

## A Legal Study of Online Transportation Company Responsibility to Consumer Accident Safety

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### Abstract

*In the case of consumer rights violations, caution is needed in analyzing who should be responsible and how far the responsibility is imposed on the parties concerned. The responsibilities of business actors have been regulated in Law Number 08 of 1999 concerning consumer protection or UUPK, Articles 19 to 28, which include the principle of responsibility based on error (Liability Based On Fault Principle) and the principle of absolute liability ( Absolute Liability Principle) The formulation of the problem in this thesis is: What are the legal rules for transportation users? on line legislation, What is the role of the transportation line on the use of transportation line, What is the responsibility of the transportation company line to Gojek consumers in the event of an accident. While the research method used is library research (Library Research) in the form of Books, Laws, Government Regulations, and Field Research (Field Research) This research was carried out by conducting research at the Gojek Medan office which is located at Jalan Padang Golf complex CBD Polonia, Block AA No. 49-51 and Block BB No. 50, Medan Polonia, North Sumatera 20219, Obtaining data to support secondary data. Transportation companion line very big responsibility for consumer protection, because consumers play an important role in the use of services provided by transportation companies.*

### Keywords

transportation company on line;  
consumer protection.



## I. Introduction

Mobilization greatly affects the development of the world and the nation. The fast development that is happening in the world, including Indonesia developing technology very rapidly. This is quite an attention-grabbing community, namely application-based motorcycle taxis line (Gojek), which are transportation to move people and/or goods from one place to another place by car. Because that's also gojek on-line more popular in addition to providing benefits also increase job opportunities.<sup>1</sup> One of the pioneers of Gojek was Nadiem Makarim.

He studied at Brown University, a campus in Rhode Island, United States. Don't stop until there, he continued his postgraduate studies at Harvard Business School and reach the title of Master of Business Administration. Back in Indonesia, Nadiem had time to work as a consultant before establishing Gojek. He once admitted that likes to use ojek services to break through Jakarta's traffic jams. Stuck in his mind to make it easier for passengers and motorcycle taxis to connect with the application smartphone and the Gojek application was born in early 2015. And created development for the planned change process to improve various aspects of community life.

But here the Gojek Company system online, the company does not provide initial capital to the Gojek driver, but there is a different agreement. <sup>3</sup>Guus Heerma van Voss and

Surya Tjandra, Indonesian Labor Law, Larasan Library Publisher, 2012, p. 17. 3 In this case, the Gojek driver does not get a salary from the application company. How much ojek income depends on how many passengers can be delivered. The order to take passengers is also not from the company, but from passengers and of course the willingness of ojek drivers.

Because there is no working relationship between Gojek Driver and PT. Gojek Medan, but there is a partnership relationship between the two parties, then ojek drivers have no right to demand rights that are usually accepted by workers in general such as overtime wages, social security, and severance pay if their cooperative relationship end. Whereas in the work agreement in general it only applies between workers/laborers with entrepreneurs who organize and other people or parties who are not bound.<sup>4</sup> Partnership agreement between the application provider company and the motorcycle taxi driver based on the principle of freedom of contract in Article 1338 of the Indonesian Civil law, the parties to the contract are free to agree, whatever the content and whatever the form. all agreements made legally apply to laws and to those who make them. It must be remembered that the principle of freedom of contract must not violate the conditions for the validity of the agreement in the Civil Code.

According to Setiono, legal protection is an act or effort to protect society from arbitrary actions by authorities who do not by the applicable legal rules, to create order and tranquility so that it allows humans to enjoy their dignity as man. According to Philipus M. Hadjon, legal protection is as follows: a collection of rules or rules that can protect one thing from another.

About consumers, it means that the law protects the rights of users or consumers. And if the rights are not fulfilled then it can be called a violation of rights and violates the law because consumers are also called "Users" and Users are people who are vehicles other than the driver and crew of the vehicle.

Corporate responsibility linear Gojek to passengers or consumers that can be studied using the provisions of Act Number 08 of 1999 concerning Consumer Protection and Law Number concerning Limited Liability Companies. About management on possible risks that occur, which can be assessed using the provisions of Law Number 47 of 2014 concerning Insurance. In cases of violation of consumer rights, caution is required in analyzing who is responsible and to what extent may be charged to the related parties. The responsibilities of business actors are regulated in Law Number 08 of 1999 concerning Consumer Protection Article 19 to Article 28, which includes the principle of responsibility based on Error (Liability Based on Fault Principle) and principles of absolute responsibility (Absolute Liability Principle).

