

Legal Responsibility of Defendants in Traffic Accident Crimes That Result in Death

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Abstract. *The aim of this research is to determine the element of negligence in traffic accident cases in decision No. 271/pid.sus/2019/PN.Tgn. To find out the application of criminal sanctions in decision No. 271/Pid.Sus/2019/PN.Tgn. In accordance with article 310 of Law No. 22 of 2009 concerning traffic accidents and road transportation. Research methods include a normative legal qualitative approach. The data collection technique is through field observation observing events at the research location. Direct in-depth interviews with respondents. Literacy studies in the form of archives and siding records. Conclusion Liability in the element of negligence in traffic accidents. So it was decided with No. 271/Pid.Sus/2019/PN.Tgn. In accordance with sufficient evidence. As evidence for witness statements, expert witnesses, and defendant statements in the investigation of suspects. The application of criminal sanctions in cases of negligence in traffic accidents is based on Law Number 22 of 2009 concerning Road Traffic and Transportation.*

Keywords: *Legal Liability, Defendant, Crime, Traffic Accident*

INTRODUCTION

Of the various types of transportation available, such as sea, air and land transportation, land transportation is the dominant form of transportation used by the community. This is because land transportation facilities better support the mobility of people and goods. Land transportation facilities play a very important role in facilitating development and improving community welfare.

Law on Road Traffic and Transport Number 22 of 2009 has brought important changes to the regulation of the national transportation system for road traffic and transport in Indonesia. This Law on Road Traffic and Transportation is guidance in the field of traffic and road transportation which is implemented jointly by all relevant agencies in accordance with their main tasks and functions. The increase in motorized vehicles should increase the awareness of motorized vehicle users both in terms of safety and traffic order, but what is happening here is that many drivers are disobeying traffic rules.

Road users - often act as they please and ignore applicable regulatory signs, especially traffic regulations, which road users regulate in the Road Traffic and Transport Law Number 22 of 2009. Motorized vehicle users often ignore these regulations, resulting in many accidents

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occurring, resulting in minor injuries, serious injuries, even fatalities. In traffic, it is also known that there is intent and negligence. In most formulations of criminal acts, the element of intent or what is called *opzet* is one of the most important elements. In relation to this element of intention, if in a criminal act formulation there is an act on purpose or what is usually called *opzettelijk*, then this element of intention dominates and includes all the other elements placed behind it and must be proven.

Apart from the intentional element above, there is also what is called the element of negligence or negligence or *culpa*. In criminal law doctrine, it is called unconscious negligence or *onbewuste schuld* and conscious negligence or *bewuste schuld*. Where in this element the most important factor is that the perpetrator can suspect the consequences of the action or the perpetrator is not careful. The most important element in *culpa* (negligence) is that the perpetrator has awareness or knowledge that the perpetrator should be able to imagine that the consequences of his actions will result in consequences that can be punished and prohibited by law.

The Road Traffic and Transportation Law in Article 310 can be concluded that if the driver's negligence or carelessness results in another person being injured or dying, the criminal threat is stated very clearly as regulated in the article above. Even though the Road Traffic and Transportation Law has been implemented up to now, it cannot be denied that the number of accidents still occurs. With so many cases of accidents on the road - at least it can illustrate the lack of legal awareness for motor vehicle drivers. Because there are still many people who drive disorderly and obey traffic signs.

The accident case that the author used as a study in this research is the accident case that occurred on Jalan Lio 3, Tangerang City on Wednesday, December 19 2018, because of the accident the victim was injured and died at the scene, so case No. Case: 271/Pid.Sus/2019/PN.Tgn criminal act of driving a motorized vehicle which due to negligence causes another person to die, according to the judge's decision, charged under Article 310 paragraph (4) of Law Number 22 of 2009 concerning Road Traffic and Transportation . In this article, the perpetrator can be subject to a maximum sentence of 6 years and a fine of 12,000,000.00 (twelve million rupiah) but the panel of judges at the Tangerang District Court only sentenced him to prison for five (5) months.

RESEARCH METHODS

The type of research method used in this research is normative legal research. Normative legal research is a research procedure to find the truth based on the logic of legal science from the normative side.

