicles. Most traffic accidents are caused by human error, therefore everyone, particularly the elderly, has to be extra careful on the road. The theory used in this research is to analyze events based on the actions of Drivers who cause injury or death to other people due to their carelessness or negligence based on Articles 234 and 235 of Law No. 22 of 2009 concerning Road Traffic and Transportation. In this research, the author uses a normative approach method that sticks to laws and regulations, where this approach is used by reading, quoting, and examining applicable laws and regulations, and using primary materials including those related to Law No. 22/2009, while secondary materials include various books, journals, literature studies, and online sources to obtain relevant data. This study's findings clarify the distinction between traffic penalties and compensation, as well as the kind of legislation governing compensation.

## 1. INTRODUCTION

To accelerate progress, traffic is an important public communication tool. At the national level, traffic is one of the problems that arise along with the growth of civilisation. Indonesian transport authorities have identified four main contributors to traffic accidents: vehicles, roads, people, and environmental elements. Greater vigilance towards traffic is needed, especially among the working-age population, as human error is the main cause of accidents. According to Article 1 point 24 of Law No. 22 year 2009 on Road Traffic and Transportation (LLAJ Law), a traffic accident is an unexpected and unintentional event that occurs on the road involving a vehicle with or without other road users, and results in human casualties and/or property damage. One example of how victims can seek criminal liability is based on Article 234 paragraph (1) of the LLAJ Law, which states that a driver who drives a vehicle on a highway is held liable for violations.

Individuals who feel aggrieved after a traffic accident can seek civil damages from the at-fault party, as described in the article. The article explains that the amount of fault that can be attributed to negligence should be proportional to the degree of fault. The court has the authority to decide how much compensation the victim of a traffic accident should pay, in

accordance with Article 236 paragraph (1) of the LLAJ Law. However, the obligation to pay compensation can be settled out of court if the parties to the dispute can reach an amicable agreement, as stated in Article 236 paragraph (2) of UU LLAJ.

Victims of traffic accidents can seek civil compensation in addition to criminal proceedings. The relevant article in the 'Law on Road Traffic and Transport (LLAJ)' is Article 234 paragraph (1)', which states that 'The driver, owner of the motor vehicle, and/or Public Transport Company shall be liable for the loss caused by the traffic accident.' This can be done by following the following procedures. This essay argues that the degree of recklessness should determine the amount of liability. The legal protection provided to victims of traffic accidents in Indonesia is detailed in 'Article 240 of Law Number 22 Year 2009'. Victims have the following rights guaranteed by law: a. Assist victims of traffic accidents and receive compensation from the at-fault party or the government b. Compensation to the at-fault driver or motorist c. Compensation for traffic accidents provided by insurance providers. In many cases, this compensation is broad enough to cover both tangible and intangible losses suffered by victims of vehicle accidents. When victims sue the person or company responsible for a traffic accident, they may seek material compensation for quantitatively significant damages, or immaterial compensation for qualitatively less tangible but nonetheless collectible losses.

One type of crime that involves the violation of traffic regulations is traffic offences. The crimes committed not only backfire on the perpetrators, but also endanger other innocent people. On 14 July 2023, in Baso, Agam Regency, a car and a motorcycle were involved in a collision due to the carelessness and inattention of a driver who did not yield to a large car, also known as a fuso. The driver, who was unaware of the situation, hastily cut in front of the fuso and did not realise that a motorcycle was crossing to the right side of the road. Tragically, the fuso car collided with the motorbike, causing both riders to fall to their deaths. The driver of the Fuso suffered injuries to his hands and forehead. The victim's injuries are known to have included a broken left leg, multiple wounds to his hands and right leg, and several wounds to his forehead after he was rushed to hospital.

The victim had to endure physical injuries, loss of education, and save up for medical treatment after learning of these losses. The victim's family wanted to talk to the police about it, but they were afraid and didn't know how to report the crime, so they chose not to after receiving only IDR 200,000 as compensation from the perpetrator's family, which was not enough to cover all the losses. Those who cause road accidents by breaking the law should also be financially responsible for the suffering of the victims. If the traffic collision is less severe and only damages cars or goods, and the parties involved have settled their disputes, then this section does not apply.

