

Research Article

Reconstruction of the Provisions on Victims and Heirs of Road Traffic Accident Victims in the Road Traffic Accident Fund Law

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Abstract: A traffic accident is a social risk event that causes serious losses, either in the form of injury, loss of property, or death of a family member. The State provides protection through the Road Traffic Accident Fund as stipulated in Law Number 34 of 1964 and Government Regulation Number 18 of 1965. However, in practice, the regulation of the status of victims and the coverage of the heirs of the beneficiaries still raises juridical and social problems because they do not fully reflect substantive justice. This study aims to analyze the concept of victims and heirs in the applicable Road Traffic Accident Fund regulations, as well as formulate a more equitable reconstruction of the regulation. This research is normative legal research with a legislative, conceptual, and comparative approach. Analysis is carried out on positive legal norms and social realities that develop in society. The results of the study show that the definition of victim and the limitation of the coverage of heirs in the current positive law are narrow and administrative, so they are less responsive to the complexity of social relations and the economic dependence of the families of traffic accident victims. The mismatch between normative boundaries and social realities has implications for the non-achievement of the goals of social protection and substantive justice. Therefore, this study offers a reconstruction of the interpretation of the concept of victims and an expansion of the coverage of heirs that is more responsive, inclusive, and oriented towards social protection.

Keywords: Compensation; Heirs; Protection; Reconstruction; Victims.

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1. Introduction

Road traffic accidents is one of the most real and recurring social risks in the life of modern society (al-Raisūnī, 2010). This event not only causes physical and material losses, but also has a direct impact on the survival of the victim's family, especially when the accident leads to serious injury or death. In this context, the presence of the state through social protection mechanisms is a fundamental need to ensure that victims and those left behind are not left to bear the burden of risk individually (al-Raisūnī, 1995).

The State of Indonesia responds to these risks by establishing a Road Traffic Accident Fund scheme as regulated in Law Number 34 of 1964 and Government Regulation Number 18 of 1965 (Ashworth, 1998). Normatively, this regulation is intended as a social security instrument that provides compensation to traffic accident victims or their heirs. However, in practice, the regulation of the definition of victims and the scope of heirs actually raises various juridical and sociological problems that have implications for the non-fulfillment of a sense of justice for the affected parties (Esping-Andersen, 1990).

One of the fundamental problems lies in the normative construction of traffic accident victims which are still narrowly associated with the cause of the accident sourced from the means of transportation or the driver of the vehicle. The approach reflects the old paradigm that views traffic accidents as a single causal event. In fact, in the development of modern

transportation systems, traffic accidents are the result of complex interactions between humans, vehicles, roads, the environment, and traffic management governance (Fleischacker, 2004). As a result, victims who factually suffer losses due to road conditions or infrastructure failures have the potential to not receive compensation protection because they are qualified as the party causing the accident.

Similar problems also arise in the arrangement of coverage for the heirs of traffic accident victims. Government Regulation No. 18 of 1965 administratively and restrictively restricts the category of heirs, without fully considering the social relations and real economic dependence in the life of the victim's family. These restrictions cause many parties who are factually dependent on the victim to not be recognized as recipients of state compensation. This condition shows that there is a gap between the goals of social protection that are to be realized by regulations and the social reality of the protected community.

In the perspective of the modern legal state, an approach that overemphasizes administrative aspects has the potential to reduce the meaning of social protection to just a mechanism for distributing accident compensation (Freeman, 2007). When victim protection is limited by the formal construction of the cause of the accident and the narrow definition of heirs, substantive justice for victims and their families left behind becomes difficult to achieve (Fuady, 2013). Therefore, it is necessary to review conceptually and normatively the provisions of victims and heirs in the regulation of the Road Traffic Accident Fund.

Based on these problems, this article examines three main issues, namely: first, how the concept of victims and heirs of traffic accident victims is in the framework of the applicable positive law; second, why the regulation of the Road Traffic Accident Fund has the potential to cause injustice for victims and their heirs; and third, how to reconstruct the provisions of victims and heirs who are just in the perspective of John Rawls's theory of justice. This study is expected to make an academic contribution to the development of traffic accident victim protection laws that are more responsive, inclusive, and fair.

