



Research Paper

## Traffic Crimes Due to Driver Violations

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**ABSTRAK:** Traffic accidents are common cases that are usually caused by failures that occur in traffic jams. The most dominant cause of traffic accidents is human failure. If someone is negligent in driving and causes a traffic accident, it will be filed as a criminal case. However, in the trial process, people are often prosecuted for accidents, with light sanctions and not in accordance with statutory regulations. This research aims to analyze the form of driver responsibility in stressful conditions that cause accidents in Case Number 104/Pid.Sus/2022/PN Gpr and analyze the judge's considerations in deciding cases involving criminal traffic accidents in accordance with the Decision on Case Number 104/Pid. Sus/ 2022/PN Gpr. This research design is descriptive qualitative with normative legal research. Legal studies research approach (Statue Approach) with qualitative descriptive data types. The source of legal material comes from laws and regulations related to traffic accidents. Analysis of legal materials uses descriptive techniques. The results of the study state that the responsibility for negligent traffic accident perpetrators is in the form of imprisonment and/or a fine of at least 6 years and/or a maximum fine of IDR 12,000,000.00. Then the judge's considerations in the decision of Court Case No. Imprisonment and/or a fine of a minimum of 6 years and/or a fine of a maximum of IDR 12,000,000.00 will be given.

**kata kunci s:** Traffic Accidents, Negligence, Liability

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### I. INTRODUCTION

Indonesia is a legal state based on Pancasila and the 1945 Constitution as the basis of state law which upholds human rights and the protection of citizens. In Indonesia itself, negligence in using traffic is often found in everyday life which results in traffic accidents. Apart from that, the level of understanding of traffic signs and the lack of discipline and manners in driving are matters that require special attention from the public and local police. One manifestation of this legal basis includes law enforcement in the field of road traffic where it is promulgated. Negligence that occurs in traffic, the biggest driving factor is human factors that are less adept at driving, exceeding the maximum speed limit, or holding back sleep while driving, causing accidents to other motorized vehicle drivers. Law Number 22 of 2009 concerning Traffic and Transportation Roads that contain regulations for motorized vehicle drivers [1]. The enactment of Law Number 22 of 2009 ensures that road traffic and transportation have a strategic role in developing national development and integration so that they can support efforts to advance general welfare. [2]

Carelessness committed by motor vehicle drivers will result in losses resulting in injuries and even death [3]. Carelessness or negligence (culpa) is a lack of attention to an object, whether consciously or not, which results in careless behavior. Explanatory memory (Memorie van Toelichting) places negligence between intentional and accidental, where when someone commits negligence in the form of a crime, he intentionally uses his abilities incorrectly. However, if someone commits a crime due to negligence, then that person does not use his abilities even though he should be able to use them [4]

The accident that occurred in Kediri Regency was also caused by the driver's negligence because he was driving a motorized vehicle while drowsy. The HPA driver was negligent in his driving which resulted in a traffic accident which resulted in the death of one person on Sunday 19 December 2021 at 05.30 because the defendant HPA was driving a black Mitsubishi L300 pick-up car with registration number N 8308 KI from Jombang to Pujon Malang at a speed of 70 -80 km/h. The defendant felt tired and sleepy and fell asleep while

driving the car he was driving until it hit a black Mio Soul motorbike with registration number S 2751 ZJ driven by victim ZA and victim UK who were going to the Kandangan market [5].

Right on the road in front of the gas station, where traffic was light at that time, HPA, who was driving a Mitsubishi L300 pickup car with registration number N 8308 KI, was in a sleepy condition so that the car he was driving suddenly turned right and hit the motorbike being driven by victim ZA and victim UK from In the opposite direction the motorbike fell and the victim was dragged by a car driving an HPA and hit a yellow truck with a blue rear bed driven by witness MM who was parked on the side of the road. This incident caused victim ZA and victim UK to die at the scene of the crime (Supreme Court Decision 2022). Based on the results of the post-mortem accompanied by statements from witnesses, namely IR, GM and MM, and because all the elements of Law Number 22 of 2009 Article 310 paragraph (4) concerning Road Traffic and Transportation have been fulfilled, the HPA is declared legally valid and convincing committed the criminal act as charged in the single indictment, the Kediri District Court Judge tried and handed down Decision in Case No. 104/PID.SUS/2022/PN GPR with imprisonment for 8 years. (eight) months and charged Defendant HPA to pay court costs of Rp. 5,000.00 (five thousand rupiah).