In order for the reader not to misunderstand, the author would like to discuss about how to control the ability of offenders to pay victims and how to distinguish between traffic accident penalties and compensation based on the examples mentioned above. The victim's family wanted to talk to the police about it, but they were afraid and didn't know how to report the crime, so they chose not to after receiving only IDR 200,000 as compensation from the perpetrator's family, which was not enough to cover all the losses. Those who cause road

accidents by breaking the law should also be financially responsible for the suffering of the victims. If the traffic collision is less severe and only damages cars or goods, and the parties involved have settled their disputes, then this section does not apply. In order for the reader not to misunderstand, the author wants to discuss how the regulation on the provision of compensation to victims of traffic accidents and what is the difference between compensation and fines in traffic accidents.

## **2. RESEARCH METHODS**

From this introduction, the author uses a normative approach method to complete this research. Legal research using this Normative Approach Method focuses more on written rules, which are sourced from laws and regulations, where this approach is used by reading, quoting, and examining applicable laws and regulations, and using primary materials including those related to Law No. 22 of 2009, while secondary materials include various books, journals, literature studies, and online sources to obtain relevant data. These materials provide a theoretical basis and strengthen the author's analysis.

## **3. RESULT AND DISCUSSION**

A traffic accident is an unexpected and unintentional road event involving a vehicle with or without other road users that results in human casualties and/or property damage (Law No. 22 Year 2009). Roads as transport facilities play a very important role and are very influential on daily activities. Therefore, complete facilities and infrastructure are needed in traffic so as not to cause traffic accidents. Traffic accidents are caused by several factors and causes. Accidents that occur in traffic are not only caused by the driver or the negligence of the road user, the fault of the driver is also caused by unfavourable road conditions (Law number 22 of 2009).

Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transport, Article 1 point 24. A traffic accident is an unexpected and unintentional road event involving a vehicle with or without other road users that results in human casualties and/or property damage. Traffic accidents that often occur in the community cause victims and damage to vehicles, thus obliging the perpetrators to be responsible for the traffic accidents that occur. The form of responsibility for the perpetrators of traffic crimes to victims can be in the form of providing assistance and treatment. Liability in traffic accident cases is often caused by negligence / negligence in driving.

Meanwhile, compensation is one form of responsibility that can be given to victims or their families by the perpetrators of criminal acts or third parties. In terms of the interests of the victim, the concept of compensation contains two benefits, the first is to fulfil material losses and all costs that have been incurred and the second is the emotional formulation of the victim. Meanwhile, from the perspective of the perpetrator's interest, the obligation to compensate is seen as a form of punishment imposed, and is perceived as something concrete and directly related to the wrongdoing of the perpetrator. compensation in traffic accidents is explained in articles 234 and 235 of Law No. 22 of 2009 concerning road traffic and transport. The core objective of compensation is to provide justice and welfare to the victim

as a member of society, and the benchmark for its implementation is the opportunity for the victim to develop his/her rights and obligations as a human being. On this basis, the application of compensation to victims should be a combination of efforts from various approaches, both in the field of social welfare and humanitarian approaches.

The LLAJ Law, or Law No. 22/2009 on Road Traffic and Transport, regulates the compensation that victims of traffic accidents are entitled to. Here, it is very important to know that the LLAJ Law determines who should pay for victims' medical expenses and other losses to compensate for their suffering. Drivers, vehicle owners, and public transport companies are specifically liable for losses caused by carelessness under Articles 234 and 235. Motorcyclists' ignorance of safe driving, traffic rules, and how to communicate on the road is a human-caused problem. People who cause traffic accidents should be penalised for their actions, and others who suffer losses as a result should have legal recourse. Therefore, the following matters will be discussed:

### **3.1 Regulation on the Provision of Compensation for Victims of Traffic Accidents According to Law No. 22 Year 2009**

Based on Article 234 paragraph of Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transport, which regulates the Obligations and Responsibilities of Drivers, Motor Vehicle Owners, and/or Transport Companies:

- (1). If the driver is negligent and causes injury to passengers, goods owners, or third parties, the driver, motor vehicle owner, and public transport company are financially liable.
- (2). Damage to the road and/or road equipment caused by the driver's carelessness or fault is the responsibility of the driver, motor vehicle owner, and public transport company.
- (3). The regulations referred to in paragraphs (1) and (2) shall not apply if: a. circumstances beyond the driver's control, such as unforeseen natural disasters; b. actions taken by the victim or a third party; and/or c. the continuing journey of people or animals without any safety precautions.

