

Responsibility of Cooperatives as Public Transportation Operators for the JakLingko Microtrans Accident on Route 17 Pulo Gadung – Senen

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Article Info

Article history:

Accepted: 24 September 2025

Publish: 29 September 2025

Keywords:

Transportation Law;
Public Transportation;
Legal Liability;
JakLingko Mikrotrans;
Accident.

Abstract

This research is motivated by the high number of public transportation accidents in Jakarta, one of which is the Mikrotrans JakLingko Route 17 Pulo Gadung–Senen accident caused by driver negligence. The main issues examined are: What is the form of responsibility of Koperasi as the operator of Mikrotrans JakLingko toward the victims of the Route 17 Pulo Gadung–Senen accident caused by the driver; and what obstacles does Koperasi face as the operator of Mikrotrans JakLingko in fulfilling its responsibility toward the victims of the Route 17 accident caused by the driver. This study employs a normative juridical method with a descriptive approach, using secondary data and primary data supported by interviews, analyzed qualitatively with deductive reasoning. The findings indicate that Koperasi, as a public transportation operator, bears legal responsibility for the actions of its employed drivers, in accordance with Articles 192 and 189 in conjunction with Article 309 of Law No. 22 of 2009. The main obstacle lies in the absence of sufficient funds to fully compensate the victims.

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1. INTRODUCTION

Public transportation is a very important part in supporting the mobility of community activities, especially in urban areas such as the Special Region of Jakarta (DKJ). In order to improve public transportation services on the road and reduce dependence on the use of private vehicles, the Provincial Government of the Special Region of Jakarta (DKJ) developed a transportation integration system known as JakLingko. Since the beginning of 2010, PT. Transportasi Jakarta (Transjakarta) has begun collaborating with several operator partners to further improve public transportation services in the Special Region of Jakarta (DKJ). This step aims to be able to integrate conventional public transportation on the road with a more modern and efficient Bus Rapid Transit (BRT) system, which will eventually all public transportation on the road operating in the Special Region of Jakarta (DKJ) will be integrated under the JakLingko umbrella. According to Article 1 number 21 of Law (UU) Number 22 of 2009 concerning Traffic and Road Transportation as amended by Law Number 6 of 2023 concerning the Stipulation of Legislation (Perppu) Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as UULLAJ), a public transportation company is a legal entity that provides transportation services for people and/or goods using public motorized vehicles.

The Special Region of Jakarta (DKJ) has various operators or public transportation companies, one of which is PT. Transjakarta. Currently, PT. Transjakarta has partnered with several integrated operators called JakLingko. The name JakLingko, comes from the

combination of two syllables, namely "Jak" which is an abbreviation of the word "Jakarta" and "Lingko" which has the meaning of "network or also known as integration". Through the presence of JakLingko, every stage of the payment process, management and even planning stages are all carried out in an integrated manner. JakLingko not only integrates the payment and route systems, but also includes Mikrotrans services, namely small-capacity public transportation that serves routes within the city with fares subsidized by the regional government of the Special Region of Jakarta (DKJ) Province.

Because the partnership model between local governments and private operators or cooperatives in managing Mikrotrans causes weak government control over driver recruitment and supervision. The weak driver selection and training system shows that many public transportation drivers in the Special Region of Jakarta do not participate in routine training and do not undergo regular health checks. This results in the quality of human resources that do not comply with minimum service standards with data showing that 20.62% of Mikrotrans public transportation driver crews have not met expectations in implementing training timeliness. 28.55% of Mikrotrans public transportation driver crews have not met expectations in training achievement targets, 20.62% of Mikrotrans public transportation driver crews have not met expectations in implementing training results, 23.80% of Mikrotrans public transportation driver crews have not met expectations in training benefits, 31.73% of Mikrotrans public transportation driver crews have not met expectations in work performance after participating in training, 30.14% of Mikrotrans public transportation driver crews have not met expectations in good behavior after participating in training.

Traffic accidents in Indonesia are not uncommon. Accidents in Public transportation often cause fatal injuries, making compensation extremely expensive and complex. The difference between accidents on public transportation and other accidents is the potential for liability, involving multiple parties, such as companies and/or government agencies. These accidents can involve buses, trains, subways, or public transportation, all of which present their own unique risks and legal challenges.

Transportation law can literally be understood as a branch of law that regulates the legal relationship that arises between the carrier and the party using transportation services, whether in the form of transportation of people or goods. This relationship is based on a transportation agreement that contains the rights and obligations of the parties, and emphasizes the responsibility of the carrier in ensuring safety, security, and punctuality during the transportation process. There are various definitions of transportation law according to experts, including, according to H.M.N Purwosutjipto, it is said that "transportation is a reciprocal agreement between the carrier and the sender, where the carrier binds himself to organize the transportation of goods and/or people from one place to a certain destination safely, while the sender binds himself to pay the transportation fee". The function of transportation is about moving goods or people from one place to another with the aim of being able to increase utility and value.