Research conducted by Wahyu Maulana, Husni, and Romi Asmara regarding traffic accidents that resulted in death, which were caused by negligence (*culpa*) of the vehicle driver and also due to the driver's disobedience and legal awareness in obeying traffic signs. so that it becomes a factor in the occurrence of criminal acts of traffic accidents which result in death, besides that it is not uncommon for the process of issuing a Driving License (SIM) to not be in accordance with the provisions in Law Number 22 of 2009 concerning Road Traffic and Transportation and PERKAP Number 9 of 2009 In 2012 regarding driving licenses, no practical exams were held for participants in driving license (SIM) exams and legal understanding in the field of traffic. so that it becomes a factor in the occurrence of criminal traffic accidents that result in death [6] .

Based on previous research on traffic accidents that result in death or loss of life, researchers will conduct further research on a similar topic in Case Decision No. 104/PID.SUS/2022/PN GPR to explain in depth the chronology and forms of accountability for perpetrators of criminal traffic accidents in accordance with Republic of Indonesia Law Number 22 of 2009 and the Criminal Code with the title "Accountability for Criminal Actions in Traffic Caused by Driver Negligence ( Case Study Case Number 104/Pid.Sus/2022/Pn Gpr)". The aim of this research is to analyze the form of responsibility of drivers who are sleepy which causes accidents and the judge's considerations in deciding cases involving criminal traffic accidents in Case Number 104/Pid. Sus/2022/PN Gpr.

## II. LITERATURE REVIEWS

### *Traffic*

Another definition of traffic is the movement or movement of vehicles, humans and animals on the road from one place to another using mobile devices. In Law Number 22 of 2009, traffic is defined as the movement of vehicles and people in road traffic space, while what is meant by road traffic space is infrastructure intended for the movement of vehicles, people and/or goods in the form of roads and facilities. support [7] . The management of traffic on roads has four interrelated elements, namely drivers, vehicles, roads and pedestrians [8] . The government has the aim of realizing safe, secure, fast, smooth, orderly and orderly, comfortable and efficient traffic and road transportation through traffic management and traffic engineering. Traffic procedures on roads are regulated by statutory regulations regarding traffic directions, road use priorities, traffic lanes, traffic lanes, and flow control at intersections.

There are three components of traffic, namely humans as users, vehicles and roads which interact with each other in the movement of vehicles that meet the eligibility requirements to be driven by drivers following traffic rules determined based on statutory regulations regarding road traffic and transportation via roads that meet the requirements. geometric, namely:

- 1) Humans as users, Humans as users can act as drivers or pedestrians who under normal circumstances have different abilities and alertness (reaction time, concentration, etc.). These differences are still influenced by physical and psychological conditions, age and gender as well as external influences such as weather, lighting/street lights and spatial layout.
- 2) Vehicles, vehicles used by drivers have characteristics related to speed, acceleration, deceleration, dimensions and load that require sufficient traffic space to be able to maneuver in traffic
- 3) Road, Road is a route planned to be traversed by motorized and non-motorized vehicles including pedestrians. The road is planned to be able to flow traffic smoothly and be able to support the weight of vehicle axles and be safe, thereby reducing the number of traffic accidents.

