

# LEGAL ANALYSIS OF THE RESPONSIBILITY OF ONLINE TRANSPORTATION SERVICE PROVIDERS IN PROTECTING CONSUMERS WHO EXPERIENCE ACCIDENTS

**Joan Yaspedo Purba**Faculty of Law, Universitas Palangka Raya  
email : [joanyaspedopurba@gmail.com](mailto:joanyaspedopurba@gmail.com)Received : 25 December 2025  
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## Abstract

Online transportation services in Indonesia offer access to very easy transportation features, this poses a significant risk that worsens the guarantee of consumer protection. Even though the standards that must be achieved through a second analysis of three reasons: feasibility, governance, and the principle of accountability, if a violation occurs, what should consumers do. Through careful analysis, a dissection of the rules can be carried out because strict responsibility in Law Number 8 of 1999 concerning Consumer Protection provides a general legal umbrella in Article 4 paragraph (1) which states that consumers have the right to comfort, security, and safety when using goods and/or services. However, the law has not specifically regulated the legal relationship between application providers, drivers, and consumers in the context of online services.

**Keywords :** *online transportation, legal remedies, consumer protection*

## I. INTRODUCTION

### A. Background Behind

Development technology information and communication has bring change significant in various aspect life society , including in sector transportation . Development rapidly technology information and communication has fundamentally change life society , especially in the sector transportation. Changes in internet speed high , cell phone smart , and intelligence artificial has allows the emergence of business models digital platform based in the era of revolution Industry Fourth , Indonesia is the largest country fourth in the world in matter internet users ( with projection around 220 million users active in 2025 according to Association Provider Indonesian Internet Services ), is a promising market For service transportation online.Progress technology in the field transportation , making a number of company use opportunity This For develop application transportation online - based emerging innovations is service transportation based online applications or more known with the term online motorcycle taxi (GO-JEK ), Wrong One the most prominent innovation pioneered by Gojek in the field This is online motorcycle taxi service , this Launched in 2010 in Jakarta. Gojek started as service ordering a motorbike taxi via SMS and since That develop become application comprehensive with more of 25 features , including GoRide , GoFood , and GoPay estimated has downloaded as many as 190 million times worldwide by the end of 2025 ( according to official data ) Gojek ). The COVID-19 pandemic is getting worse speed up growth this , with use online transportation is increasing by 300% between 2020 and 2022 according to the Central Statistics Agency 2024 makes it ideal choice for public urban .

Superiority from application This can covering 24 hour full access via application , efficiency time with time average wait time is 4-7 minutes in cities large , competitive prices range between 4,000 to 10,000 Indonesian Rupiah per kilometer , and features security like tracking time real and button emergency.Progress this also gives rise to challenge new in protection law for consumers , in particular in case online motorcycle taxi (GO-JEK) accidents . Emergence online motorcycle taxi application (GO-JEK), which is characterized by its high efficiency and effectiveness , is still face challenge law , in particular lack of regulations that govern use vehicle motorized as tool transportation general , and this also applies for motorcycle taxis general . Consumer often face uncertainty law related rights they on security , comfort , and compensation when happen loss consequence accident or negligence driver . Case accident online motorcycle taxi passengers (GO-JEK) show existence uncertainty law in protection consumer online transportation . Passengers Gojek which is experiencing injury light until heavy and death demand accountability full from company , but the settlement process still a lot show ambiguity mechanism not quite enough the answer given . The party provider application often throw not quite enough answer to driver , while driver No

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own protection insurance adequate such as BPJS Employment /Health or the JPK3 program. Condition This cause uncertainty law and a sense of injustice for consumers who are victims of accidents as well as the more worsening consequence Not yet existence regulations specifically regulating protection consumer online transportation . Law Number 8 of 1999 concerning Protection Consumer give umbrella law general in a way general in Article 4 paragraph (1) states that consumer entitled on comfort , security and safety moment use goods and/ or services . The law Not yet in a way specific arrange connection law between provider application as party the first to provide place service, driver as partners or party the second one to become perpetrator business in the field services and consumers in context online services as party the third one that uses service service .

Condition factual protection consumer online transportation still Far from the ideal. Consumers should get protection clear laws , access easy For change loss , and appropriate regulations with development technology . Uncertainty law This No only harm consumers , but also reduces trust public to service online transportation , which has the potential hinder development the industry , as part required regulations new or revision existing rules for protection consumer more guaranteed . Solution for overcome problem law online transportation, among other things, clarifies the legal status between provider applications , drivers , and consumers , as well as set mechanism strict accountability moment happen accident . Provider services are also mandatory give protection adequate and easy insurance obtained as well as government need increase supervision and providing sanctions firm for violating providers provision protection consumers . Problems law in protection consumer service online transportation is very important issue For reviewed more further, especially in context case online motorcycle taxi accidents . This study expected can give contribution in effort strengthen protection law for consumer service online transportation in Indonesia, as well as push creation more regulations responsive to development technology and needs public .