Normative research always takes issues from law as a system of norms used to provide a justified perspective on a legal event. This research was conducted with the aim of providing legal arguments as a basis for determining whether an event is right or wrong and how otherwise the event is according to the law.

1.1. Data Source

The data used in normative legal research is secondary data obtained from literature studies. So in normative legal research which includes secondary data, namely:

- a. Primary legal materials, namely legal materials that are binding to the problems and research objectives, consisting of: 1. Criminal Code (KUHP); 2. UU No.22 of 2009 concerning Road Traffic and Transportation; 3. Law no. 4 of 2004 jo. UU no. 48 of 2009 concerning the Power of Justice. Tangerang District Court Decision No.271/Pid.Sus/2019/PN.Tgn.
- b. Secondary legal materials, namely legal materials that provide explanations of primary legal materials, such as books, papers, the internet, research results, legal journals, draft laws, works from legal experts, and other documents. . c. Tertiary legal materials, namely legal materials that provide instructions and explanations for primary and secondary legal materials, include the Law Dictionary, the Big Indonesian Dictionary, the English Dictionary and the Encyclopedia.

1.2. Data Collection Techniques

The data collection method used in this research is field research, namely research carried out using data collection techniques through direct interviews with related parties, in this case the judges and clerks who handle cases related to this writing, library research (library research) namely research carried out to collect a number of data from various existing literature related to the problem being studied.

1.3. Data Analysis

The data processing method used in this research is qualitative analysis, namely by studying and analyzing secondary data that is relevant to the research topic. It is hoped that this activity will make it easier to analyze the problems to be discussed, interpret them and then draw conclusions. Legislative regulations are analyzed qualitatively using logical thinking to draw conclusions deductively, which in the end can answer the problems of this research.

2. Results and Discussion

2.1. The element of negligence in traffic accident cases in decision no. 271/pid.sus/2019/PN.Tgn

On Wednesday 19 December 2018 at around 15.30 Heni was located on Jl. Lio 3, Tangerang City, victim Babay driving a truck together with witness Mat. Dahlan, was about to return home on Jl. Serang - Tangerang via Jl. Lio 3 Tangerang on the way saw witness Dony while repairing his car, then witness Mat. Dahlan told the victim to stop the car and park some distance ahead. Then witness Matt. Dahlan and witness Dony got into the fudo truck with the front left rear wheel, while Dony was working on the axle block of his car in the bottom center and the victim got under the fuso truck, precisely in front of the right rear wheel.

Suddenly a dump truck driven by the defendant, who was sleepy, appeared and immediately hit the Fuso truck from behind, causing the Fuso truck to be pushed forward about 15 (fifteen) meters while the victim was still under the Fuso truck. The victim ended up suffering injuries. -injured and died at the scene as stated in death certificate Number: 474/06/KET-MT/KKR/XII/2018 dated 20 December in the name of Babay, which was made and signed by the village head of Suryati, SE

2.2. Case Position

That as a result of the accident the victim BABAY suffered injuries and died as per the results of the Visum et Repertum: VeR: 800.43/ 38 XII 2018 which was made and signed by Dr Dery Dion M. :

- a. An examination was carried out on the victim Babay, a man with a medical record number of two five eight three seven eight on Wednesday, the nineteenth of December two thousand and eighteen, at twenty-two minutes past seventeen Indonesian time, at the location In the emergency room at the Tangerang City Regional General Hospital, the results of the examination found blood coming out of the nose and left ear, abrasions on the right waist and left knee due to very strong blunt force trauma.
- b. The cause of death of the victim cannot be determined without an autopsy but bleeding from the head cannot be ruled out as the cause of death.

Restricting the elements of criminal acts is a limitative step in order to obtain clarity regarding the meaning of criminal acts. This is important considering that criminal acts will be directly related to criminal liability. If a person has committed a criminal act, it is not certain that he can be punished because it remains to be seen whether the person can be blamed for the act he has committed so that the person can be held accountable under criminal law. It can be interpreted that someone can be sentenced to a crime, then the person not only has committed a criminal act, but there is also an element of error in his actions and also a perpetrator of the criminal act has fulfilled the elements of capacity for responsibility.