And article 235 paragraph:

1. In the event that the victim dies as a result of a traffic accident as referred to in Article 229 paragraph (1) letter c, the responsible party-the driver, owner, and/or public transport company-is obliged to provide compensation to the victim's family in the form of medical expenses and/or funeral expenses, without avoiding criminal charges.
2. Without prejudice to criminal prosecution, the driver, owner, and/or public transport company is obliged to assist the victim's medical expenses in the event that the victim suffers bodily or health-related injuries as a result of a traffic accident as referred to in Article 229 paragraph (1) letter b and letter c. Material loss, death, injury (both major and minor), disability (both temporary and permanent), and other consequences can result from road accidents.

The criminal law sets out rules for road accidents as well as some of the uses of traffic law. When someone commits a crime that severely harms the interests of others-for example, the murder of a human being-and the perpetrator escapes punishment, this can be considered unfair, especially by the victim's heirs. A judge can determine how much the at-fault driver should pay as compensation after a traffic collision.

The parties can avoid going to court to settle the value of the damages if they can reach an agreement. However, according to Article 230 of Law No. 22 Year 2009 on Road Traffic and Transport, offering financial assistance or compensation does not automatically drop the charges. If the parties involved in a traffic accident can reach an amicable agreement, they can avoid going to court to determine the amount of compensation to be paid. 'The driver, owner, and/or public transport company provide compulsory compensation to the victim's heirs in the form of treatment costs and/or funeral costs,' reads Article 235 paragraph (1) of Law No. 22/2009 on Road Traffic and Transport, which applies in the event of a traffic accident that results in the death of the victim.

In terms of compensation for victims of traffic accidents in particular, the author states that this structure has a number of shortcomings that make it unfit for regular use. Because not everything goes as you plan, even when a mutually agreed resolution is possible. The case of an accident that occurred in the Baso area of Agam Regency on 14 July 2023, shows a violation of the provisions of Article 234 of Law Number 22 Year 2009 on Road Traffic and Transport (LLAJ Law).

In this incident, the perpetrator committed an act of negligence by preceding a fuso car without paying attention to traffic conditions, which led to a collision with a motorbike. According to Article 234 paragraph (1), drivers, motor vehicle owners, and/or public transport companies are responsible for losses suffered by passengers and/or third parties due to driver negligence. In this context, the perpetrator clearly violated this provision by failing to take into consideration the motorbike that had already passed, causing injuries to the rider and passenger. Moreover, if the loss is the result of an unforeseen event, the LLAJ Law exempts the party from liability under paragraph (3) of Article 234. On the other hand, there is nothing to suggest that an uncontrollable external component was the cause of this disaster.

Rather, there is a glaring element of carelessness in the behaviour of the perpetrator who proceeded with the journey without checking the surrounding circumstances. As a result, the victim's losses are still the responsibility of the perpetrator. The victims in this case are dealing with the long-term consequences of the horrific incident, which has left them with expensive medical bills and a lack of motivation to return to school. According to Article 235 of the LLAJ Law, motorists are obliged to assist with the victim's medical expenses. Despite receiving compensation of Rp. 2,000,000 from the victim's family, the victim's losses remain unaddressed.

This shows that the victim's material and immaterial losses are not adequately compensated. Because they do not know what to do or fear the repercussions, victims' families are hesitant to report the crime to the authorities, thus complicating an already difficult situation. This highlights the need to inform the public about their rights and the

legal recourse available to them in the event of a traffic accident. For victims to be able to claim their rights and obtain fair redress under the law, they must have a good understanding of the legal system.

Therefore, the author believes that the current compensation regulatory system needs to be re-evaluated. In addition, the author believes that the practice of handling traffic accident cases directly at the scene and asking the responsible party for compensation is illegal and unconstitutional.