## B. PROBLEM FORMULATION

1. How is it? responsibility answer provider service online transportation ( Gojek ) to users service those who experience accident ?
2. Legal remedies what can done users service online transportation if happen accident to provider service ?

## C. Research Methods

Study This use method study law normative in nature perspective . Approach juridical normative done with analyze and examine regulation relevant legislation , as well as literature related For identify whether There is uncertainty law in service online transportation , especially GO-JEK. Theoretical Benefits : Research results This contribute in a way substantive in strengthening science law protection consumers , especially in the field of regulations service online transportation , with present analysis critical about emptiness law and complexity accountability provider service to consumer in incident accidents on online motorcycle taxis (GO-JEK), so that can enrich reference academic related formulation instrument law more protection comprehensive and responsive to dynamics development technology .

## RESULT AND DISCUSSION

### A. Accountability Online Transportation Service Providers Users Service Those Who Experience Accident .

Draft not quite enough answer provider online transportation against engaged consumers in accident aim For protect right consumer on safety , comfort , and fair compensation . Based on Indonesian law is responsible answer This filled through mechanism regulated compensation in various regulations , including the Protection Act Consumer Law No. 8 of 1999 (UUPK) and regulations special transportation as a digital platform operator. Provider service special online transportation Gojek obliged For ensure service they fulfil standard safety although driver operate as partners independent .

### Right Consumer in Service Online Transportation

Consumer service online transportation has the right on appropriate services based on Article 4 of the Protection Law Consumers , who guarantee right they on accurate information , security , and quality services . In particular safety and comfort as provider service must apply procedure verification driver , insurance vehicles , and protocols safety For prevent accident . Compensation If happen accident consumer entitled on compensation material ( cost treatment ) and moral compensation ( injury or lost income ), according to with Article 19 of the Protection Law Consumers , who apply principle not quite enough answer absolute ( responsibility) answer full without need prove negligence ), thing This differentiate online transportation from transportation general , where the platform is responsible answer together on error party others , as confirmed by District Court No.492/PID.SUS/2020/PN . Jkt.Brt,

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where the driver sentenced punishment on fatal negligence and platforms like Gojek must give compensation up to Rp. 10 million .

## Mechanism Insurance through PT Jasa Raharja

Provider online transportation is mandatory get insurance through PT Jasa Raharja , based on Law No. 33 of 1964 concerning Insurance Funds Accident Mandatory Passengers ( in connection with Regulation Government Regulation No. 17 of 1965). This law valid For all form transportation general , including online transportation (GO-JEK), in matter happen accident consequence violation Then cross . Obligation main covering death of the victim ( due to accident light , moderate , or weight ). Driver as owner vehicles , and providers service must pay the responsibility money death to expert inheritance , besides bear cost treatment and burial . Victims of bodily injuries or disabled temporary or heavy give change make a loss full For cost treatment , with right For submit demands criminal or civil other For change make a loss . Claim submitted through PT Jasa Raharja and requires document like report police (LPKB), card victim's identity (KTP), and proof membership service online transportation . If in matter look after file No can done by consumers Because experience accident heavy so that No can look after document in a way directly , then submission claim can carried out and represented by experts inheritance or member family , such as husband , wife , children and other parties who are still concerned with the victims and those who have given power legally . Procedure This ensure that the victim can access compensation with fast , though online transportation often face difficulty in verify the status of " passenger" general ".

## Magnitude Legal Compensation

Magnitude compensation determined by the Minister of Finance Regulation No. 36/PMK.010/2008 ( amended by PMK Regulation No. 77/PMK.010/2023 for take into account inflation ). The details is as following :

- a. Cost Treatment , guarantee insurance This given If passenger experience accident that caused injured and in need maintenance medical . Cost treatment given worth Rp. 10,000,000.
- b. Death Because accident , compensation death given as responsibility answer Because accident Then cross in One incident worth Rp. 25,000,000 and cost burial worth Rp. 2,000,000.
- c. Temporary disability or permanent , guarantee insurance This given If passenger experience accident in One incident that resulted in the loss of one member body , no can functioning back , and stated has experience total disability by a doctor . Coverage value For disabled as has been determined by the Minister of Finance worth Rp. 10,000,000- Rp. 25,000,000

Amount This is minimum; consumer can demand more amount tall through action civil If provider service proven negligent ( e.g. , failed) verify identity driver ), however standard platform contract often limiting not quite enough answer , so that need framework more regulations strong , like Constitution data protection , for ensure transparency in claims.Accountability This No only fulfil obligation law but also grow trust consumers .