2. Theoretical Framework

John Rawls's Theory of Justice

John Rawls' theory of justice is used in this study to assess the fairness of the regulation of the Road Traffic Accident Fund, especially in determining who qualifies as victims and heirs who are entitled to receive compensation (Haddon, 1968). Rawls emphasized that justice should be placed as a basic principle in the construction of social institutions, with the main attention to the protection of the least advantaged (Abraham, 2006). In the context of traffic accidents, victims and victims' families are groups that bear social risks directly, so they should be placed as the main subjects of legal protection (Marzuki, 2017).

Rawls's principle of justice rejects an approach that relies solely on formal procedures when those procedures actually result in substantive injustice (Mertokusumo, 2007). Therefore, this theory is relevant to test whether the arrangements of victims and heirs in the regulation of the Road Traffic Accident Fund have reflected distributive justice, or have instead limited protection through administrative criteria that ignore the real losses suffered by the victims.

Progressive Law

Progressive law is used as a framework to criticize the legalistic and administrative approach in the regulation of the Road Traffic Accident Fund. Progressive law views that law does not solely aim to maintain the certainty of norms, but must serve to serve human needs and social justice. In this perspective, the law should not be detached from the social context and reality of the suffering experienced by the subject of the law (Prodjodikoro, 1983).

Progressive legal approaches are relevant to assess the extent to which the arrangements of victims and heirs of traffic accidents are still trapped in normative formalities, thus ignoring the purpose of social protection (Radbruch, 2006). Through this perspective, this study places law as a dynamic and adaptive instrument for changes in the traffic system and social structure of society.

Maqāṣid al-Syarī'ah

Maqāṣid al-syarī'ah is used as a normative framework to assess the substance of justice and benefits in the protection of traffic accident victims. The main principles of maqāṣid, in particular the protection of the soul (ḥifẓ al-nafs) and the protection of property and the survival of the family (ḥifẓ al-māl), place the safety and welfare of man as the primary objectives of the law (Rahardjo, 2009).

In the context of the Road Traffic Accident Fund, the maqāṣid approach emphasizes that the arrangement of victims and heirs should be directed towards the achievement of real

benefits, not just formal compliance with administrative provisions (Rahardjo, 2012). Therefore, *maqāṣid al-syarī'ah* is used to strengthen the argument that the protection of state compensation should be based on the factual losses and socio-economic dependencies caused by traffic accidents.

3. Research Methods

This research is a normative legal research that aims to examine and analyze the arrangements regarding victims and heirs in the Road Traffic Accident Fund (Rahardjo, 2006). The normative approach was chosen because the focus of this research lies in the evaluation of positive legal norms as well as the reconstruction of legal concepts oriented towards justice and social protection for victims of traffic accidents.

The approaches used in this study include a statutory approach and a conceptual approach (Rawls, 1971). The legislative approach is used to examine the provisions of Law Number 34 of 1964 and Government Regulation Number 18 of 1965 along with other related regulations, especially in constructing the definition of victims and heirs of compensation recipients. Meanwhile, a conceptual approach is used to analyze the concepts of justice and social protection through John Rawls' theory of justice, progressive law, and *maqāṣid al-syarī'ah*.

The legal materials used in this study consist of primary legal materials and secondary legal materials. Primary legal materials include laws and regulations governing the Road Traffic Accident Fund as well as relevant court decisions. The secondary legal materials include legal literature, scientific journals, textbooks, and the results of previous research related to victim protection, social security, and legal justice (Rawls, 1999).

The analysis of legal materials is carried out qualitatively by prescriptive and argumentative analysis methods. Prescriptive analysis is used to assess the conformity of applicable legal norms with the principles of justice and the goal of social protection, while argumentative analysis is used to formulate a more equitable reconstruction of the concept of victims and heirs. The results of the analysis are then used to offer a normative reconstruction model that is responsive to the development of modern transportation systems and the protection needs of traffic accident victims.

4. Results Of Research And Discussion

The Concept of Traffic Accident Victims in Law Number 34 of 1964

Article 4 of Law Number 34 of 1964 stipulates that compensation from the Road Traffic Accident Fund is given to victims of accidents caused by the use of road traffic transportation equipment (Rawls, 2001). The formulation implicitly establishes a causal relationship between the existence of the means of transportation as the cause of the accident and the status of a person as a victim who is entitled to compensation. This normative construction places the victim within a narrow framework of causality, so that the status of the victim is not determined by the factual loss suffered, but by an administrative assessment of the cause of the accident (Ridwan, 2018).