2.3. Elements in the case

Ad.1. Everyone's Element; Considering that the meaning of "everyone" here is any person or legal subject who commits a criminal act and can be held responsible for his or her actions. Considering that the defendant Herman Dg Sujai alias Bombang Dg Sujai who was presented in this trial based on the facts revealed in the trial obtained from the statements of witnesses, documentary evidence, evidence and the defendant's own statement which confirmed his identity in the Public Prosecutor's indictment, the defendant is presented in This case concerns Herman Dg Sujai alias Bombang Dg Sujai as a human being who can take responsibility for his actions.

Based on the facts above, the element "every person" has been proven legally and convincingly according to the law.

Ad.2. Elements of Driving a Motorized Vehicle Due to Negligence Considering that from the examination at trial of the statements of witnesses, letters, instructions and statements of

the defendant as well as evidence presented at trial, the following legal facts were obtained: That at the time and place as stated above, it began on Wednesday December 19 2018 At around 15.30 Heni is located on Jl. Lio 3, Tangerang City, victim Babay driving a truck together with witness Mat. Dahlan, was about to return home on Jl. Serang - Tangerang via Jl. Lio 3 Tangerang on the way saw witness DONY while repairing his car, then witness Mat. Dahlan told the victim to stop the car and park some distance ahead. Then witness Matt. Dahlan and witness Dony got into the fudo truck in front of the left rear wheel, while Dony worked on the axle block of his car in the bottom center and the victim got under the fuso truck, precisely in front of the right rear wheel. Suddenly a dump truck driven by the defendant, who was sleepy, appeared and immediately hit the Fuso truck from behind, causing the Fuso truck to be pushed forward about 15 (fifteen) meters while the victim was still under the Fuso truck. The victim ended up suffering injuries. -injured and died at the scene as stated in death certificate Number: 474/06/KET-MT/KKR/XII/2018 dated 20 December in the name of Babay which was made and signed by the village head. Based on the facts above, the element of driving a motorized vehicle due to negligence has been legally and convincingly proven according to the law.

Ad.3. Elements that cause another person to die What is meant by death here is. The death of the person here was not intended at all by the defendant; - The death was the result of the defendant's carelessness and negligence; Based on the definition above, it is related to the victim's death as follows: Conclusion: The above situation is thought to be caused by very strong blunt force trauma which resulted in the victim's death. And the death certificate from the Tangerang City Regional Hospital. Based on the facts above, the resulting elements are Number: 474/06/KETMT/KKR/XII/2018 dated 20 December in the name of Babay, which was made and signed by the village head.

2.4. Application of Criminal Sanctions in Decision No.271/pid.sus/2019/PN.Tgn

In Decision Number 271/pid.sus/2019/PN.Tgn the defendant was charged with cumulative subsidiarity as follows, namely, First: Primair: Article 310 paragraph (4) Republic of Indonesia Law No.22 of 2009 concerning Road Traffic and Transportation, Subsidiary: Article 310 paragraph (3) of the Republic of Indonesia Law of 2009 concerning Road Traffic and Transportation, By looking at several of these facts regarding the criminal act committed by Herman Dg Sujai alias Bombang Dg Sujai which then refers to the judge's legal

considerations along with the results of the analysis above then The compiler is of the opinion that the judge's decision in case Decision number 271/pid.sus/2019/PN.Tgn.

The defendant was correct and in accordance with procedures in enforcing criminal law, starting with the stage of detailing the locus and tempus or the place and time of the criminal act obtained from the position case, after which the prosecutor carefully carried out the indictment with subsidy to the defendant with the imposition of Article 310 paragraph 4, Law Number 22 of 2009 concerning Road Traffic and Transportation. Regarding the considerations of the Panel of Judges at the Tangerang District Court, the defendant who has committed a criminal act of negligence will first be studied and considered by the Panel of Judges as to whether the actions for which the defendant is charged fulfills the elements of Article 310 paragraph (4) of the LLAJ Law for which he has been charged. .