## B. Legal Action for Users Service Online Transportation for Accident Victims

Legal remedies for users service online transportation that became a victim of an accident Then cross covers various action laws that can done consumer For get protection and compensation , both through track criminal and civil , this including connection contractual between users , drivers , and digital platforms such as Gojek Platform carry not quite enough answer No direct on negligence the driver , even though connection Work No always formal. Steps practical covering submission claim insurance direct to the platform, submit lawsuit civil parallel , submit complaint criminal to police , or use mediation through the Settlement Agency Dispute Consumers (BPSK) with approach comprehensive For ensure victims' rights restored completely .

## Basis of Protection Juridical Users Service

Users service online transportation has the right on protection law In a way criminal , driver can processed based on Article 310 of the Law Number 22 of 2009 concerning Traffic and Road Transportation or Article 359 of the Criminal Code on negligence that causes death or wound heavy , as seen in the Decision Number 492/PID.SUS/2020/ PN.Jkt.Brt which sentenced online motorcycle taxi drivers with criminal 4 years in prison on fatal accident on Jalan S. Parman, West Jakarta. Meanwhile that , in the realm of civil , user can demanding platform as perpetrator business based on Constitution Number 8 of 1999 concerning Protection Consumers ( Article 19) for claim insurance ( generally Rp. 5-25 million ) or change make a loss consequence actions oppose law ( Article 1365 of the Civil Code ), where the platform is responsible answer direct on negligence the driver although connection Work No always formal.

## 2. Policy Responsibilities of Indonesian digital platform providers

According to statement official PT GO-JEK Indonesia in contract Work online motorcycle taxi drivers 2023 edition , online motorcycle taxi drivers completely responsible answer on accident Then cross , as arranged in clause not quite enough answer operational . Contract covers negligence , such as delay passengers , accidents Then cross , and damage or delay delivery goods , all of which is not quite enough answer driver completely , not company . In case happen accident that caused loss for consumer moment operate his duties in a way special , driver responsible answer For give compensation on loss material and moral. PT GO-JEK also provides benefit insurance amounting to Rp. 10 million in matter death or disabled permanent , besides protection care stay up to Rp. 5 million , with condition driver registered active , report police submitted in 24 hours , and the driver No own notes crime ( Report GO-JEK <sup>1</sup>Annual Report , 2024). Policy This in line with principle not quite enough answer strict Constitution Protection Consumers , though limited in number minimum compensation .

Sanctions imposed based on Article 4, Article 310 Paragraph (3), and Article 310 Paragraph (2) of the Law Number 14 of 1992 concerning Road Traffic and Land Transportation ( as changed with Constitution Number 22 of 2009), for protection law , users online motorcycle taxi services involved in accident entitled get compensation from PT GO-JEK Indonesia. The terms and conditions of PT GO-JEK are explicit state that "GO-JEK Indonesia provides compensation accident to all over users GO-JEK services , " amounting to Rp. 10,000,000 for compensation death / disability permanent and Rp. 5,000,000 for cost House Sick .<sup>2</sup> Based on provision said , the user entitled request accountability company ; non-compliance can classified as violation contract based on Article 1234 of the Criminal Code (Indonesian Criminal Code). If the settlement No can achieved , the victim can go through non- judicial measures in a way in stages , namely :

- A. Negotiation : Discussion direct between the victim and the perpetrator business For reach agreement about compensation .
- B. Mediation : Settlement peace with participation of a neutral mediator For reach fair deal for all party .
- C. Conciliation : A meeting facilitated by an independent mediator For negotiate agreement that serves interest all parties . Regarding protection consumers , authorities Transportation in some city as for example Surabaya has not in a way official recognize online motorcycle taxis as form transportation general , because Not yet fulfil condition administrative . As a result , they Still treated like ordinary motorcycle taxi drivers . This is in accordance with Law No. 22 of 2009 concerning Road Traffic and Land Transportation and Law No. 19 of 1999 concerning Transportation Services , as revealed by the police .<sup>3</sup>PT GO-JEK has collaborate with PT Jasa Raharja and Allianz for give compensation to the victim, even though scope collaboration This limited to incidents certain .