## **II. Review of Literature**

### **2.1. Definition of Responsibility**

Responsibility in the Indonesian dictionary has the meaning as a condition of being obliged to bear everything (if anything happens) may be sued, blamed, estimated, and so on).<sup>7</sup>In the dictionary law, responsibility is a must for someone to carry out what has been required of him<sup>8</sup>. According to law, responsibility is a consequence of consequences of a person's freedom regarding his actions related to ethics or morals in doing an action.<sup>9</sup>Legal responsibility happens because of an obligation that is not fulfilled by one of the parties who agreed, it also makes the other party suffer a loss due to their rights not being fulfilled by one of the parties. Legal liability has several meanings. Ridwan Halim defines legal

liability as something further from the implementation of roles, both roles are rights and obligations or power. In general, legal liability is defined as: the obligation to do something or behave in a certain way does not deviate from existing regulations.

Furthermore, according to the Quarterly Point accountability must be has a basis, namely things that give rise to legal rights for one to demand others at the same time in the form of things that give birth to other people's legal obligations to provide accountability.

## **2.2. Definition of Company**

Various scholars put forward the notion of the company, as Molengraaff, as quoted by R. Soekardono, stated that the company is the whole action that is carried out continuously, acting outside to earn income, using trade or trade, deliver goods or enter into a trade agreement.<sup>12</sup> In line with Molengraaff is the opinion expressed by Polak, as quoted by Abdulkadir Muhammad, who stated that only it is said that there is a company if It is necessary to calculate profit and loss that can be estimated and recorded in bookkeeping.

Polak's opinion adds an element of "bookkeeping" to the other elements as stated by Molengraaff. Companies, according to the legislators, are acts that are carried out uninterruptedly, openly, in a position to seek profit (profit).

Activities performed with the intent to seek these benefits, including activities economy. According to Law Number 08 of 1997, the definition of Company is any form of business entity that carries out activities permanently and continuously intending to make a profit or profits, whether held by individuals or by a business entity (association or organization) whether in the form of a legal or not, established and domiciled in the territory Republic of Indonesia.

The higher the company's leverage, the company tends to generate less cash, this is likely to affect the occurrence of earning management. Companies with high debt or leverage ratios tend to hold their profits and prioritize the fulfillment of debt obligations first. According to Brigham and Ehrhardt (2013), the greater the leverage of the company, it tends to pay lower dividends in order to reduce dependence on external funding. So that the greater the proportion of debt used for the capital structure of a company, the greater the number of liabilities that are likely to affect shareholder wealth because it affects the size of the dividends to be distributed. (Yanizzar, et al. 2020).

## **2.3. Understanding Transportation On line (Gojek)**

The definition of transportation comes from the Latin word transportation, where trans means now or the other side and portate which means transportation or carrying something to the other side or something from one place to another by land. a transportation line is a form of potential development and the role of national transportation which at the same time supports development economic and regional development. Definition of transportation line is a vehicle that is used as a transfer from one place to another with certain agencies that are responsible for ownership or operation of the associated transportation, most main of transportation. Transport as a basis for economic development and community development and industrialization. As is transportation causes, specialization, or division of work according to expertise by the culture, customs, and culture of a nation or region. Transportation or transportation is a field activity that is very important in the lives of Indonesian people because The importance of transportation for the Indonesian people is caused by several factors: factors

among others, this geographical situation, namely transportation-based state-of-the-art machines equipped with position tracking features.

Definition of transportation line is the usual public transport used but can be operated independently line, good for booking as well as payment.

#### **2.4. Understanding Consumers**

The definition contained in Law Number 08 the Year 1999 concerning Consumer Protection. The definition of a consumer is every people who use goods and/or services available in the community, both for the benefit of oneself, one's family, others, and living beings other and not for trading. According to Law Number 08 of 1999 Article 1 number 1,

The definition of consumer protection is all efforts that guarantee the existence of legal certainty to protect consumers. The definition of a business actor is any individual or business entity, whether in the form of a legal entity or not a legal entity established and domiciled or carrying out activities within the jurisdiction of the State Republic of Indonesia, either individually or jointly through an agreement conducting business activities in various economic fields.

### **III. Research Method**

#### **3.1. Procedure**

Procedures for the Use of Transportation services line Towards the middle of 2015, the Indonesian people were excited by the presence of unusual public transportation. Gojek indeed is a transportation service in the form of two-wheeled motorcycle taxis. However, what makes Gojek different from other basic motorcycle taxis is how to order it using a special application, as well as the tariff according to what is listed on the website application. To be able to use transportation services online according to the procedure true, there are some terms and conditions that must be known, namely