2.5. Public Prosecutor's Indictment

The contents of the public prosecutor's indictment regarding the criminal act of traffic negligence committed by the defendant Herman DG Sujai alias Bambang DG Sujai which was read out at the trial before the Pinrang District Court Judge, basically said the following:

That the defendant Herman DG Sujai alias Bambang DG Sujai started when on Wednesday 19 December 2018 at around 15.30 Heni was located on Jl. Lio 3, Tangerang City, victim Babay driving a truck together with witness Mat Dahlan, was going home on Jl. Serang - Tangerang via Jl. Lio 3 Tangerang on the way saw witness Dony while he was repairing his car, then witness Mat Dahlan told the victim to stop the car and park some distance ahead. Then witness Mat Dahlan and witness Dony got into the fudo truck with the front left rear wheel, while Dony worked on the axle block of his car in the bottom center and the victim got under the fuso truck, precisely in front of the right rear wheel.

Suddenly a dump truck driven by the defendant, who was sleepy, appeared and immediately hit the Fuso truck from behind, causing the Fuso truck to be pushed forward about 15 (fifteen) meters while the victim was still under the Fuso truck. The victim ended up suffering injuries. -injured and died at the scene as stated in death certificate Number: 474/06/Ket-MT/KKR/XII/2018 dated December 20 in the name of Babay, which was made and signed by the village head of Serang - Suryati.

That as a result of the accident, the victim Babay suffered injuries and died as per the results of the Visum et Repertum: VeR: 800.43/ 38 Inspection. An examination was carried out on the victim Babay, Lakilaki with medical record number two five eight three seven eight on Wednesday, the nineteenth of December two thousand and eighteen, at twenty-two minutes past seventeen Indonesian central time, at the emergency room. Tangerang City Regional General Hospital, the results of the examination found blood coming out of the nose and left ear, abrasions on the right waist and left knee due to very strong blunt force trauma.

The cause of death of the victim cannot be determined without an autopsy but bleeding from the head cannot be ruled out as the cause of death. Considering that to prove his charges, the public prosecutor has presented several witnesses, evidence and evidence to strengthen his charges.

2.6. Witness Statements

Dony Bin Rekkeng Under oath which basically explains as follows: That it is true that on Wednesday 19 December 2018 at around 15.30 Heni located on Jalan Lio 3, Tangerang City, a traffic accident occurred between an orange Mitsubishi Dumper truck Fuso and a Fuso Truck. .

It is true that before the traffic accident occurred, the witness from Gudang Sarana Sinar Sulawesi (SSS) at around 15.15 Heni, when leaving the warehouse, the witness heard a sound at the bottom of the car, so the witness parked the truck on the side of the road in front of the warehouse. Next, the machine went down to check the source of the sound, it turned out that one of the axle block bolts was loose near the axle.

Suddenly, Dahlan's friend and his friend came, but the witness did not know him, and asked about the damage to the witness' car. The witness' position at that time was under the truck, precisely near the axle, Dahlan's position on the left was under the car, precisely in front of the left rear tire/wheel, while the victim was under the truck, precisely in front of the right rear tire. Suddenly the truck, which was in good condition, was hit from behind and a loud crash was heard, causing it to be pushed forward about 15 (fifteen) meters.

When the witness' truck was pushed forward, the witness's clothes got caught in the axle bolts so that the witness was dragged forward along with the witness' truck. After the truck stopped, the witness came out from under it and when the witness walked to the back, the witness saw the victim lying on the road on his side and already dead. The witness heard from

security that the dump truck driver was sleepy; - I didn't see any warning signs or caution lights on on the parked Fuso truck. As a result of the traffic accident, the Fuso truck that was parked was damaged in the right rear bed, the Fuso dump truck was damaged in the left dump/bed, the left rear view mirror came off while the injuries suffered by the victim BABAY were dented in the head, bruised left knee, left and right back. abrasions, and died at the scene;

