

JURIDICAL ANALYSIS OF THE FULFILLMENT OF THE RIGHTS OF J&T COURIERS WHO EXPERIENCE WORK ACCIDENTS UNTIL DEATH BASED ON LEGISLATION

Riska Sabilatul Nur Aini¹, Supriyanti², Aqil Ega Fawwaz³

¹²Faculty of Law, Universitas Negeri Surabaya, Indonesia

riskasabilatul.21025@mhs.unesa.ac.id

³Franklin Pierce School of Law, University of New Hampshire, United States

aqilega007@gmail.com

Abstract

Every job has a level of risk that can have an impact in the form of disability or loss of life triggered by work accidents. Work accidents can occur in industry and can also occur on the way to and from work. The emergence of this risk can not only occur in heavy work but can also occur in workers with low risk levels such as package delivery couriers. This journal will discuss what kind of social security will be obtained by a worker/laborer, which in this case includes a package delivery courier, when he/she has a work accident until death. The research method used in this journal is normative juridical with the use of a statutory approach. The government that has not explicitly presented criminal sanctions for employers who do not register their workers into social security according to existing regulations results in workers who have not fulfilled their rights related to the fulfillment of social security.

Keywords: Package Courier, Accident Insurance, Life Insurance

INTRODUCTION

Employment is one of the most important factors for developing countries. The prosperity of a country is based on the small number of job seekers and the declining unemployment rate. The balance between the number of job seekers and job vacancies is something that Indonesian people look forward to. This is because work is an important aspect of people's lives because it provides welfare for the community. However, work can also be a challenge for workers, because there are jobs that endanger the safety and health of workers. Jobs in the fields of industry, construction and mining are examples of jobs with low safety risks or that endanger workers.

Risky work has a very significant involvement with occupational accidents. Occupations with risks have a high probability of occupational accidents occurring. Workers who work in hazardous work fields must be extra careful in carrying out work, besides that work safety procedures must always be a priority for employers, workers and the government. Work accidents can occur because workers do their work not according to procedures or in unsafe or inappropriate conditions that can endanger health and safety.

According to Renata Christha Auli on the website Hukumonline.com, work safety is safety related to machines, aircraft, work tools, materials and their processing, work platforms, and the environment, as well as how to do work (Auli, 2022). Occupational safety itself is a state of good health during the work process and security in the work environment. occupational health itself according to Government Regulation Number 88 of 2019 concerning occupational health and safety itself is an effort to protect every worker to live healthy and free from health problems and adverse effects of work effects (PP RI, 2019). Occupational health is pursued by employers, workers and the government to protect every worker, so as not to interfere with productivity, and the welfare of laborers / workers.

Occupational health is very important to ensure the welfare of workers so that workers can work effectively. To minimize work accidents, education related to occupational health and safety is very important and necessary. In addition, inspection and evaluation of the work environment to ensure a safe and healthy environment and health programs for workers to ensure healthy workers are very necessary to do so that it becomes a culture of healthy living in the environment.

After discussing work safety and health, the author will discuss work accidents. In the Regulation of the Minister of Manpower Number: 03/MEN/1998 concerning procedures for reporting and examining work accidents, a work accident is something unexpected and unplanned that causes victims of both humans and objects (Permenaker, 1998). The regulation also describes dangerous events that can cause occupational accidents or occupational diseases, except for explosions, fires and waste disposal.

Work accidents can be caused by several factors, including environmental factors, factors, equipment, and human factors themselves. Environmental factors usually occur because the work environment is not up to standard or indeed bad weather/nature factors. Pilots who drive an airplane but the weather is suddenly bad, or lighting that is not bright or not according to standards, is one example of the cause of work accidents due to environmental factors. Equipment factors, occur because the production equipment or equipment used is not in accordance with standards or may not be properly maintained. While human factors are factors caused by humans themselves, such as not using safety equipment when working, lack of skills and so on (Bagaskara, 2024). Therefore, employers must provide training and skills at work, as well as provide adequate safety equipment for workers and check work machines that are often used.

