Juridical Review Of Negligence Driving That Results In The Death Of Other People In Connection With Law Number 22 Of 2009 Concerning Traffic And Road Transport (Study of Decision Number 119 K/PID.SUS/2019)

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Abstract
Indonesia is a country based totally on regulation. In social existence, law has very best, practical and high quality desires and purposes. According to Soedjono, human beings constantly violate one another. So the cause of regulation is to guard those hobbies. Traffic troubles are a countrywide scale problem that develops at the side of the development of society. This is the motive for the system of Law Number 22 of 2009 concerning Road Traffic and Transportation, where the Act. The issues raised in this have a look at are Factors - What factors cause driving force negligence in site visitors that reasons other humans to die? And what is the judge's consideration of the decision range 119 K/PID.SUS/2019? In this observe, the authors used a Normative Juridical Approach, particularly an evaluation that describes the contents and might be mentioned in the form of an elaboration by means of giving which means in line with the relevant legislation so that it arrives at a end primarily based on this research. The effects of his studies are the main reasons of injuries, namely the human factor which may be very area, then environmental factors and car elements. Meanwhile, the judge's consideration in choice No. 119 K/PID.SUS/2019 is that the decide will determine on a jail sentence with a probationary length.

I. Introduction

Indonesia is a kingdom based totally on regulation. In social lifestyles, regulation has very ideal, practical and tremendous dreams and functions. According to Soedjono, human beings can usually violate each other. So the purpose of regulation is to shield those pursuits. In precept, society is

experiencing development, that means that at the beginning it became a simple society, then it grew to emerge as increasingly more complex, the improvement of this society ought to had been accompanied via the emergence of legal guidelines which were additionally in improvement, (this is, beginning from the quite simple, growing to come to be more and more complex as nicely). In situations like this, it method that the development of human beings's lifestyles is accompanied by using the improvement of the legal guidelines that follow in it: it may even take place that both impact every different and supplement each other. Community improvement can have an effect on traits within the discipline of law or vice versa. And the one-of-a-kind interests of human lifestyles, then the guidelines which might be needed are various guidelines according to the character of the affiliation of existence itself.

One of the guidelines that are needed is the rule of law. Humans as social beings have the freedom and choice to maintain to change, move and engage with every other to satisfy their existence desires. Knowingly or unknowingly, in carrying out those sports, humans are every so often faced with numerous sorts of travel dangers, which include traffic accidents. Because with this traffic, it makes it simpler for humans to carry out activities to satisfy their economy. Without site visitors, you could imagine how hard it would be for us to get to paintings or do work related to road use. There isn't any single process that doesn't escape using visitors.

Traffic problems are a country wide scale trouble that develops at the side of the improvement of society. This is the cause for the formation of Law Number 22 of 2009 concerning Road Traffic and Transportation, wherein the Law turned into formed to comprehend security, safety, order and easy visitors and avenue transportation. The hassle faced nowadays is the excessive quantity of visitors injuries at the toll road. Indonesia is one of the nations with the very best site visitors coincidence quotes.

The result of someone's negligence in using which ends up in a site visitors twist of fate has an damaging or destructive impact on the defendant or the sufferer or the surrounding environment. The effect resulting from a traffic coincidence primarily based at the situations, specifically;

1. Minor accidents are accident sufferers who revel in accidents that don't require hospitalization or require hospitalization for more than 30 days.

2. Seriously injured is an twist of fate sufferer who suffers permanent disability due to his accidents or is hospitalized in a health center for extra than 30 days since the twist of fate took place. An event is classified as permanent incapacity if a limb is lost or cannot be used at all and can not be recovered or recovered forever.

Three. Death is an coincidence victim who's showed to have died due to a visitors coincidence inside a most duration of 30 days after the accident.

Cases of accidents resulting from the negligence of drivers or drivers have resulted in lots of fatalities. Criminal sanctions for motorists who due to their negligence result in fatalities, had been written or said in the provisions of Law

Number 22 of 2009 regarding Road Traffic and Transportation article 310 stipulates sanctions, particularly;

1. Everyone who drives a motorized automobile which due to his negligence causes a site visitors coincidence with damage to the automobile and/or goods as stated in Article 229 paragraph (2), will be punished with imprisonment for a maximum of 6 (six) months and/or a first-rate maximum Rp. 1,000,000.00 (a million rupiah).