Matt. Dahlan Bin Mat. Najim. It is true that on Wednesday 19 December 2018 at approximately 15.30 Heni was at Jl. Lio 3, Tangerang city, there was a traffic accident which resulted in the death of victim Babay. It is true that at the time of the traffic accident the witness was with the owner of the parked Fuso truck, witness Dony and the victim lkbal. It is true that before the accident the Dumper truck was moving from south to north, while the Fuso parker truck was facing north and the victim's position was under the car, precisely in front of the right rear wheel/tyre. Whereas it is true that immediately before the traffic accident occurred, the conditions were clear after raining on the paved block road, while the traffic situation was still quiet;

It is true that before the traffic accident occurred, the witness was in the same car as the victim, who was driving the car at that time. The plan is to return home to Jl. Serang - Tangerang via Jl. Lio 3 Tangerang and while at Jl. Lio 3 Tangerang, the witness saw DONY while repairing his car, so the witness told the victim to stop and told the parker to move forward. Next, the witness and Dony were under the Fuso truck in front of the left rear wheel, while Dony was working on the axle block of the car in the bottom center and the victim was under the Fuso truck, precisely in front of the right rear wheel. Not long after, the witness heard a loud crash and the Fuso truck was pushed forward about 10 (ten) meters so that the witness jumped out from under the car until the witness hit his head on the bed of the Fuso 100 truck. Next, the witness immediately stood up and saw the victim lying down and dead in the back of the Fuso truck which had been pushed forward. The witness heard from residents who said the driver was sleepy based on the confession of the Dumper truck driver;

It is true that what he said was that the witness did not see it directly, but the witness saw the trace of the case, namely the rear right bed of the Fuso truck which was parked with the left dump/bed of the Fuso dump truck. Meanwhile, the victim, witness, did not know what he came into contact with because the witness was positioned to the left of the parked Fuso truck. That it is true that the accident and incident of the traffic accident was that the Fuso truck that was parked was damaged in the rear right dump truck, the Fuso dump truck was damaged in the left

dump/bed, the rear view mirror came off while the injuries suffered by the victim were dented in the head, scratched on the left knee, his left and right back were injured and he died at the scene;

Considering, furthermore, the Defendant's statement at the trial was also heard which was basically as follows: That is true, on Wednesday 19 December 2018 at around 15.30 Heni was at Jl. Lio 3 Tangerang there was a traffic accident between dumper truck No. Reg. 9016 TYW driven by the defendant hit an expedition truck parked on the side of road no. reg. the defendant did not memorize it. It is true that before the accident the dump truck that the defendant was driving was moving from south to north on Jalan Lio 3 Tangerang, while the expedition truck was parked on the side of the road facing north. It is true that before the traffic accident occurred the speed of the Defendant's vehicle was around 40 km/hour, using 4 (four) gear.

It is true that immediately before the traffic accident occurred, the weather was sunny and the road was paved with blocks, while the traffic situation was still quiet. It is true that shortly before the accident the defendant saw the expedition truck parked at around 10 (ten) meters away and the defendant did not see any warning signs or the expedition truck's caution lights were not on. It is true that before the traffic accident occurred at around 14.00 Heni, the defendant left Bii-bili Kab. Gowa plans to go to Lio 20 to unload cargo. On Jalan Lio 3 the defendant did not see the expedition truck while it was parked and then, whether he was conscious or not (falling asleep) because he was working last night until morning, then when the sound of the collision the defendant swerved to the right and the defendant saw the parked expedition car being pushed forward and the defendant parked next to the expedition car and got out of the car, after getting out of the car the defendant saw the victim Iaki-Iaki lying on the road on his side and already dead.

That what he said was true, namely the left side of the dump/bed of the car the suspect was driving, in relation to the right rear bed of the expedition truck which was parked. Meanwhile, the defendant's male victim did not know where he was hit, but the defendant saw the victim lying on the road behind the Parkei expedition truck. That it is true that as a result of the accident the car the defendant was driving was damaged in the dump/tub on the left corner of the leak and the left rear view mirror was removed from the expedition truck damaged on the rear right side of the tub, it was bent, while the male victim, the defendant did not know in which part but at the time the defendant saw the victim lying on the road already dead. It is

true that shortly before the accident the accident occurred, the physical condition was tired, tired, sleepy and had fallen asleep.