Accidents in Indonesia are frequent and numerous. In recent years, work accidents in Indonesia have increased, not only in terms of severity but also in terms of number. When a work accident occurs, the most important thing is that workers get their rights such as, the right to get treatment, the right not to work during illness, the right not to be employed beyond the time limit, and the right to continue to get job security if the worker has a disability due to a work accident and much more (TIKA, n.d.).

One of the jobs that are very at risk of work accidents is couriers or people who deliver goods. In doing their work, couriers often carry out mobility in a fast time because they have to pursue delivery time targets. this can trigger work accidents, in addition to heavy traffic conditions, uncertain weather and uncertainty of the roads traveled, as well as goods carried and transported by two-wheeled couriers or pickup couriers which are so many and various sizes that cause the possibility of work accidents to be even higher.

In Indonesia itself there are various kinds of expedition companies, one of the expedition companies that the author will discuss this time is the J & T company. J&T itself is a goods delivery service company, both in the form of documents and packages. (AUDITA, 2020) In the J&T work system, there are two types of freight couriers, namely, couriers as freelancers and permanent couriers. Couriers as freelancers themselves are individuals who work to deliver goods or documents without being bound by a contract with the shipping company (Muthiatu Rohmah, 2024). while permanent couriers are individuals who work to deliver goods or documents who are bound by a work contract with the shipping company. In terms of being more comfortable, both have their respective advantages. Freelance couriers have flexible time but have no guarantee and have no clear protection or legal umbrella. therefore, if there is an accident during the delivery of goods carried out by J & T couriers who are freelancers and permanent workers, it is necessary to further investigate the rights of J & T couriers, so that we can find out how the legal protection of J & T couriers.

In this case the author will discuss what are the rights of J & T couriers during work accidents according to the laws and regulations and what are the legal consequences if employers do not provide workers' rights during work accidents.

METHODS

1. Type of Research

In the research conducted by researchers, to examine the problem of "Juridical Analysis of the Fulfillment of the Rights of J & T Couriers Who Experience Work Accidents Until Death Based on Legislation, the type of research used is Normative Juridical. The research method with the concept of normative juridical has a focus on studying the internal aspects of positive law.

2. Research Approach

In this research that uses normative juridical research methods, it will have several research approaches. According to Peter Mahmud Marzuki, the normative approach is as follows:

- a. Case approach
- b. Statute approach
- c. Historical approach
- d. Comparative approach
- e. Conceptual approach

In research related to Juridical Analysis of the Fulfillment of the Rights of J&TY Couriers Who Experience Work Accidents Until Death Based on Legislation, the research approach used is a statutory approach.

3. Types and Sources of Legal Materials

In this study, researchers will use types and sources of legal materials sourced from primary legal materials, secondary legal materials and tertiary legal materials.

a. Primary Legal Materials

In research with primary legal sources, researchers will examine research based on legislation, official records, minutes in making related rules and also judge decisions. In this case, the researcher will focus on regulations that regulate related to the research studied by the researcher where this will be related to workers' rights.

b. Secondary Legal Materials

In secondary legal materials, research will be conducted with the help of legal sources in the form of books related to law, related journals both nationally and internationally, as well as the opinions of scholars who have high qualifications.

c. Tertiary Legal Materials

Tertiary legal materials are complementary legal materials from primary and secondary legal materials. Tertiary legal materials serve as explanations or instructions regarding previous legal materials.

RESULTS AND DISCUSSION

The Rights of J&T Couriers Who Experienced Work Accidents According to Law Number 13 of 2003 *jo* Law Number 6 of 2022 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation

The existing regulations are given by the government as an effort so that the rights of workers / laborers can be fulfilled properly, therefore we can see that the government has provided a legal umbrella in the form of Law Number 13 of 2003 concerning Manpower. Article 1 of Law Number 13 of 2003 concerning Manpower explains that:

"Worker/labor is every person who works by receiving wages or other forms of compensation".

From the wording of the article, it can be said that package couriers at J&T companies are also categorized as workers / laborers referred to in Law Number 13 Year 2003 concerning Manpower (DPR-RI, 2003).

The legal umbrella provided by the government has contained various patterns of rules aimed at providing protection and regulating employment so that there are no losses to various parties, both for the workforce and the company concerned. The most inclined rule in Law Number 13 of 2003 concerning Manpower is related to the fulfillment of rights for workers / laborers. In this case Law Number 13 of 2003 concerning Manpower also provides for the fulfillment of rights to workers / laborers when they experience work accidents, both those that result in disability and those that result in death.