In transportation law, there are five main principles of the carrier's responsibility towards passengers, namely:

1. The principle of liability based on fault (*based on fault*), as regulated in Article 1365 of the Civil Code, where operators can be held responsible if they are proven to be negligent in supervising or selecting drivers;
2. The principle of responsibility based on the presumption of guilt (*presumption of liability*), where the operator is deemed responsible for losses arising during transportation, unless he can prove that the accident was not due to his fault or negligence;

3. The principle that the carrier is always not responsible for goods carried under the passenger's own control (*Presumption of Non liability*) with this principle, it is possible that no party can be held responsible for losses to luggage that is under the passenger's own supervision, this principle is based on an agreement where the proof lies with the passenger;
4. The principle of absolute responsibility (*strict liability*), wrong or not wrong, the carrier must be responsible without any burden of proof, this means that the carrier is always responsible without looking at whether there is a mistake or not, or without looking at who is at fault;

The principle of limitation of liability (*Limitation of Liability*), the limitation of the carrier's liability, is essentially a limitation on the amount of compensation that must be outlined in the provisions of laws and regulations in the transportation sector. These three principals have provided legal protection for passengers and third parties, and affirmed the moral and legal obligations of operators in ensuring the safety of public transportation services.

There are several principles of public transportation law, namely as follows:

1. The principle of benefit, namely, that transportation must be able to provide the greatest possible benefit to humanity, increase the welfare of the people and develop a sustainable way of life for citizens, as well as efforts to increase national defense and security;
2. The principle of joint and family business, namely, that the implementation of business in the field of transportation is carried out to achieve the ideals and aspirations of the nation, in which its activities can be carried out by all levels of society and are inspired by a spirit of family;
3. The principle of fairness and equality, namely, that the organization of transportation must be able to provide fair and equal services to all levels of society at a cost that is affordable to the community;
4. The principle of balance, namely, that transportation must be organized in such a way that there is a harmonious balance between facilities and infrastructure, between the interests of users and service providers, between the interests of individuals and society, and between national and international interests;
5. The principle of public interest, namely, is the principle that the implementation of transportation must prioritize the interests of public services for the wider community;
6. The principle of integration, is the principle of a complete and whole unity, integrated, also mutually supportive, and partnership between modes of transportation;
7. The principle of legal awareness, namely, that requires the government to enforce and guarantee legal certainty and requires every Indonesian citizen to always be aware of and obey the law in carrying out transportation.
8. The basis of believing in oneself is that transportation must be based on belief in one's own abilities and strength, as well as in harmony with the nation's personality

The principle of passenger safety is that every provision of passenger transportation must be accompanied by accident insurance.

The accident occurred on route 17 (Pulo Gadung – Senen), where the driver was under the influence of alcohol at the time of the incident, which caused 1 passenger to suffer serious injuries/permanent disabilities and 4 other passengers to suffer minor injuries. In accordance with the case above, the Cooperative is responsible for the driver's negligence because the driver is under the auspices of the Budi Luhur Cooperative as one of the employees employed. As in Article 191 of UULLAJ Number 22 of 2009, which states

"Public Transportation Companies are responsible for losses caused by all actions of people employed in transportation activities."

Based on the description, the problems raised and discussed in this thesis are formulated into two things, as follows:

1. What is the form of responsibility of the Cooperative as the operator of the JakLingko Microtrans towards the victims of the Route 17 Pulo Gadung - Senen accident caused by the driver?
2. What are the obstacles for the Cooperative as the operator of JakLingko Microtrans in taking responsibility for the victims of the accident on Route 17 Pulo Gadung - Senen caused by the driver?

The aim of writing the research that is to be achieved in writing this research is to describe:

1. The form of the Cooperative's responsibility towards victims of JakLingko Microtrans accidents caused by drivers.
2. Obstacles for Cooperatives to be responsible as JakLingko Mikrotrans operators.