### *Traffic Negligence*

Negligence has the basic word negligence which is defined as being careless, not paying attention to regulations and obligations, being careless, or forgetting[9]. Negligence that contains criminal elements includes actions and characteristics that are against the law, criminal acts and responsibility that includes carelessness. as

well as negligence and negligence in taking responsibility (Wahyuni 2017). Negligence in driving on the highway is regulated in Law Number 22 of 2009 concerning Road Traffic and Transportation in: Article 192 paragraph 4 which explains that "The Carrier is not responsible for the loss of the Passenger's belongings, unless the Passenger can prove that the loss was caused by the carrier's error or negligence" [1].

Article 229 paragraph 5 that "Traffic Accidents as referred to in paragraph (1) can be caused by negligence of Road Users, unfitness of Vehicles, and unsuitability of Roads and/or the environment" Law Number 22 of 2009. Article 234 paragraph 1 that "Drivers, Motor Vehicle owners, and/or Public Transport Companies are responsible for losses suffered by Passengers and/or property owners and/or third parties due to the Driver's negligence" Law Number 22 of 2009. Article 234 paragraph 2 states that "Every Driver, Vehicle Owner Motorized vehicles and/or Public Transport Companies are responsible for damage to roads and/or road equipment due to the negligence or error of the Driver." Law Number 22 of 2009.

### ***Traffic accident***

Accident comes from the root word woe. According to the Big Indonesian Dictionary, woe is (always) experiencing trouble, misfortune, distress and so on; poor; unlucky, and an accident is an incident (event) that causes someone to be injured. According to the Road Traffic and Transportation Law [7] a traffic accident is an unexpected and unintentional road incident involving a vehicle with or without other road users which results in human casualties or property loss. A traffic accident is a series of events that ultimately occur shortly before the accident, which is preceded by the failure of road users to anticipate their environment, including themselves, and a traffic accident that results in loss of life or loss of property. In the event of an accident there is no element of intent, so if there is sufficient evidence of the element of intent, then the incident cannot be said to be an accident.[10]

Accidents are the result of the unpreparedness of motor vehicle drivers which endanger the safety of themselves and other road users, which are caused by negligence, drowsiness, lack of skills, not maintaining distance, driving too fast, the condition of the driver being unfit, the age of the driver being too young or too young. [6] . Road traffic and transportation are regulated in Law Number 22 of 2009 which aims to ensure security, order and general public welfare regarding actions that are required or prohibited while on the highway. Traffic violations, whether intentional or unintentional, of course receive criminal threats with sanctions imposed on perpetrators of traffic violations. The legal consequences arising from traffic accidents, apart from criminal sanctions, are also accompanied by civil demands for material losses [6]

Traffic accidents are events that are often unintentional and unexpected but result in other road users causing injuries, property loss or loss of life [11]. Carelessness often committed by motor vehicle drivers often results in accident victims, even though some traffic accidents could actually be avoided if road users could be more disciplined and always be careful when driving. Law Number 22 of 2009 which discusses traffic accidents is contained in Article 105, namely "Every person who uses the road is obliged to behave in an orderly manner to prevent things that can hinder, endanger the security and safety of traffic and road transportation, or which can cause road damage" and Article 106, namely that every person who drives a motorized vehicle on the road is obliged to drive the vehicle properly and with full concentration, prioritizing the safety of pedestrians and cyclists, and complying with the provisions regarding technical and roadworthy requirements[3].

### ***Criminal Liability***

The concept of criminal liability actually does not only concern legal issues but also concerns general morals or moral values adhered to by a society or group in society. This is done so that criminal liability is achieved by fulfilling justice[12]. Criminal responsibility is a form of determining whether a suspect or defendant is held responsible for a criminal act that has occurred. So criminal responsibility is a form that determines whether someone is acquitted or punished. Criminal responsibility in foreign terms is also called *theorekenbaardheid* or criminal responsibility which leads to the punishment of the perpetrator with the aim of determining whether a defendant or suspect can be held responsible for a criminal act that has occurred or not. In Article 34 of the Draft New Criminal Code, it is formulated that criminal responsibility is a continuation of objective condemnation of criminal acts based on applicable legal provisions. Subjective to the maker who meets the requirements in law (criminal) to be punished for his actions. Meanwhile, the requirements for criminal liability or criminal imposition must contain an element of error in the form of intent or negligence.