2. Everyone who drives a motorized vehicle which because of his negligence reasons a site visitors accident resulting in a minor injury and damage to the vehicle and/or items as referred to in Article 229 paragraph (3), will be punished with imprisonment for a maximum of 1 (one) 12 months and / or a most great of Rp. 2,000,000.00 (two million rupiah).

3. Any individual who drives a motorized vehicle which due to his negligence reasons a site visitors twist of fate with the victim significantly injured as mentioned in Article 229 paragraph, will be concern to imprisonment for a most of 5 (five) years and/or a exceptional of as much as Rp. 10,000,000.00 (ten million rupiah).

Four. In the case of an twist of fate as referred to in paragraph (three) which ends within the demise of any other individual, the penalty is imprisonment a most of 6 (six) years and/or a maximum nice of Rp. 12,000,000.00 (twelve million rupiah).

R. Soesilo in his book entitled Criminal Code (KUHP) and his remarks complete article by article, what is supposed with the aid of useless people here isn't always meant by way of the defendant in any respect, but loss of life is simplest the result of a lack of heart. - the defendant's warning or negligence (culpa delict), as an example a driver using a automobile too fast, in order that it crashes into someone until it dies. If the death of the person referred to via the defendant, he's situation to the thing on homicide (article 338 or article 340). Because the fault is similar to being careless, neglecting to forget about, being too careless.

The Identification of the Problems of this Research are:

1. What factors purpose motive force negligence in site visitors that reasons other people to die?
2. What is the judge's attention of the choice Number 119 K/PID.SUS/2019?

2. Research Method

The approach used by researchers in this research is normative juridical, that means that it is best finished via inspecting literature or secondary prison statistics. Therefore the records used is data acquired from the outcomes of research and overview of library materials. The approach in this studies is intended so that the existing felony fabric will become the idea of the perspective and body of mind of the researcher to perform the evaluation. The

researcher uses a qualitative descriptive evaluation method, specifically a research that essentially uses a theoretical framework, the ideas of experts and know-how that is finished through collecting statistics that is received.

3. Results and Discussion

A. The factors that cause driver negligence in traffic which results in the death of other people

Factors that frequently occur and haunt motorists are the function and situation of tires and roads, lack of lights and brake feature that isn't most effective. There are numerous different elements such as:

1. Hollow Road

Entering the rainy season, you may ensure that there are numerous puddles that create potholes or bumpy avenue situations

2. Tire burst

A burst tire is as risky as a pothole, now not handiest is the automobile hard to control, the car can also swerve and unexpectedly overturn

3. Failed brakes

This without a doubt makes the automobile out of manipulate, tough to govern. Especially in automatic transmission cars that handiest rely on brakes without the engine brake

4. Human Error

An instance of a human error that frequently occurs is drowsiness, that is a lower inside the driving force's awareness and vision while driving in order that the motive force's lack of warning can motive the driver to be unable to govern the gap from different motorists.

Law Number 22 of 2009 concerning Road Traffic and Transportation, in particular Article 58 states that vehicles might also handiest be operated in precise circumstance and safe for the motive force and for other parties. 7 Meanwhile, the Road Traffic and Transportation Law Article forty eight paragraph 1 reads: If a automobile is deemed to need trying out, the authorities, in this situation the relevant organisation, has the right to summon the proprietor for testing.

Article fifty seven paragraph 3 of the Road Traffic and Transportation Law reads: Motorized motors with four or extra wheels need to be prepared with protection belts and specifically for open vehicles ought to have a helmet and reflector vest. Article 57 paragraph (1, 2 and three) of the Road Traffic and Transportation Law reads: Drivers have to check the car and its shipment for roadworthiness in keeping with applicable regulations, which includes having to pay attention to all car accessories that must be carried consisting of driving licenses, certificate car range, jack, wheel opener and other keys, safety triangle, spare wheel and First Aid Equipment for Accidents (P3K). Article 234 of the Road Traffic and Transportation Law reads: Drivers and mainly automobile proprietors are chargeable for safety inside the operation and maintenance in

their motors. If there is negligence inside the automobile, it must be repaired right away, repairing on public roads is illegitimate except changing the wheels. Brake lighting and directional lighting have to be certainly seen in addition to the coloration have to be in accordance with what it should be, specifically:

1. Red brake light
2. Turn sign / turn signal lighting fixtures are reddish yellow

In police data, accidents that reason demise are as a result of human negligence. Not due to the situation of the vehicle or street situations. Overtaking some other vehicle without thinking of the opportunity of a car coming from the front is the very best case. The following reasons, because of drowsy using. The following case is hitting a automobile stopped at the aspect of the road. The stopped car did now not give the required signs.

However, the human thing as the main purpose of injuries may be very domain. Causes of environmental elements and automobile elements. As for what is meant with the aid of the reasons of the human element, amongst others, using too fast, ignoring site visitors conditions, having a pipe dream, being hit and/or crashing into any other car, frequently main to more than one collisions, racing motorcycles illegally on public roads, worn-out, sleepy, braking abruptly , jogging crimson lights and making cellphone calls even as using.

The environmental causes are rain, slippery roads or landslides, too sharp turns, no road lighting or off, no most speed instructions, and damaged roads. While the reason of the vehicle, excessive load in weight and length of worn tires, broken brake gadget, front or rear lighting fixtures do now not activate and others.

B. Judge's consideration of choice Number 119 K/PID.SUS/2019

1. Order of Judgment

Based at the Amar Decision, the Panel of Judges said that the defendant turned into demonstrated responsible and determined:

1. Declare that the defendant HERIYANTO BIN ATANG above has been legally and convincingly validated responsible of committing the crime "because of his negligence inflicting a visitors coincidence" as said in the public prosecutor's indictment;
2. Sentenced the defendant in opposition to the defendant therefore with a jail sentence of three (3) months;
3. Establish proof inside the shape of:

1 (one) unit 2 (two) wheeled motorcycle logo Yamaha vixion KB 2112 GZ with body wide variety MH33C10028K112345 and engine wide variety 3C1-113116; lower back to the accused

Burden the defendant to pay courtroom expenses in the amount of RP. 2,000.00 (thousand rupiah);

2. Author's evaluation

A judicial technique ends with a very last choice (verdict) wherein there may be the imposition of a PI sanction finances (punishment), and in that choice the decide states his opinion approximately what has been considered and what's the ruling on his choice. And before arriving at that stage, there are stages that have to be achieved in advance, particularly the level of proof in enforcing a sentence on the defendant. In imposing a criminal offense, the judge have to be based totally on legitimate pieces of proof which then from the two portions of proof the judge obtains self belief that the crime being charged genuinely occurred and it turned into the defendant who did it, this is regulated in Article 183 of the Criminal Procedure Code. The evidence system regulated in Article 183 of the Criminal Procedure Code is referred to as the Negative-Wettelijke Stelsel or the terrible statutory evidence gadget.

According to Lamintang said that:

a. It is called Wettelijk or according to the regulation because for proof, it's miles the regulation that determines the sort and quantity of evidence that need to be to be had;

b. It is referred to as poor due to the fact the sorts and amount of proof decided via the regulation have not been capable of make the decide should impose a sentence on a defendant, if the sorts and variety of evidence have not been able to result in the choose's perception that against the law become surely took place and that the defendant was guilty of committing the crime.

Apart from what the author explained above, what wishes to be achieved by way of the decide is so one can convict the culprit, it's far required that the crime he dedicated fulfills the elements special in the regulation. Viewed from the factor of view of the incidence of prohibited movements, a person may be held chargeable for those actions, if the movement is against the law and there's no reason to justify or negate illegal nature for the crime he commits. And seen from the point of being accountable, simplest someone who is able to being responsible may be held responsible for his actions. And there is no reason to justify or remove unlawful nature for the crime he committed. And visible from the factor of being accountable, most effective a person who is able to being responsible may be held responsible for his moves.

According to Moeljatno, crook regulation includes 3 (three) requirements, specifically:

1. The capacity to be accountable or responsible for the maker;
2. The lifestyles of an unlawful act, particularly a mental attitude of the wrongdoer associated with his behavior, particularly: a. On reason; b. Indifference or negligence.
3. There is not any justification or motive that eliminates criminal obligation for the maker.