The conceptual framework of this research is based on the concept of legal liability of public transport operators for accidents caused by driver negligence on the JakLingko Microtrans service in the Special Region of Jakarta (DKJ) Province. In this context, legal liability is defined as the obligation of public transport operators, whether cooperatives, BUMN, BUMD, or other legal entities to bear all legal consequences of negligence or violations committed by their drivers. The main basis of this concept refers to the provisions of Law Number 22 of 2009 concerning Traffic and Road Transportation, specifically Article 192 and Article 189 J.O Article 309, which emphasizes that public transport companies are obliged to be responsible for passenger losses due to negligence in providing transportation services and public transport companies are obliged to be responsible for losses suffered by passengers. And based on the Civil Code as the basis of the agreement between the carrier and the passenger in Article 1320 "In order for a valid agreement to occur, four conditions must be met; 1. the agreement of those who bind themselves; 2. the capacity to make an agreement; 3. a certain subject matter; 4. a cause that is not prohibited", along with the article then in Article 1338 "All agreements made in accordance with the law apply as laws for those who make them. The agreement cannot be withdrawn except by agreement of both parties, or for reasons determined by law. The agreement must be carried out in good faith" which regulates agreements and agreements. So, this conceptual framework also places public transportation operators as legal subjects who are obliged to carry out supervision, guidance, and ensure the eligibility of drivers in carrying out their duties in accordance with the Regulation of the Minister of Transportation Number 15 of 2019. Thus, if an accident occurs caused by the driver, the transportation operator cannot completely escape legal responsibility, whether civil, administrative, or criminal. In practice, accident victims can claim compensation based on unlawful acts and/or operator's default in fulfilling service and passenger safety obligations. Legal protection for victims can be achieved through civil lawsuits, fulfillment of rights to compensation through the Jasa Raharja mechanism, as well as administrative and criminal settlements in accordance with applicable regulations. Therefore, the conceptual framework of this study examines the relationship between driver negligence, operator actions or supervision, the occurrence of accidents, and the mechanism of legal accountability and protection of victims' rights. This study uses a normative approach with an emphasis on the analysis of laws and regulations, legal doctrine, and the practice of implementing regulations in the field of public transportation, so it is expected to be able to provide an overview of the form of responsibility of the Cooperative towards victims of JakLingko Microtrans accidents

caused by drivers and the Cooperative's obstacles to being responsible as a JakLingko Microtrans operator.

2. RESEARCH METHOD

This research is descriptive normative with a qualitative approach. Data sources consist of primary data in the form of interviews with cooperative representatives and secondary data in the form of legal documents, regulations, literature, and related reports. Data analysis was conducted using a deductive method to obtain valid conclusions based on applicable legal principles.

3. RESEARCH RESULTS AND DISCUSSION (12 Pt)

3.1. Research result

This study found that the Cooperative as the operator of the JakLingko Mikrotrans route 17 has full legal responsibility for accidents caused by driver negligence. The accident in 2023 caused four passengers to be slightly injured and one to be seriously injured. The forms of responsibility carried out by the cooperative include, Initial handling at the accident location through the field coordinator, Providing compensation to victims of minor injuries directly, Compensation to victims of serious injuries with a value of IDR 120,000,000, even though the cooperative can only cover IDR 85,000,000 (IDR 60,000,000 from internal funds, IDR 20,000,000 from PT Jasa Raharja, IDR 5,000,000 from the driver), Alternative social responsibility in the form of providing new jobs to victims of serious injuries who lost their livelihoods, Dismissal of the driver as a form of accountability and prevention. The cooperative proves responsibility not only in financial form, but also through non-material solutions that are social and sustainable.

3.2. Discussion

The research results show that the cooperative's legal responsibilities are in line with the provisions of Law No. 22 of 2009 concerning Road Traffic and Transportation (Articles 188, 189, and 192). However, there are significant obstacles to implementation, particularly:

Limited Funds The cooperative struggles to meet full compensation demands due to limited capital, relying solely on member contributions, operational income, and Jasa Raharja insurance. The lack of additional insurance makes the cooperative financially vulnerable. **Weak Driver Supervision:** Supervision is still carried out manually, without technological support such as GPS or surveillance cameras. This makes driver negligence difficult to detect. **Lack of Special Reserve Fund:** The cooperative does not have an emergency fund scheme for compensation, so compensation is highly dependent on cash flow at the time of the accident. **Solution and Restorative Efforts:** Limited funds force the cooperative to choose a consensus-based resolution and a restorative approach, such as providing new jobs to victims. From a legal perspective, cooperatives remain liable under civil, criminal, and administrative laws. However, in practice, liability is often resolved through non-litigation channels based on agreements with the victims. This reflects the application of cooperative solidarity values and the principles of social justice, although it is not yet ideal to achieve full financial compensation.

4. CONCLUSION

The legal responsibility of the Budi Luhur Cooperative as the operator of the JakLingko Microtrans route 17 Pulo Gadung – Senen, towards the accident victims caused by the driver's negligence is realized by providing compensation of Rp. 60,000,000 (Sixty million rupiah) and imposing strict sanctions on the driver, however the compensation value is considered inadequate by the victim's family because it does not match the victim's request according to the victim's calculation. The obstacle of the Budi Luhur Cooperative as the operator of the JakLingko Microtrans route 17 Pulo Gadung – Senen is not providing compensation to the victim due to the lack of funds to pay the full compensation.

5. ACKNOWLEDGEMENT

Praise be to God for all His help, grace, love, and smoothness. So that the author can complete the journal entitled The Responsibility of Cooperatives as Public Transportation Operators for the JakLingko Mikrotrans Accident Route 17 Pulo Gadung - Senen. The preparation of the writing was carried out as one of the requirements in completing the undergraduate study program (S1) in law at the Faculty of Law, Trisakti University. Through the support and assistance of various parties, the obstacles and difficulties during the preparation process can be overcome. On this occasion, I would like to express my gratitude to, Lord Jesus, To Family, To Friends, and Especially To Myself.

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