### ***Law enforcement***

Criminal law enforcement can be interpreted as the implementation of the law by law enforcement officials and by everyone who has an interest in accordance with their respective authorities according to applicable legal regulations. Law enforcement is an effort to translate the ideas of justice, legal certainty and social benefits into reality. Therefore, law enforcement is essentially a process of ideological expression. Enforcement is the process of efforts to maintain or uphold legal norms as guidelines for perpetrators in traffic or legal relations in social and state life. Law enforcement is a process that involves many things.

Law enforcement is the process of realizing legal desires. What is called legal will here is the thoughts of the law-making body which are formed into legal provisions. The rule of law. The formation of the legislators' thoughts in the law will also determine how to enforce the law. The function of law enforcement is to protect human interests. If the interests of the people are to be protected, then the law must be implemented. Law enforcement can be carried out normally and peacefully, but it can also occur because of violations of the law. In such cases, the violated law must be enforced. Laws become a reality only through enforcement.

### **III. RESEARCH METHODS**

This research was designed to analyze in depth the cases that occurred in Court Case Decision Number 104/PID.SUS/2022/PN GPR to reveal again in a qualitative descriptive manner regarding the chronology of cases up to court decisions based on state law. , especially Law Number 22 of 2009 concerning Road Traffic and Transportation, then linked the Decree to this law. A qualitative descriptive research design is a research design to analyze and discuss research data descriptively so that it can produce empirical juridical legal research products and is expected to explain the questions in the problem formulation [13] . This type of research uses normative legal research, namely research that has the nature and scope of legal discipline, where discipline is defined as a system of teaching about reality, which usually includes analytical discipline and prescriptive discipline, and legal discipline is usually included in prescriptive discipline. discipline if the law is seen to only cover its normative aspects [14] .

The research approach used is a statutory approach where a review of statutory regulations related to the legal issues under study is carried out. The legal approach is carried out by reviewing all statutory regulations relating to the legal issue being handled. Some of the regulations used in this research are the law regarding Case No. 104/PID.SUS/2022/PN GPR, Law Number 22 of 2009 concerning Road Traffic and Transportation, and the Criminal Code [6]. The type of research data used is qualitative descriptive data, namely the type of data collected by observing and analyzing Case No. 104/PID.SUS/2022/PN GPR to directly describe the cases contained in the decision completely, in detail and clearly on the topic of traffic accidents that occurred in Kediri Regency [15] . Meanwhile, the data source is the place where research supporting data is obtained

This research uses secondary data sources obtained from books and previous literature which supports research on Analysis of Responsibility of Traffic Accident Perpetrators in Case Decision Number 104/Pid.Sus/2022/Pn Gpr which consists of the following legal materials: a ) Materials primary law, sourced from Law Number 22 of 2009 concerning Road Traffic and Transportation and Article 359 of the Criminal Code concerning negligence causing traffic accidents and b) Secondary legal material, sourced from literature studies including previous books and journals relevant to legal cases traffic accident crime. Procedures: Research data collection is carried out through the library by reading, studying, studying and analyzing in depth various literature related to research problems, including: Case Case No. 104/PID.SUS/2022/PN GPR, Law Number 22 of 2009 concerning Road Traffic and Transportation, and the Criminal Code [15] . Meanwhile, the processing of legal materials is carried out through several stages, namely: a) Editing, namely writing to examine the legal materials obtained so that completeness can be fulfilled if incomplete legal materials are found and formulating the legal materials the author finds into simpler sentences. , b) Systematization, where the author selects legal materials, then classifies them according to the classification of legal materials and arranges research data systematically and logically, meaning that there are relationships and connections between one legal material and another, c) Description, namely the author explains the research results based on The legal materials obtained are then analyzed. The data analysis chosen by researchers to develop research is by using the documentation method, namely by collecting legal materials that are in accordance with research needs, processing them, and presenting them by means of descriptive analysis and then comparing them with the opinions of experts or with the laws and regulations that are used as the basis. juridical [15] .