Such a single causality approach cannot be separated from the historical context of the formation of the law in the 1960s, when traffic accidents were perceived primarily as the result of interaction between vehicles or between vehicles and people. At that time, the transportation system had not developed in a complex manner, so road factors, infrastructure design, and traffic management had not been seen as the dominant variables causing accidents (Selznick, 1969). However, this paradigm is no longer fully relevant to the condition of modern transportation systems that are multidimensional.

In current traffic management practices, traffic accidents are the result of the interaction of various factors, including the physical condition of the road, traffic governance, the environment, and safety system failures (Sen, 2009). A number of accidents occur not solely due to the fault of the driver or means of transportation, but due to external factors that are beyond the direct control of the victim. In such a situation, the application of Article 4 of Law Number 34 of 1964 has the potential to get rid of parties who factually suffer losses from the category of victims protected by the state.

Normative constructions that link the victim's status to the cause of the accident also raise justice issues, especially when the party who is considered to be the cause of the accident is also seriously injured or dies. Factually, both the party who is considered the cause and the other parties involved both suffer real losses. However, the applicable arrangement excludes parties qualified as the cause of the accident from the victim's status, thus eliminating the right

to compensation, including medical expenses and death compensation. This approach suggests that state protection is given selectively based on normative constructions, rather than on the basis of the level of suffering or the need for social protection.

From a victim protection perspective, such an approach tends to shift the goal of social security from an effort to protect citizens from social risks to simply fulfilling administrative requirements. When the assessment of victims is determined more by the classification of the cause of the accident than the loss suffered, the essence of substantive justice is reduced (Soekanto, 2014). The state, in its position as a guarantor of social risk, should place factual harm and the need for protection as the main starting point in determining the status of victims.

Therefore, the provisions of Article 4 of Law Number 34 of 1964 need to be reviewed to be in line with the development of the modern transportation system and the principle of the rule of law oriented towards the protection of citizens' rights. The reconstruction of the concept of victims of traffic accidents should no longer be based on the causality of the means of transportation alone, but on the fact of the losses experienced due to the implementation of road traffic as a system. This approach allows for more inclusive and equitable protection for all parties affected by traffic accidents.

The Concept of Heirs of Traffic Accident Victims in Government Regulation Number 18 of 1965

Article 12 of Government Regulation Number 18 of 1965 concerning the Implementation of the Road Traffic Accident Fund, regulates the parties who are entitled to receive compensation if the victim of a road traffic accident dies. This provision introduces the concept of "heirs" in the framework of the implementation of the Road Traffic Accident Fund (Soekanto & Mamudji, 2001). However, the concept of heirs used in this regulation is not intended as an inheritance arrangement in the sense of civil law or Islamic inheritance law, but as an administrative legal instrument that functions to determine the recipient of state compensation.

Normatively, the appointment of heirs in Government Regulation Number 18 of 1965 is limitative and administrative. The arrangement aims to ensure the certainty and smooth distribution of compensation, so that the state can distribute funds quickly and measurably. In this context, the legal relationship created is not a civil relationship between the insurer and the insured as in commercial insurance, but a public legal relationship between the state and the citizen, where the state acts as a guarantor of social risk (Suharto, 2014).

Despite having a legitimate administrative purpose, the restriction of the category of heirs in Government Regulation Number 18 of 1965 raises juridical and sociological problems. In practice, the family structure and the pattern of economic dependence of the community develop dynamically and do not always align with the formally determined classification of heirs. As a result, there are parties who are factually dependent on the accident victim, but are not recognized as compensation recipients because they do not fall into the category of heirs determined by the regulations.

This condition shows that there is a tension between the certainty of administrative law and the purpose of social protection that is intended to be realized by the regulation of the Road Traffic Accident Fund (Waldron, 1999). When the criteria for heirs are rigidly defined, the state potentially fails to reach vulnerable groups who should be entitled to protection. In this context, the dominant administrative approach can shift the orientation of social protection to simply the fulfillment of the procedure for disbursing funds (WHO, 2004).

In the perspective of substantive justice, protection for victims' families should be based on the realities of economic loss and dependence, rather than solely on formal relationships defined by regulations. Restrictions on heirs that do not take into account concrete social conditions have the potential to perpetuate injustice, especially for those who are factually most affected by the death of traffic accident victims (Republic of Indonesia, 1964).