2.7. Documentary Evidence The evidence presented before the trial is in the form of

Visum Et Repertum VeR: 800.43/ 38 XII 2018 from Tangerang City Regional Hospital for victim Babay. Death Certificate from December 19, 2018 for victim Babay.

2.8. Based Instructions

Based on Article 188 paragraph (1) of the Criminal Procedure Code, what is meant by Instruction is an act, event or situation which, because of its correspondence, either with one another or with the criminal act itself, indicates that a criminal act has occurred and who the perpetrator is. Furthermore, paragraph (2) states that instructions can only be obtained from: - Statements from witnesses, letters, statements from the defendant

Based on the above understanding, in connection with the facts revealed at trial, whether outlined from the statements of witnesses or letters and the defendant's statement, it can be found that there is a match between one another so that an indication is obtained that on the day . Wednesday 19 December 2018 around 104 at 15.30 Heni is located on Jl. Lio 3 Tangerang City. There was a traffic accident between Mitsubishi dumper truck No. B 9016 and Mitsubishi Fuso truck No. DD 8704 At that time the victim was Babay. driving the truck together with witness Mat. Dahlan, was about to return home on Jl. Serang - Tangerang via Jl. Lio 3 Tangerang on the way saw witness Dony while he was repairing his car, then witness Mat Dahlan told the victim to stop the car and park some distance ahead.

Then witness Mat Dahlan and witness Dony got into the fudo truck in front of the left rear wheel, while Dony worked on the axle block of his car in the bottom center and the victim got under the fuso truck, precisely in front of the right rear wheel. Suddenly a dump truck driven by the defendant, who was sleepy, appeared and immediately hit the Fuso truck from behind, causing the Fuso truck to be pushed forward about 15 (fifteen) meters while the victim was still under the Fuso truck. The victim ended up suffering injuries. -Injured and died at the scene.

2.9. Defendant's statement

The defendant Herman Dg Sujai alias Bombang Dg Sujai in front of the court basically said the following. That it is true that on Wednesday 19 December 2018 at around 15.30 Heni on Jalan Lio 3 Tangerang there was a traffic accident between dumper truck No. Reg. 9016 TYW driven by the defendant hit an expedition truck parked on the side of road no. reg. the defendant did not memorize it;

It is true that the traffic accident was around 40 km/hour, using 4 (four) gear. It is true that the traffic accident occurred when the witness was in the same car as the victim. who was driving the car at the time was the victim. Plan to return home to Jl. Serang - Tangerang via Jl. Lio 3 Tangerang and while at Jl. Lio 3 Tangerang, the witness saw DONY while repairing his car, so the witness told the victim to stop and told him to park a little further forward.

Next, the witness and Dony were under the front of the Fuso truck, the left rear wheel, while Dony was working on the axle block of the car in the bottom center and the victim was under the Fuso truck, precisely in front of the right rear wheel. Not long after, the witness heard a loud crash and the Fuso truck was pushed forward about 10 (ten) meters so that the witness jumped out from under the car until the witness hit his head on the bed of the Fuso 106 truck. Next, the witness immediately stood up and saw the victim lying and dead behind the Fuso truck which was being pushed forward.

The witness heard from residents who said the driver was sleepy based on the confession of the Dumper truck driver. It is true that as a result of the accident the car the defendant was driving was damaged in the dump/tub next to the corner and the left side mirror was loose, the expedition truck was damaged in the rear right side of the tub, it was bent, while the SS male victim, the defendant did not know in which part but at the time the defendant saw the victim lying on the road already dead.