The fulfillment of rights also applies to parcel delivery courier workers, especially in relation to rights related to work accidents. An in-depth understanding of the rights of package couriers who experience work accidents has important implications in the context of labor policy and regulation. It can influence how companies manage the risk of work accidents, comply with applicable regulations, and provide proper protection to workers and their families.

In doing work, one will never know what calamities can befall him, therefore all workers in this case are no exception to a package courier entitled to social security. Work accidents are one of the risks that are difficult to avoid by a worker both in production and work activities. Work accidents can be divided into two, namely industrial accidents or what can be said as accidents that take place in the workplace and accidents that occur in transit or can be interpreted that events that befall workers but outside the work area (Situmeang et al., 2023). So from this to minimize the losses that have arisen from work accidents, a package delivery courier worker needs social security that must be fulfilled by the company in accordance with existing regulations. Article 99 of Law Number 13 of 2003 concerning Manpower which reads:

"(1) Every worker/laborer and his/her family has the right to obtain labor social security.

(2) Labor social security as referred to in paragraph (1) shall be implemented in accordance with the prevailing laws and regulations."

Social security itself is a form of protection provided to workers and their families against various risks in the labor market. (Putri Asih Eka, 2020) In Law Number 6 of 2023 Stipulating Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law in Part Three Types of Social Security Programs Article 82 number 1 which reads:

"The provisions of Article 18 are amended to read as follows: Article 18 Types of social security programs include:

- a. health insurance;*
- b. work accident insurance;*
- c. old-age security;*
- d. retirement security;*
- e. death insurance; and*
- f. job loss guarantee".* (Ministry of Home Affairs, 2023)

Labor social security itself has been transformed into BPJS Employment. In this case, the social security that must be fulfilled for package delivery couriers who experience work accidents until they die is one of them.

Work accident insurance is an income protection program in the form of health recovery service benefits and compensation for workers who experience illness, disability, or death due to illness or accidents arising from work. Work accident insurance can provide benefits to its users by providing health services in the form of treatment without a minimum limit on costs caused by adjustments to medical indications. In addition, work accident insurance will also provide guarantees for workers or in this case store employees who experience work accidents until they die with death benefits given to their heirs, the amount of the calculation is $60\% \times 80 \times$ monthly wages and in this case the death benefit cannot be less than the death benefit of the death guarantee then added to the funeral costs (HASANAH, n.d.). In accordance with Article 166 of Law Number 13 of 2003 concerning Manpower, when the employment relationship ends due to the death of a worker/laborer, a sum of money is given which is equal to twice the severance pay determined by the company based on the length of service.

In addition to being entitled to work accident insurance, a package delivery courier who has a work accident and dies is also entitled to a death guarantee. In Article 1 point 2 of Government Regulation Number 44 of 2015 which reads "Death Insurance, hereinafter abbreviated as JKM, is a cash benefit provided to the heirs when the participant dies not as a result of a work accident." (Putri Asih Eka, 2020) A package delivery courier who has a work accident and dies, be it an industrial work accident or a work accident experienced by workers / laborers when he is on his way to or from work, in this case he is entitled to social security in the form of death insurance. Death insurance can be claimed with a paid time of 3 working days after the claim is approved by the BPJS. Death insurance that can be obtained by package delivery couriers who experience work accidents until they die in this case will be given to their heirs. However, in this case, it should be noted that to get a claim for social security benefits provided by the government, a worker must be registered with the BPJS. If a worker/laborer is not registered in the BPJS program, then when he/she experiences a work accident, whether it results in disability or death, the responsibility he/she gets will switch to the employer where he/she works.

In this case, the total nominal amount that can be obtained in a death guarantee claim is IDR 42 million and the acquisition of scholarships up to IDR 172 million with the following details:

- a. Death benefit of IDR 20 million
- b. Funeral expenses of Rp. 10 million
- c. Periodic benefits in 24 months that will be paid in a lump sum of Rp. 12 Million
- d. Then the education scholarship with a maximum limit obtained is Rp. 174 million for a maximum of 2 children with the condition that they have a minimum contribution period of 3 years and die not due to work accidents or diseases due to accidents. (Bpjsketenagakerjaan, 2023)

In order to obtain a death guarantee in accordance with the existing details, a package delivery courier must fulfill the requirements of a death guarantee claim.