1. If sending goods, the user must provide correct information and complete the type and specifications of the goods.
2. Gojek does not provide a delivery box, and Gojek does not responsible for any damage, or deformation upon delivery of those items.
3. The driver has been provided with directions to drive the vehicle with good, but the user has full responsibility for personal safety themselves, thus having the right to remind drivers to be careful liver.
4. Gojek does not accept delivery of goods in the form of
  - a. Goods that are prohibited by the authorities to be circulated and owned
  - b. Delivery of goods to and from prison
  - c. Pets
  - d. Items that are more than 70cm long, 50cm wide, 50cm high, or goods weighing more than 20kg.
5. Gojek is not responsible for accidents involving drivers
6. The company will provide compensation for accidents consumer application users Rp. 10,000,000.00. for replacement, and IDR 5,000,000.00. for hospital fees
7. Gojek will provide compensation for lost goods up to IDR 10,000,000.00. according to the information provided
8. Every code voucher can only be used once for one account at a time promotion Below will explain how to use the application according to the instructions use:
  1. First of all, consumers can order Gojek through the application by first entering the pick-up address(pick-up) and the address to be addressed (Drop off). Consumers can also choose the method of payment; do they want to pay with cash or useGoPay.

Information about payment rates will automatically appear after the second the address is filled in.

2. The application will immediately process the order using the complicated algorithms to perform searches driversthe closest to deliver potential customers.
3. Thendriverswho managed to getbiddingentitled to deliver passengers according to the pick-up address and deliver passengers get to the destination safely.
4. After arriving at the destination, the passenger is required to pay to thedrivers. If at the time of booking the passenger uses the payment method useGo-pay/Credit/ other electronic money then passengers don't have to pay anymore.

### 3.2 The Role of transportation

A line against Consumer Accidents In general, it is known that there are four basic consumer rights, namely: security, the right to information, the right to vote, and the right to be heard. Transportation services are related to passenger services. Thing This relates to the rights of passengers (as consumers) to be respected by customers' transportation service providers. In this regard, protection is needed Laws for users of transportation services and other types of transportation are elements of transportation safety and the responsibility of the carrier.

Every transportation accident always causes a loss for passengers, both morally and materially, which of course creates problems prolonged legal process, especially about legal liability transportation service companion line to consumers in the event of a transportation accident. Seeing the picture above, it is a very necessary responsibility of transportation service providers line to the safety and security of passengers. Forms of Accountability given to Service Users TransportationOn line in the event of a company accident in carrying out its activities, both in investment, production, distribution, and all activities that are related to it will always be related to other parties who are often known, user or consumer.

The problem is when business activities that are carried out will result in losses to consumers who can result directly or indirectly. Losses that arise can occur through transactions made, which can be in the form of physical or economic losses. 46 Regarding such matters, what are the legal provisions governing this matter? especially those related to corporate responsibility. A shape an action that a person or entrepreneur can ask for responsibility if there are consequences due to his actions or negligence or carelessness on the part of another person or party.

The responsibility results because of his fault on the person concerned may be asked to pay compensation. The emergence of the movement of Consumer protection was motivated by the many problems as a result of the position of society (consumers) and the aggressiveness of producers (corporations) in carrying out their activities and offering their products, without paying attention to quality, ethics, and corporate responsibility which often only benefits himself and cause losses on the part of the consumer, which sometimes it's not only material loss, physical disability but also a mental man. The relationship pattern between transportation companies' line with drivers is a partnership relationship.

In the field of law, cooperative relations between companies through a partnership pattern cannot be separated from the law of agreement between the parties, which is based on the principle of freedom of contract. By agreeing to the rights and obligations of each party are known, including the consequences if any party violates the agreement or does not fulfill its obligations. Based on the partnership relationship between the Gojek Company and drivers then Gojek is not directly responsible for accidents that occur 47 involveddriversGojek, both damage to vehicles and bodily injuries caused by the accident.



Responsible for all costs as well as any claims that may arise for the incident will be the responsibility personaldriversGojek. If there is any information that can help with the process investigation like a motorcycle license plate number, then Gojek can only help as a mediator in bringing together the two parties to find a solution to the problem. Here the law serves to provide signs or rules so that cooperation that has been established through a deed of mutual agreement can work well.<sup>39</sup>So, the responsibility given to the transportation companion line to consumers is based on human relations. The legal provisions related to corporate responsibility arise from an act of negligence that causes harm to the consumer.

This can be taken over by Article 1365 of the Code of Law Civil Code (KUHPerdata) by requiring the company to pay compensation loss and Article 1865 of the Civil Code with the obligations of the party who has been accused (consumers) to prove it. In civil law efforts to prove and determine who has committed acts against According to the law, according to the provisions of Article 1243 and Article 1365 of the Civil Code, the principle of liability is based on fault.