In the Criminal Code, this trouble of the capability to take responsibility is contained in Article 44 paragraph 1 of the Criminal Code which reads: "Whoever commits an act that can not be held accountable to him due to the fact his soul is disabled in improvement or disturbed because of incapacity, is

not punished."

To decide responsibility, a person who commits a crime have to have an detail of illegal act. Regarding the unlawful nature while it is linked with the mental state (soul) of the maker of the crime he dedicated, it could be intentional (opzet) or because of negligence (culpa).

In Pipin Syarifin's principle, there are 3 (three) types of intentionality, namely:

1. Purposeful goal.

That with deliberate purpose, the perpetrator can be accounted for and may be without difficulty understood by the overall public. If intentionality like this exists in a criminal act, the culprit merits to be situation to criminal punishment. Because with this useful purpose, it manner that the perpetrator virtually wants to achieve an effect that is the main purpose for containing this punishment.

2. Intentional truth. This intention exists when the wrongdoer, with his movements does no longer intention to acquire the end result that bureaucracy the basis of the offense, but he knows thoroughly that the end result will truly comply with that movement.

Three. Deliberately aware of the possibility. This aim, that is openly no longer accompanied through the shadow of a truth that the impact in question will arise, however simplest imagines a mere opportunity of that effect.

The basis for abolishing the crime or also being referred to as the motives for casting off the character of this crime is contained in Book I of the Criminal Code, specifically the justification bases: Forced protection of Article forty nine paragraph 1 of the Criminal Code, emergency conditions, implementation of statutory policies Article 50 of the Criminal Code, function orders Article fifty one paragraph 1 of the Criminal Code.

In selection quantity 119 K/PID.SUS/2019 The selection-making method performed by the Panel of Judges in line with the Author's opinion is in accordance with the applicable criminal policies as defined by means of the previous Author, specifically based totally on at least two valid pieces of evidence, in which in In the instances studied with the aid of the writer, the proof used by the judges changed into witness statements, evidence, submit mortem et repertum and testimony of the accused. Then then bear in mind crook duty, in this situation the Panel of Judges based totally on the information that arose at trial judged that the defendant will be held chargeable for the movements he dedicated with the consideration that when he dedicated his movements the defendant became privy to the results, the culprit in wearing out his moves become in a state of healthful and capable to keep in mind his actions.

In addition to the above, the decide also did not see any justification or excuse that could be the reason for the abolition of punishment for the movements dedicated through the defendant. Similar to the Public Prosecutor, the Panel of Judges only saw irritating situations, particularly the defendant's

moves that prompted the dying of some other man or woman and brought about grief to the victim's circle of relatives. And the lightening things are:

1. The accused has never been convicted;
2. The accused overtly admitted his actions and turned into well mannered in court;
3. The defendant remains younger so it is was hoping that after present process the crook process he can return to the proper course.

4. Conclusion

The essential causes of accidents are the human component which may be very dominant, along with: riding too fast, ignoring visitors situations, daydreaming, being hit and/or crashing into different motors, frequently main to pile-up collisions, racing bikes illegally on the road general, tired, sleepy, braking all of sudden, walking pink lights and making cellphone calls even as riding. Furthermore, environmental elements and car elements. The environmental causes are rain, slippery roads or landslides, too sharp turns, no street lighting or off, no maximum speed commands, and damaged roads. While the purpose of the automobile, immoderate load in weight and length of worn tires, damaged brake machine, the front or rear lights do now not switch on and others. The judge's considerations in Decision No. 119 K/PID.SUS/2019 is based totally on prison information thru the statements of witnesses, statements of the accused, and evidence. In this example, Considering that the reasons for cassation submitted via the Cassation Appellant/Public Prosecutor, the Supreme Court is of the opinion that in choosing a suspended jail sentence, it has now not taken into consideration the provisions of Article 14 a Paragraph (1), Paragraph (2) and Paragraph (3) of the Criminal Code. This provision is a demand for judges who will determine a case with a prison sentence with a probationary duration.

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Ahmad Nawawi

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