Therefore, the regulation regarding heirs in Government Regulation Number 18 of 1965 needs to be evaluated and reconstructed to be in line with the purpose of social security and the principle of the state of law oriented towards the protection of citizens. The reconstruction is directed at expanding and flexible the determination of heirs based on the level of dependency and real losses, so that the state compensation mechanism truly functions as an instrument of equitable social protection.

Reconstruction of the Concept of Victims and Heirs in a Fair Road Traffic Accident Fund

The regulation regarding victims and heirs in the Road Traffic Accident Fund as stipulated in Law Number 34 of 1964 and Government Regulation Number 18 of 1965 was basically born from the need of the state to provide social security for the risk of traffic accidents. However, the development of the transportation system and the social dynamics of the community show that the existing normative construction has not been fully able to answer the needs of victim protection in a fair and inclusive manner (Republic of Indonesia, 2009). Therefore, a conceptual and normative reconstruction is needed that places victim protection as the main orientation of legal policy.

The first reconstruction was directed at the concept of traffic accident victims. The status of the victim should no longer be determined narrowly based on the causal relationship between the means of transportation and the accident event, but based on the fact of the losses suffered due to the implementation of road traffic as a system. With this approach, anyone who suffers physical loss or dies due to traffic system failures whether sourced from drivers, vehicles, roads, the environment, or governance can be recognized as a victim who is entitled to state compensation protection. The approach reflects a more responsive protection against the complexity of modern traffic risks.

The second reconstruction is related to the arrangement of the heirs of traffic accident victims. The determination of heirs should not be based solely on rigid administrative classifications, but rather on taking into account the realities of economic and social dependence on the victim. The state needs to open up a measurable administrative discretion space for the implementers of the Road Traffic Accident Fund to assess the factual relationship between the victim and the left party. Thus, parties who have actually lost their source of livelihood due to traffic accidents still receive protection, even if they do not fully meet the formal category of heirs as specified in the applicable regulations (Republic of Indonesia, 1965).

From the perspective of justice theory, the reconstruction is in line with the principle of protection for the group most disadvantaged by social risks. State social security schemes are supposed to be designed to ensure that the burden of risk is not disproportionately borne by the individual or family of the victim. When law provides a wider space of protection for those most affected, the goal of substantive justice in the modern legal state can be more effectively realized.

This reconstruction is not intended to negate legal certainty, but rather to balance administrative certainty with social justice. Legal certainty is still needed so that the compensation mechanism runs effectively and accountably, but normative flexibility is important so that the law is not separated from the social reality it protects. Thus, the Road Traffic Accident Fund law can function optimally as a social protection instrument, not just an administrative mechanism for distributing funds.

Through the reconstruction of the concept of victims and heirs that is oriented towards factual losses and real dependencies, the regulation of the Road Traffic Accident Fund is expected to be able to provide fairer and more inclusive protection for all citizens. This approach reaffirms the state's role as a responsible guarantor of social risk, while strengthening the legitimacy of the law in responding to people's demands for justice.

5. Conclusion

The regulation of the Road Traffic Accident Fund as stipulated in Law Number 34 of 1964 and Government Regulation Number 18 of 1965 is basically a form of state presence in ensuring social risks due to traffic accidents. However, the results of the study show that normative constructions regarding victims and heirs are still built on the old paradigm that emphasizes the causality of means of transport and administrative restrictions, so that it does not fully reflect the complexity of modern traffic systems and the social realities of society.

The concept of traffic accident victims being narrowly associated with the cause of the accident has the potential to get rid of parties who actually suffer losses due to the failure of the road traffic system. Such an approach led to state protection being more oriented to administrative classification than to real social protection needs. Similarly, the arrangement of heirs in Government Regulation Number 18 of 1965 which is limitative in nature has not been fully able to reach those parties who are factually economically and socially dependent on traffic accident victims.

The reconstruction of the concept of victims and heirs proposed in this article places factual losses and dependency levels as the main basis for state compensation protection. The approach aims to balance administrative legal certainty with substantive justice, so that the Road Traffic Accident Fund can function optimally as a social protection instrument. Thus, the law not only serves as a mechanism for distributing funds, but also as a means to realize justice for victims and affected families.

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