### **IV. RESEARCH RESULTS AND DISCUSSION**

#### **Liability of a driver who is sleepy due to an accident with Case Number 104/Pid.Sus/2022/PN Gpr**

Criminal acts resulting from negligence that result in the death of other people often occur in traffic accidents. In accordance with criminal law theory, it is explained that an accident is a form of crime, if the victim is injured, especially if he dies and there is an element of negligence in it. Accidents that result in injury or death of a person in which there is negligence are criminal acts regulated in the Criminal Code (KUHP) articles 359 and 360.

In accordance with Article 359 of the Criminal Code which states that "Anyone who, through negligence, causes the death of another person, is threatened with imprisonment for a maximum of five years or imprisonment for a maximum of one year." Meanwhile, Article 360 of the Criminal Code states: (1) "Anyone who, through negligence, causes another person to suffer serious injury, is threatened with imprisonment for a maximum of five years or imprisonment for a maximum of one year." (2) Any person who, through negligence, causes injury to another person in such a way as to cause illness or obstruction of work, position or pursuits for a



certain period of time, is threatened with a maximum imprisonment of nine months or a maximum imprisonment of six months or a maximum fine of three hundred rupiah”.

The perpetrator of a road traffic accident can be brought to court to be held accountable for his actions if there is an element of negligence or negligence in his actions or there is no element of intent in his actions, even though in the chronology of the traffic accident the action resulted in injury or death to someone caused by an error. victims while driving on the highway, perpetrators who cause injury or death to other people are still included in the category of criminal acts in accordance with the provisions in the two articles above if their actions contain an element of negligence which results in another person suffering injury, serious injury or death.

This law is binding on someone who is proven to have killed someone or caused harm, whether intentional or unintentional (Negligence or Negligence). The criminal offense "Due to negligence causing another person to die" in Indonesian Positive Law. fulfill the requirements for a person's punishment, namely fulfilling the offense formulation contained in the Criminal Code and laws and regulations outside the Criminal Code. The crime of "by negligence resulting in the death of a person" is expressly regulated in Article 359 of the Criminal Code which states "Anyone who, through negligence, causes the death of a person, is threatened with a maximum imprisonment of five years or a maximum imprisonment of one year."

In order to determine whether the case for case decision Number 104/Pid.Sus/2022/PN Gpr is included as a criminal case, there are several requirements that must be met. Based on theory Sudarto says that in order for a person to have an aspect of criminal responsibility, in the sense that the maker is punished, there are several conditions that must be met, namely the existence of a crime committed by the maker; There is an element of error in the form of intentional or negligence; There is a manufacturer who is able to be responsible; and No excuses[16]. Based on the case decision case Number 104/Pid.Sus/2022/PN Gpr which caused traffic accidents with fatalities from negligence, it can be explained based on the conditions for the occurrence of criminal liability, including:

- 1) There is a criminal act committed by the manufacturer

In the decision of case Number 104/Pid.Sus/2022/PN Gpr it can be seen that the perpetrator was proven to have committed a traffic negligence which caused two people to die and property damage. In accordance with Article 359 of the Criminal Code which states "Whoever because of his mistake (negligence) causes another person to die, is threatened with imprisonment for a maximum of five years or imprisonment for a maximum of one year" then this can be interpreted as the perpetrator in case decision Number 104/Pid.Sus/2022 /PN has complied with Article 359 of the Criminal Code and has been proven to have committed a crime.