In this case, however, it should be noted that there are differences in the rights that can be received for a J&T package courier who is a permanent worker with a J&T package courier who is only a freelancer. This is because as a permanent worker, of course, they already have more certain legal protection and there is a legal bond between the

worker and the employer, while for freelancers they do not have a definite legal bond with the employer.

Package delivery couriers who are freelancers in this case who work for the J&T company can obtain social security with the type of social security that is Not Wage Recipients (BPU). BPU (Non-Recipient of Wages) is BPJS employment membership which is usually intended for workers who work independently, such as business owners, artists, doctors, lawyers, freelancers. Also, informal sector workers such as farmers, public transportation drivers, ojol partners, traders, and fishermen. In this case, package delivery couriers who are freelancers can be said to be part of the BPU.

J&T package couriers who are freelancers, if they experience work accidents and die, they are entitled to social security on the condition that they are valid BPU participants. BPU social security from BPJS Ketenagakerjaan can be in the form of old age insurance, work accident insurance, and death insurance.

In accordance with Government Regulation No. 44/2015 on the Implementation of Death and Work Accident Insurance, the amount of contributions for work accident insurance is 1% of their income. As for death insurance, the nominal amount is from Rp. 10,000- Rp. 207,000 (BPJSKETENAGAKERJAAN, 2023).

LEGAL CONSEQUENCES OF J&T PARTIES IF THEY CANNOT FULFILL THE RIGHTS OF PACKAGE COURIERS WHO HAVE WORK ACCIDENTS

Employers in Indonesia often do not fulfill the rights of their workers, one of which is the right to work accidents, even though work accidents are a major factor that must be considered. One of the rights in work accidents is the right to compensation and proper social security for workers. However, these two things are often forgotten by employers. Delays in the fulfillment of workers' rights in the event of a work accident can have adverse consequences for the health and safety of workers. Employees who are not compensated during their sick leave due to work accidents may experience stress and depression related to their living expenses and treatment. In addition, social security for package delivery courier workers in the face of work accidents is very important. These two things are often forgotten by employers.

In relation to package delivery couriers, which is a job that should have the same rights as other workers in general. Package delivery couriers are vulnerable workers who are discriminated against for their rights, especially in terms of compensation and social security. Neglect of compensation and social security can result in legal consequences for employers or in this case, employers, including;

a. Legal action

Workers can file legal action against employers who do not fulfill their rights in work accidents. The legal action in question is in the form of filing a lawsuit to obtain compensation in accordance with what he experienced.

b. Protection

Workers who experience work accidents and their rights are not fulfilled are entitled to legal protection in the form of protection in doing work so as not to experience further work accidents, this can be in the form of getting another jobdesk. In addition, they also get protection from diseases caused by their work and protection from discrimination by coworkers.

Regarding labor social security itself, which has been regulated in Article 99 of Law 13 of 2003 concerning Manpower, which states that every worker or laborer has the right to obtain employment social security, which is no exception for package delivery couriers who are workers. In this case, it means that labor social security is the right of workers or workers who are legally obtained for fulfilling all forms of obligations in carrying out work. If employers do not register their workers in labor social security, they can be subject to sanctions in accordance with applicable laws. The law related to employment itself has provisions for sanctions for those who do not follow the provisions as stipulated in the law related to employment, especially in employment social security, can be imposed in the form of Administrative Sanctions.

Administrative sanctions themselves are a form of law issued by administrative officials usually issued due to a form of violation of administrative provisions relating to licensing. These administrative sanctions are usually adjusted to the substance regulated in the laws and regulations. Sanctions can be in the form of written warnings, government coercion, restrictions on business activities, suspension of activities and so on. The imposition of administrative sanctions can be done either through litigation or non-litigation channels. The imposition of sanctions looks very forced in several laws and regulations, where inappropriate sanctions can be ineffective or even useless. During 2022, the imposition of administrative sanctions applied still looks low, possibly due to the low level of licensing violations or perhaps due to the lack of effectiveness of the imposition of administrative sanctions (Setiadi, 2009).