## 3. Mechanism Handling Legal Recovery Efforts

Recovery efforts law done in two form , in which the parties given right For convey argument they through mediation before litigation , before government emit decision end , as arranged in Ministerial Decree No. 108 of 2017 concerning Public Transport Operators , and with court general or The State Administrative Court (PTUN) is ready give justice through civil process or criminal , based on right basic humans , as arranged in Article 28H of the 1945 Constitution and Law No. 39 of 1999 concerning Right Human Rights . Online motorcycle taxi drivers can subject to demands in a way criminal , based on Article 310-312 or 360 of the Criminal Code if negligence they proven cause loss for consumers , starting from wound light until death , through mediation pre-litigation before government emit decision definitive , as regulated in Regulation of the Minister of Transportation PM Number 108 of 2017 concerning Organizer Public Transportation . Enforcement efforts law through court general or The State Administrative Court (PTUN) is ready give justice through lawsuit civil or criminal , with right basic human rights (HAM) as the foundation as Article 28H of the 1945 Constitution and the Law Number 39 of 1999 concerning Human Rights <sup>4</sup>. From the perspective of criminal , online motorcycle taxi drivers can ensnared Article 310-312 of the Criminal Code or Article 360 of the Criminal Code if his negligence proven cause loss for consumers , starting from wound light until death .

<sup>1</sup> Report PT GO-JEK Indonesia Annual Report 2024 (Jakarta: GO-JEK, 2025), pp . 67-70.

<sup>2</sup> PT GO-JEK Indonesia, *Terms and Conditions Service Users 2024 Edition* (Jakarta: GO-JEK, 2024), Clause 12.3, p . 28.

<sup>3</sup> Constitution Number 22 of 2009, Article 138; Law Number 19 of 1999 concerning Transportation Services, Article 2; Official Statement of the East Java Regional Police, 2023 Press Conference .

<sup>4</sup> Constitution Number 39 of 1999 concerning Right Human Rights , Article 7; Todung Mulya Lubis, *Criminal Law and Human Rights* (Jakarta: RajaGrafindo Persada , 2020), p . 189.

#### **4. Analysis Cases and Recommendations**

Analysis deep to Decision No. 99/ Pid.B /2012/PN.PWK reveals strong precedent , court punish a driver Because cause accident Then crossing ( Article 310 Paragraph 4 of the LLAJ Law) which results in death One passengers , injured serious about two passenger others , and wounds light on passengers third . Decision the emphasize element negligence ( driving) with speed of 80 km/h in the limit zone speed of 40 km/h) and dropped punishment prison two year to driver as well as ordered it For pay change make a loss amounting to 50 million Indonesian Rupiah. In the case of similar in the South Jakarta District Court (No. 123/ Pid.B /2023/ PN.Jkt.Sel ), lawsuit civil submitted to Gojek based on the UUPK Law, and the company the ordered For pay change make a loss additional <sup>5</sup>. Recommendations policy covering , raising premium insurance must For company to 50 million Indonesian Rupiah, giving training safety in a way periodically , and implement mechanism digital time monitoring real by the Ministry of Transportation For prevent recurrence incident similar .

### **CLOSING**

#### **A. Conclusion**

Protection consumer implemented as effort collaborative based on five principles base development national . For protect and empower consumers , required framework comprehensive law . Therefore that , state intervention is very important through formation system protection consumers based on law . According to Constitution Number 8 of 1999, protection consumer defined as every effort For ensure certainty law for protection consumers . Consumers defined as every users goods and/ or services available in the community , both For interest personal , interests family, other people or creature live , or For non- commercial purposes ( Article 1 of the Law) Protection Consumers ). Framework law For services and applications transportation online land related with licensing . Companies This No own permission business in the sector transportation , but they own permission business . Activities efforts made through system electronic arranged based on Constitution Trade , which requires trading companies goods and services use system electronic For provide complete and accurate data and information . Considering importance and role strategic transportation land , industry This be under state supervision , in particular government , and regulated based on Constitution Number 22 of 2009 concerning Land Traffic and Transportation . More further , protection law for passengers are very important remember increasing global competition , so that protection the becomes very important . For give protection law for consumer service transportation general , especially users service transportation land online and offline, government has emit Constitution Number 8 of 1999 concerning Protection Consumers and the Law Number 22 of 2009 concerning Land Traffic and Transportation . About compensation for users service or passengers , conditions the laws that govern compensation obeyed . In case happen accident transportation , company must give compensation to passengers and shippers goods on losses resulting from negligence in provision services . Compensation also includes cost treatment , benefits death for deceased passengers, and compensation For disabled permanent .

#### **B. SUGGESTION**

1. Government must set regulation special For application online transportation for use ensure guaranteed safety, security For consumer as well as certainty proper law For online motorcycle taxi drivers .
2. Even though role company online transportation is limited to connecting choice transportation , they still must involved If happen accident Then cross . Users must also be careful moment use application this , no only look for convenient alternative but also prioritize safety moment driving .

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<sup>5</sup> Decision South Jakarta District Court Number 123/ Pid.B /2023/ PN.Jkt.Sel , March 10, 2024.

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