- 2) There is an element of intention or negligence

The legal provisions governing fatal accidents that result in injuries or death of a person, in general, are the Criminal Code (KUHP) and specifically regulated in the Law of the Republic of Indonesia Number 22 of 2009 concerning LLAJ. Article 359 of the Criminal Code states that "Whoever because of his negligence causes the death of another person, is threatened with imprisonment for a maximum of five years or imprisonment for a maximum of one year". In addition, Article 310 of Law Number 22 of 2009 concerning Road Traffic and Transportation states "In the case of an accident as referred to in paragraph (3) which results in the death of another person, the penalty shall be imprisonment for a maximum of 6 (six) years and/or or a maximum fine of Rp. 12,000,000.00 (twelve million rupiah). In 2016-2017 there was a criminal act of negligence in traffic which caused the accident victim to die."In accordance with the decision of case Number 104/Pid.Sus/2022/PN Gpr, it can be seen that the perpetrator proved to be sleepy so he was unable to drive his vehicle properly and finally hit the victim from the opposite direction. The drowsiness of the perpetrator or the driver shows the occurrence of negligence committed by the perpetrator. So the perpetrator of the decision on case Number 104/Pid.Sus/2022/PN was proven to have made a mistake.

- 3) There is responsible ability

Based on the ability to be responsible, only someone who is capable of being responsible can be held accountable for punishment. It is said that a person is capable of being responsible (toerekeningsvatbaar) if in general his state of mind is not disturbed and his soul is able to be aware of the nature of his actions, can determine his will for the action, whether to be carried out or not and can know the reprehensibility of the action [17]. Accordance with the case decision Number 104/Pid.Sus/2022/PN Gpr it can be seen that the perpetrator was proven to have caused loss of life and property loss so that the actions of the perpetrator in case decision Number 104/Pid.Sus/2022/PN can be categorized as an act that has no excuses because is against the law.

So based on the four requirements for the occurrence of a criminal offense, namely the existence of a criminal act committed by the maker; There is an element of error in the form of intentional or negligence;

There is a manufacturer who is able to be responsible; and There is no reason for forgiveness, it can be concluded that the decision on case Number 104/Pid.Sus/2022/PN is entered as a violation of law and a criminal case. With the decision of case Number 104/Pid.Sus/2022/PN as a criminal case, the perpetrator must be held accountable for his negligent actions which resulted in loss of life and property damage.

The accountability that must be fulfilled by the perpetrator is regulated by several laws and regulations regarding traffic accidents. Based on Article 359 of the Criminal Code states that whoever because of his mistake (negligence) causes another person to die, is threatened with imprisonment for a maximum of five years or imprisonment for a maximum of one year. Then article 310 of Law Number 22 of 2009 concerning Road Traffic and Transportation which reads "In the case of an accident as referred to in paragraph (3) which results in another person's death, shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp. 12,000,000.00 (twelve million rupiah). In 2016-2017 there was a criminal act of negligence in traffic which caused the death of the accident victim. Based on these two regulations, it can be concluded that the responsibility that must be borne by the perpetrator is a prison sentence of more than five years and or a maximum fine of Rp. 12,000,000.00 (twelve million rupiah).

### **Considerations of judges in deciding cases with traffic accident crimes in accordance with Case Decision Number 104/Pid.Sus/2022/PN Gpr**

The judge's legal considerations in making a decision must reflect a sense of justice, that is, not only based on juridical considerations but there are also sociological considerations, which lead to the background of the crime. The judge's consideration is one of the most important aspects in determining the realization of the value of a judge's decision which contains justice (*ex aequo et bono*) and contains legal certainty, THEN also contains benefits for the parties concerned so that this judge's consideration must be addressed carefully, properly, and careful. If the judge's consideration is not thorough, good and careful, then the judge's decision originating from the judge's consideration will be canceled by the High Court/Supreme Court [18].

The judge in examining a case also requires evidence, where the results of the evidence are used as material for consideration in deciding the case. Proof is the most important stage in the examination at trial. Proof aims to obtain certainty that the proposed event/fact actually occurred, in order to obtain a correct and fair judge's decision. The judge cannot pass a decision before it becomes clear to him that the event/fact actually happened, that is, the truth is proven, so that a legal relationship between the parties appears [18].