The imposition of administrative sanctions in the event that the employer does not register the company in the BPJS Ketenagakerjaan membership, the company can be subject to administrative sanctions. Government Regulation No. 84 of 2013 concerning the Implementation of Social Security explains that every company that has more than 10 employees with a minimum income of 1 million / person is required to register its employees in the employment social security program. Companies that do not register their employees in the employment social security program will be given administrative sanctions, including:

1. Fines from BPJS
2. BPJS Give a written warning
3. Government or local government does not provide certain public services (based on BPJS request)

The meaning of not providing public services is not providing licenses related to business, permits to employ TKA, project tender permits, and building permits (Kusuma et al., 2021).

The imposition of administrative sanctions in violations of not registering companies and workers as BPJS program participants and not submitting employment social security program membership cards to relevant parties in accordance with Article 47 of Government Regulation No. 14 of 1993 concerning the Implementation of the Social Security Program which was last amended by Government Regulation No. 84 of 2010 which basically means that employers can be subject to administrative sanctions in the form of warnings, revocation of business licenses after warning letters are issued but still do not carry out their obligations as they should. A fine of 2% may also be imposed if the employer is late in paying the jamsostek contribution. In the execution of the imposition of administrative sanctions in the form of revocation of business license is carried out by the local manpower office by forwarding the BAP to the district attorney's office for further investigation up to the district court. If the decision of the district court is to revoke the business license, it is carried out together with the police and the district attorney's office (Zulkarnain Ridlwan, 2013).

Employers who do not register their employees with BPJS Tenaga Kerja must ensure that their employees are safe and healthy from the risk of work accidents and fulfill their social obligations. In the law, employers have an obligation to ensure the safety and health of their employees and fulfill social obligations such as health insurance and social security, this is regulated in Article 99 Paragraph 1 of Law Number 13 of 2003 *jo* Law Number 6 of 2022 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. In the event that employers do not register BPJS, they must ensure that delivery courier workers are not exposed to the risk of work accidents and occupational diseases, and have access to health facilities. In the event that the guardian of the employment relationship between the package delivery courier worker and the employer, which in this case is J&T, the employer must be able to ensure that his employees or in this case the package delivery courier are not exposed to the risk of work accidents both when going to or from work and when at the work location. Package delivery couriers are vulnerable to the crime of robbery and unpleasant actions from customers who receive packages, so employers must ensure that their security and health facilities are provided.

But in this case it needs to be underlined, that the above sanctions only apply to violations of the rights of permanent workers or can be said to be package delivery couriers with permanent employment status. As for package delivery couriers with freelance status, this does not apply because the type of social security obtained by them is Not Wage Recipients (BPU), in other words, they register the social security independently, not from the company. In this case, the company can only provide the same facilities and attention related to work security and safety.

CLOSING

Summary

Every job undertaken by a worker / laborer, which in this case is no exception, is a package delivery courier, has a level of risk that results in work accidents that end in disability or that can take their lives. In accordance with Article 99 of Law Number 13 of 2003 concerning Manpower, it is appropriate for a worker/laborer to be entitled to social security. Law Number 13 of 2003 concerning Manpower does not clearly explain what guarantees can be obtained, but in this case for a package delivery courier who has a work accident and dies, he is entitled to work accident insurance and death insurance on the condition that he has registered with BPJS in accordance with existing regulations. If a worker/laborer has not been registered with BPJS, both health and employment, he/she can ask for responsibility from the employer provided that there is a legal bond in the form of a work contract. For employers and entrepreneurs who do not register workers/laborers, including package delivery couriers, they can be subject to administrative sanctions in the form of fines from BPJS, written warnings, and the government or local government not providing certain public services.