### **3.2. Difference between Compensation and Fines in Traffic Accidents**

In the context of traffic accidents, it is crucial to understand the difference between punishment and compensation, especially in the Indonesian legal framework. When someone causes an accident and the victim suffers losses as a result of the perpetrator's illegal actions, the perpetrator may be fined or subject to criminal sanctions or other administrative sanctions. The LLAJ Law, Law No. 22/2009 on Road Traffic and Transport, regulates compensation in Articles 234 and 235.

If a person is injured due to a negligent driver, the liable party may be the driver, vehicle owner or public transport provider (Article 234, paragraph 1). The LLAJ Law states that in addition to covering material losses such as medical expenses and car repairs, immaterial losses such as pain and loss of opportunity are also covered by this compensation. The court will decide the amount of compensation, but the parties can also reach an agreement out of court.

On the other hand, traffic offences can result in fines, which are penalties imposed by law. For example, offenders whose carelessness causes an accident may be punished with imprisonment of up to twelve years or a fine of twelve million rupiah, depending on the severity of the accident and the degree of fault of the offender, as stated in Article 310 of the LLAJ Law. To keep traffic under control and deter lawbreakers, these penalties are punitive in nature. As a kind of social and legal punishment for the driver's actions, the fine has nothing to do with the actual damages suffered by the victim.

As a review, fines are a kind of punishment from the government for drivers who break the law, while compensation is a legal requirement that the perpetrator of an accident must fulfil to compensate the victim. In Indonesian law, each has a different purpose and method. Penalties are meant to punish the perpetrator and prevent similar crimes from occurring in the future, while compensation has more to do with compensating the victim.

An accident that occurred on 14 July 2023 in Baso area, Agam Regency, shows the difference between punishment and compensation in traffic regulations. This accident occurred because the driver of a fuso car was negligent and did not pay attention to road conditions when driving the fuso car, causing it to collide with a motorbike. The LLAJ Law stipulates that the negligent party must pay compensation to the victim in accordance with Article 234 of Law No. 22 Year 2009 on Road Traffic and Transport.

Medical expenses, car repairs, and intangible losses such as pain and suffering are part of this compensation package. Offenders may also be subject to fines as a form of punishment for their crimes. Those who intentionally cause accidents due to their negligence

may be subject to penalties such as fines or even imprisonment, as stated in Article 310 of the LLAJ Law. As the injuries suffered by the victim were severe and had a long-term impact on his life, the compensation of Rp. 2,000,000 received by the victim from the perpetrator's family was not enough to compensate for all the losses he suffered.

Here, the fine is a legal and social consequence intended to deter the perpetrator from making the same mistake again. Therefore, it is clear that fines and compensation are not the same thing in this situation. Fines are the government's punishment for violating the law, whereas compensation aims to compensate the loss suffered by the victim as a consequence of the offender's behaviour. In this particular accident scenario, even if the perpetrator has paid compensation, he is still not fully liable under the law as the authorities have not imposed a penalty. This highlights how both methods are crucial to ensure victims get justice and to enforce road discipline.

## CONCLUSION

An analysis of Law No. 22/2009 on Road Traffic and Transport (LLAJ Law) reveals important issues in the practical application of compensation for victims of traffic accidents. The case studies presented demonstrate a failure to address the material and immaterial losses suffered by victims due to negligence. The gap between the legal obligations outlined in Articles 234 and 235 of the LLAJ Law and the compensation received indicates a significant gap in ensuring fair compensation for victims. This requires a re-evaluation of the current regulatory system to better protect the rights and welfare of traffic accident victims.

In addition, the distinction between fines and compensation in the Indonesian legal framework is important. Fines are punitive measures imposed by the government for traffic offences, while compensation aims to compensate victims for losses suffered due to the negligence of others. The case presented underlines that the payment of a fine does not relieve the responsible party of their obligation to provide adequate compensation. Therefore, a comprehensive approach that ensures the imposition of penalties for wrongdoing and the provision of fair compensation for victims is essential to uphold justice and encourage responsible behaviour on the road. Public socialisation of legal rights and available mechanisms is essential to empower victims and facilitate effective enforcement of the LLAJ Law.

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