In the decision of Case Number 104/Pid.Sus/2022/PN Gpr it can be seen that the case is included in a criminal case that violates the law by fulfilling the requirements including the existence of a criminal act committed by the maker; There is an element of error in the form of intentional or negligence; There is a manufacturer who is able to be responsible; and No excuses. This case is also strengthened by evidence such as:

- 1) 1 unit of Pick up Vehicle N-8308-KI
- 2) 1 sheet of STNK Pick Up Vehicle N-8308-KI
- 3) 1 SIM A sheet. Habby Putra Al AqshoBin Agus Nurrohimi valid until 14-08-2026
- 4) 1 unit of Truck AD-1403-JN
- 5) 1 sheet of sim BI an. MARWANTO valid until 05-01-2026
- 6) 1 unit of Mio Soul S-2751-ZJ vehicle
- 7) 1 sheet of STNK spdm Mio Soul S-2751-ZJ

In addition to the evidence, there are also witness statements, Witness Imron Rosadi Bin Sodikan, under oath basically testifies as follows:

- 1) That on Sunday December 19 2021 at around 05.30 WIB, heard a crash and saw an accident and the witness approached the scene
- 2) That the witness together with witness Gunadi worked at the Peanuts Kandangan gas station;
- 3) That there was a black L-300 pick-up car driven by the defendant and when it was empty, there was no load. It hit a husband and wife who were driving a Yamaha Mio Soul, hitting a yellow and blue truck that was parked on the side of the road;
- 4) Whereas there was a male victim to the left of the pickup while the female victim was on the right in an unconscious condition;
- 5) Whereas when helping the victim the woman was not moving while the male victim was still snoring. Meanwhile, the defendant suffered minor injuries to his face and abrasions on his feet, so he was taken to the Medina Kasembon Hospital.
- 6) Whereas at that time the road conditions were level with sufficient lighting because it was already morning

In addition to the witness testimony, the defendant also provided information which was principally as follows:

- 1) That on Sunday, December 19, 2021 at around 05.30 WIB on the public road in front of the Kandangan Gas Station in Dsn. Peanuts, Ds/Kec. Kandangan, Kediri Regency, there was a traffic accident between the pick-up car that the Defendant was driving with a Mio motorcycle and a truck;
- 2) That initially the Defendant was walking from Jombang to Pujon Malang, then arrived at Kandangan the Defendant felt sleepy, then the Defendant hit a motorcycle which hit the right side of the Defendant's car body, then the Defendant drove again to the right and hit the cabin on the right side of the truck, then the car the one the Defendant was driving stopped;
- 3) That the Defendant was driving a pickup L300 Nopol N 8308 KI;
- 4) That prior to the accident the Defendant did not have time to brake or give a horn signal;
- 5) That there were 2 (two) victims who died;
- 6) That at the time of the accident the traffic flow conditions The road conditions were quiet, straight, paved and the weather was sunny
- 7) That the Defendant was driving the green Tronton Dump Truck Vehicle loaded with sand at a speed of around 70-80 Km/hour;

This is complemented by the results of the visum et repertum RSUI Madinah Kasembon Number: SKM/183/IGD/RSUIM/XII/2021 dated 19 December 2021 which was signed by dr. It was stated by PAM that ZA died, allegedly with a serious brain injury due to a traffic accident and Visum et repertum RSUI Madinah Kasembon Number: SKM/183/IGD/RSUIM/XII/2021 dated 19 December 2021 signed by dr. It was stated by PAM that UK died, presumably with a severe brain injury and fracture of his right leg due to a traffic accident. The HPA defendant was declared legally and convincingly proven to have committed the crime as charged in the single indictment, so the Kediri District Court Judge tried and stated in the Court Case Decision No. 104/PID.SUS/2022/PN GPR that:

- 1) HPA is legally and convincingly proven guilty of committing the crime of: "driving a motorized vehicle which due to its negligence caused a traffic accident which resulted in the death of another person".
- 2) Sentenced against the defendant therefore with imprisonment for 8 (eight) months.
- 3) Determine the period of arrest and detention that has been served by the accused to be deducted entirely from the sentence imposed.
- 4) Stipulates that the HPA defendant remains in custody.
- 5) Charged the Defendant to pay court fees in the amount of IDR 5,000.00 (five thousand rupiah).