Advice

Regarding the fulfillment of the rights of workers / laborers who are no exception to the package delivery courier, to protect them in order to fulfill their social security rights, the need for socialization from the government in this case can be carried out by the Manpower Office in each region as a medium provided by the government for workers / laborers so that their rights are fulfilled by holding workshops and seminars related to the importance of social security so that workers / laborers do not easily agree to a work agreement without definite protection related to their safety benefits. Then it is also expected for the BPJS Employment to provide more knowledge or insight to the

community about the importance of social security for them, especially for workers in terms of BPU. Meanwhile, in the case of employers who still often violate rules related to workers' rights, in this case to provide a deterrent effect on employers and provide further action, it would be nice to present regulatory enrichment by including articles related to criminal sanctions for employers who still do not register their workers in social security.

BIBLIOGRAPHY

- Auli, R. C. (2022). *Here are the Occupational Health and Safety Rules for Workers*. Hukumonline.Com. <https://www.hukumonline.com/klinik/a/aturan-keselamatan-dan-kesehatan-kerja-lt6304aeb999d89/>
- Bagaskara. (2024). *Factors causing work accidents that often occur*. Mutucertification.Com. <https://mutucertification.com/faktor-penyebab-kecelakaan-kerja/>
- Bpjsketenagakerjaan. (2023). *Understanding the Death Assurance Program from BPJS Employment*. Bpjsketenagakerjaan.Go.Id. <https://www.bpjsketenagakerjaan.go.id/artikel/17392/artikel-memahami-program-jaminan-kematian-dari-bpjs-ketenagakerjaan.bpjs>
- Ministry of Home Affairs. (2023). Law of the Republic of Indonesia Number 6 of 2023 Concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 Concerning Job Creation into Law. *Ministry of Home Affairs of the Republic of Indonesia*, 176733, 1-1127.
- DPR-RI. (2003). LAW OF THE REPUBLIC OF INDONESIA NUMBER 13 OF 2003 CONCERNING LABOR. *Bpk.Go.Id*, 19(8), 159-170.
- HASANAH, S. (n.d.). *WORK ACCIDENT INSURANCE FOR WORKERS WHO DIE ON THE WAY HOME*. Hukumonline.Com. <https://www.hukumonline.com/klinik/a/jaminan-kecelakaan-kerja-untuk-pekerja-yang-meninggal-dalam-perjalanan-pulang-cl6621/>.
- Kusuma, R., Basniwati, A., Guna Nugraha, L., & Hariati, S. (2021). Rights of Participants of the Employment Social Security Organizing Agency. *Palar | Pakuan Law Review*, 7(2), 194-205. <https://doi.org/10.33751/palar.v7i2.3242>
- Minister of Labor. (1998). Regulation of the Minister of Manpower Number: 03/Men/1998 on the Procedures for Reporting and Examining Accidents. *Regulation of the Minister of Manpower 1998*, 1-23. <https://indok3ll.com/peraturan-menteri-tenaga-kerja-nomor-03-men-1998/#:~:text=Kesehatan & Safety, Manpower-,REGULATION OF THE MINISTER OF LABOR NOMOR: 03/MEN/1998 ON THE PROCEDURES OF REPORTING AND EXAMINING ACCIDENTS&text=accidents in the workplace.>
- PP RI. (2019). Government Regulation of the Republic of Indonesia Number 88 of 2019 concerning Occupational Health. *Government of Indonesia*, 24. <https://peraturan.bpk.go.id/Home/Details/128642/pp-no-88-tahun-2019>
- Putri Asih Eka. (2020). *Understanding JKK and JKM*. 1, 9-24.
- Setiadi, W. (2009). Administrative Sanctions as an Instrument of Law Enforcement in Legislation. *Indonesian Legislation Journal*, 6(4), 603-614.
- Situmeang, P. R., Putri, M. U. L., & Pebrianti, A. (2023). Implementation of Workers' Rights Protection related to Work Accidents by BPJS Employment. *Journal of Legal Science Publications*, 1(4), 270-285. <https://doi.org/10.59581/deposisi.v1i4.1873>
- TIKA. (n.d.). *The Rights of Workers Who Experience Work Accidents*. Ajaib.Co.Id. <https://ajaib.co.id/hak-yang-didapatkan-pekerja-yang-mengalami-kecelakaan-kerja/>
- Zulkarnain Ridlwan. (2013). Legal Consequences for Companies That Do Not Implement the Social Security Program. *Journal of Legal Science*, 7(1), 1-12. <https://core.ac.uk/download/pdf/3260>