2.10. Evidence

The evidence presented before the trial was in the form of: - 1 (one) Mitsubishi Dumper Truck No.B 9016 TWV. 1 (one) Fuso Mitsubishi Truck No. DD 8704 LC. Mitsubishi Dumper Truck Car STNK. 1 (one) BII General Driver's License. Conclusion: From the results of the investigation, the defendant's actions have been legally and convincingly proven to fulfill the formulation of the criminal act charged in Article 310 paragraph (4) of Republic of Indonesia Law No. 22 of 2009

2.11. Public Prosecutor's Demands

Based on the description referred to above, and based on the provisions of the applicable legislation relating to this case, the Public Prosecutor at the Tangerang District Prosecutor's Office demands that the decision regarding the defendant be as follows:

- a. Stated that the Defendant Herman Dg. Sujai Alias Bombang Dg. Sujai, has been proven legally convincingly guilty of committing a criminal act "Because his negligence resulted in the death of another person.
- b. Sentencing the defendant Herman Dg. Sujai alias Bombang Dg. Sujai, with a prison sentence of 5 (five) months.
- c. Determines that the period of detention that the Defendant has served shall be deducted entirely from the sentence imposed
- d. Determine that the Defendant remains in custody
- e. Ordered evidence in the form of: - 1 (one) Mitsubishi Dumper Truck No.B 9016 TWV; - 1 (one) Fuso Mitsubishi Truck No. DD 8704 LC ; - Mitsubishi Dumper Truck STNK; - 1 (one) BII General Driver's License with the name Herman DG. Sujai Returned to its owner
- f. The defendant is charged with paying court costs of IDR 2,000 (two thousand rupiah).

Considering, that before the Panel of Judges imposes a sentence commensurate with the Defendant's actions, it is appropriate to consider the aggravating factors and mitigating factors for the Defendant, namely:

- a. Aggravating factors: The defendant's actions resulted in the death of another person (victim);
- b. Mitigating circumstances: The defendant admitted openly and regretted his actions: The defendant has never been convicted. The defendant made peace and provided compensation/condolence money to the victim's family. The defendant has family responsibilities.

Considering, that while the Defendant is in temporary detention the entire sentence and the sentence imposed will be reduced; Considering that the evidence in this case will be set out

in the decision below; Considering, that as part of the guilty party, the Defendant is also punished to pay the costs of this case. which will be determined in the decision below. Because the defendant must be declared to be able to take responsibility for his actions, for this reason, the Panel of Judges in handing down the defendant's sentence must first consider the aggravating and mitigating factors for the defendant as well as the reasons that could release the defendant from detention. After examining all the facts revealed at trial, the Panel of Judges deliberated and a decision was made stating that the defendant had been legally and convincingly proven to have committed a criminal act of negligence which caused the loss of another person's life as stated in the decision of the Tangerang District Court in Case Number. 271/Pid.Sus/2019/PN.Tgn

2.12. Announcement of Decision

Based on its decision, the panel of judges stated that the defendant was proven guilty and decided:

- a. Stated that the Defendant Herman Dg. Sujai Alias Bombang Dg. Sujai, has been proven legally convincingly guilty of committing a criminal act "Because his negligence resulted in the death of another person"
- b. Sentencing the defendant Herman Dg. Sujai alias Bombang Dg. Sujai, with a prison sentence of 5 (five) months
- c. Determines that the period of detention that the Defendant has served shall be deducted entirely from the sentence imposed
- d. Determine that the Defendant remains in custody
- e. Order evidence in the form of:- (one) Mitsubishi Dumper Truck Unit No.B 9016 TWV; - (one) Fuso Mitsubishi Truck Unit No. DD 8704 LC ; - Mitsubishi Dumper Truck STNK; - (one) BII General Driver's License sheet with the name Herman DG. Sujai Returned to its owner;
- f. The defendant is charged with paying court costs of IDR 2,000 (two thousand rupiah).

Based on the provisions of Article 310 of Law Number 22 of 2009 concerning Road Traffic and Transportation, it can be seen that if a traffic accident occurs which causes another person to die, the perpetrator can be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 12 ,000,000.00 (twelve million rupiah). The fine referred to in

this article is not the amount of compensation obtained by the victim's family/heirs, but rather a fine as a criminal sanction that must be paid to the state, in this case represented by the court, as punishment for certain criminal acts. To know that someone can be held responsible for their actions according to criminal law, authorities must assess several things.