If an analysis is carried out on the results of the Court case decision No. 104/PID.SUS/2022/PN GPR it can be seen that the judge's decision to sanction imprisonment and fines for the perpetrator was in accordance with the provisions of Article 359 of the Criminal Code and Law Number 22 of 2009 concerning Road Traffic and Transportation which reads "Whoever because his negligence causes the death of another person, he is threatened with imprisonment and/or a fine". The results of the analysis stated that the Panel of Judges before establishing or passing a decision on the perpetrators of the crimes committed had first considered many things, for example the facts at trial, juridical and non-juridical considerations, the circumstances and background of the defendant's family, as well as other matters related in the crime committed by the accused. Juridical considerations are the proof of the elements of the crime charged by the public prosecutor, as for the elements in Article 310 paragraph (4) of Law Number 22 of 2009 concerning Road Traffic and Transportation. In accordance with what was charged by the public prosecutor and must be based on the facts at trial.

However, when compared with the applicable regulations, the judge's decision can be deemed inappropriate by imposing sanctions on perpetrators who have been negligent resulting in an accident that caused two people to die, which is only subject to imprisonment for 8 (eight) months and imposition of court fees in the amount of IDR 5,000.00 (five thousand rupiahs). This is not in line with Article 359 of the Criminal Code which states that whoever because of his mistake (negligence) causes another person to die, is threatened with imprisonment for a maximum of five years or imprisonment for a maximum of one year. Then article 310 of Law Number 22 of 2009 concerning Road Traffic and Transportation which reads "In the case of an accident as referred to in paragraph (3) which results in another person's death, shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp. 12,000,000.00 (twelve million rupiah).

## **V. CONCLUSION**

Based on the results of the study of the suitability of the regulations with the Court Case No. 104/PID.SUS/2022/PN GPR it can be concluded that several conclusions answer the problem formulation, namely: 1) The responsibility that must be fulfilled by the perpetrator who is negligent in driving causing two people to die is in the form of imprisonment and/or fines. According to Article 359 of the Criminal Code, a child is subject to imprisonment for a maximum of five years or imprisonment for a maximum of one year.

Meanwhile, Article 310 of Law Number 22 of 2009 provides for a maximum imprisonment of 6 years and/or a maximum fine of Rp. 12,000,000.00. 2) The judge's considerations in the decision of the Court Case No. 104/PID.SUS/2022/PN GPR was deemed appropriate by establishing the perpetrator guilty, but there was a discrepancy in the provision of sanctions which were only subject to imprisonment for 8 months and the imposition of court costs of IDR 5,000.00. This is inconsistent with Article 359 of the Criminal Code which provides for a maximum imprisonment of five years or a maximum imprisonment of one year. Then it is not in line with article 310 of Law Number 22 of 2009 concerning Traffic and Road Transportation which provides for a maximum imprisonment of 6 years and/or a maximum fine of IDR 12,000,000.00

Based on the results of the research discussion, several suggestions were obtained, including: 1) The government should conduct a review of the sanctions imposed as legal responsibility for someone who commits a crime unintentionally or due to negligence which should be subject to an additional burden of sanctions by clarifying the weight of sanctions based on the case that occurred so as to facilitate the process of determining sanctions by judges. 2) In making a decision, the judge should pay attention to the victim's family so that the weight of the sanctions is not too light and in accordance with the law and is not based solely on the politeness and cooperation of the defendant.

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