First, he must determine that the perpetrator of the criminal act is a normal person capable of being responsible. Then it is proven that the perpetrator committed the act with a mistake (intentional or careless) and finally the perpetrator has no forgiving reason to erase his mistake. Traffic accidents occur due to several things. Law Number 22 of 2009 concerning Road Traffic and Transportation in Article 229 paragraph (5) explains that traffic accidents can be caused by road user negligence, vehicle unfitness, as well as road and/or environmental unfitness.

Accidents are caused by negligence of road users, in other words the accident is a human factor. There are many forms of human negligence that can result in traffic accidents, including driver drowsiness, lack of concentration, and also lack of control of the vehicle. However, there are also quite a few people who are physically ready and in control of their vehicles, but commit several traffic violations, which is also one of the causes of traffic accidents.

Indonesia, which adheres to positive criminal law, recognizes that criminal acts committed by anyone are absolutely responsible, because criminal acts have clearly caused widespread losses, so the consequences require retaliation in the form of punitive sanctions. The principle of guilt, namely that a person is not punished if he has no fault. This principle emphasizes that only someone who has made a mistake can be held criminally responsible for their actions. Criminal acts in traffic accident cases are usually not the same as criminal acts in general. This is because traffic accident crimes are generally caused by negligence or carelessness on the part of the perpetrator which results in serious injuries to the victim and it is not uncommon for some to die.

More precisely, the judge must seek information from fact witnesses or witnesses who saw the accident directly at the scene of the crime, however, if the defendant's statement says that I was on the telephone by my neighbor, sir, he said my nephew was hit, he said he didn't see it directly, but he did. yes, but who guarantees that the defendant is honest, who guarantees that only God knows, for that he has the right to deny, deny, defend himself, for that reason he was not sworn in, and why must he be sworn in, indeed the oath is according to religious law it is cursed, but according to the law, if a person is declared to swear an oath and he lies, there is a threat, don't let the defendant already have a threat of punishment in a traffic accident case,

the burden is added because he swears and lies, if the witness lies then there is a threat of a maximum sentence of 7 year.

It is unwise and unprofessional if the weight of the quality of the information is dominated by the defendant's statement, why is the defendant's statement at the back because it is only subjective, whether it can support the objectivity of the testimony of fact witnesses and experts, and the expert provides information through the results of the *Adrevertum fisum* (letter). and why is the defendant's statement at number 5 because it doesn't need too much quality? So the point is that it is true that the defendant's statement is 1 of the 5 valid pieces of evidence.

CONCLUSIONS AND SUGGESTIONS

2.13. Conclusion

From the description of the problem that has been put forward in the discussion, both based on theory and based on data decided at the Tangerang District Court, the following conclusions can be drawn:

- a. The element of negligence in traffic accident cases, in decision no. 271/Pid.Sus/2019/PN.Tgn. Based on adequate evidence. The evidence is statements from witnesses, experts, letters, instructions and the defendant's statement, which during the investigation is still the suspect's statement. Based on the information from the suspect from the case discussed, if it is connected with other evidence, it can be concluded that the suspect has fulfilled the elements of negligence which caused a traffic accident and resulted in the victim's death.
- b. Application of criminal sanctions in cases of traffic and road transportation accidents based on Law Number 22 of 2009 concerning Road Traffic and Transportation. The perpetrator who caused the victim to die is subject to Article 310 paragraph (4) of Law Number 22 of 2009. In Article 310 paragraph (4) the perpetrator is punished with a maximum imprisonment of 6 (six) years or a maximum fine of IDR 12,000,000. 00 (twelve million rupiah). However, the drivers who were negligent and caused the victim to die only received a sentence of 5 months, and without the fines contained in the Tangerang district court decision.

2.14. Suggestion

Based on the discussion and conclusions that have been decided at the Tangerang district court, suggestions can be made as follows:

- a. Law enforcement officers need to be alert, starting from investigators, public prosecutors and judges, in deciding cases, first considering the impact of the actions of a person who commits a criminal act.
- b. Law enforcement officials and the judiciary in Indonesia must be bolder in punishing defendants with heavier sentences in order to have a deterrent effect on defendants who commit criminal acts against the law and result in the death of other people.

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