### **3.3 Consumer / Community Opinion on Service Use Satisfaction**

TransportationOn line Consumer Satisfaction is when consumers meet their needs, it is a consumer assessing a product feature or service, or the product or service itself. It is a satisfaction obtained by consumers related to the fulfillment of needs. According to Thorik G. and Utus H, the importance of providing good service quality due to service (service) is not only limited to delivering or 51 serve. Service means understanding, understanding, and feeling so that the delivery will also be about heart-share consumers and ultimately strengthen their position as a mind-share consumers.

As is heart share which is embedded, a consumer's loyalty to a company's product or business is not doubtful.

The consequences of customer satisfaction/dissatisfaction are crucial for business, government, and consumers. For business, satisfaction is seen as one of the dimensions of market performance. Improved customer satisfaction potentially leads to long-term and long-term sales growth short, and market share as a result of repeat purchases. For the government, the concept of customer satisfaction/dissatisfaction can assist them in identifying and isolating products and industries which require government action to improve the welfare of the consumer. For consumers, the concept of customer satisfaction is useful in providing clearer information about how satisfied or dissatisfied consumers are others for certain products or services.<sup>42</sup>And a good service company knows that a positive employee attitude will lead to more customer loyalty strong.

Some opinions from consumers on satisfaction and complaints about the use of transportation services on line<sup>44</sup>: 1. Moh. Rusliawan October 13, 2017, very helpful when you need speed time. I hope the service gets better 2. Nur Rizky March 25, 2016, very helpful, success for Gojek Indonesia 3. Mandui Bakumpai October 15, 2018, sorry if this burdens you, gojek friend. If possible, the vehicle they use, don't use the service late, so that we consumers are comfortable when riding, and not like pretentious dead so the shaking is a bit loud, knowing that the roads in Kalimantan are still not as smooth as in Java. Thank you Gojek for helping us. Sorry, it's just advice only. So that Gojek will be even better in the future. Bravo gojek. 4. Rossy Penditiawati October 16, 2018, for the rest of her life using a new Gojek yesterday could drivers ongoing, order gojek but no response then Icanceland search repeat. Eh, can he continue to know that he's texting angry? he said I meant orders it canceled but ordered again, I want him to be the one who got time because the signal provider consumers are sprayed. There are also some testimonials from

homeland artists who use transportation line the: 1. Chelsea Islan, gojek is like a friend who is always there and always loyal, when wherever and wherever gojek is my best friend every day.

#### IV. Result and Discussion

**Legal Protection for Motorcycle Riders** The number of traffic violations in Indonesia is very alarming. with the increasing amount of damage caused, ranging from goods, victims' injuries, to fatalities. In line with this development, enforcement of a law against traffic violations has not been able to run well. This matter is influenced by several factors, namely: statutory factors, factors law enforcement, facilities or facilities factors, community response factors, and culture. Maximum law enforcement against important traffic violations is carried out because traffic violations cause losses both materially and immaterial.

In addition, it is also necessary to make efforts to overcome violations of traffic in a preventive or repressive manner. Interested parties in dealing with traffic violations, as a consequence, must synchronize the duties and functions of each institution or ministry. The Government together with the House of Representatives of the Republic of Indonesia (DPR RI) has made and promulgated related regulations or policies with the traffic contained in Law No. 22 of 2009 concerning Road Traffic and Transportation (hereinafter referred to as the LLAJ Law). Law 54 55 Traffic and Road Transportation laws were promulgated to realize safe, safe, orderly, and safe traffic and road transportation services. smoothly, and integrated with other modes of transportation to encourage the economy national level, promote the general welfare, strengthen the unity and integrity nation, and able to uphold the dignity of the nation. Apart from that, the goal of the enactment of the Road Traffic and Transportation Law is also for realizing traffic ethics and national culture and law enforcement, and legal certainty for the community.

**Law number 22 of 2009 concerning Traffic and Transportation** The road explains that the road user is anyone who uses the road Road to Traffic. However, the highway is not necessarily free to use by each road user. The traffic rules that must be obeyed by every road user, which is expected not to cause problems, okay for themselves and others. As a good society, we too must know what rules must be obeyed, so that does not happen loss, both to oneself and to others.<sup>45</sup> There are several losses experienced by motorized vehicle users during the trip, one of which was a traffic accident. a traffic accident is an event in an unforeseen and unintentional way involving vehicles with or without other road users causing casualties human and/or property loss.

For people who have traffic activities, it might be better to observe the following rules. If you don't obey the rules or violate existing rules will be punished. Not only that, but the public must also obey rules for traffic safety.

1. Must have a SIM, everyone is required to have a driving license (SIM) issued by the Police. To be able to drive a motorized vehicle on the Street. The manufacturing procedure is easy with a transparent process. Every applicant must meet certain conditions such as age requirements, administrative, medical, and pass the exam to be able to get it. Following this is the function of a driver's license (SIM) based on the law Republic of Indonesia Number 22 of 2009 concerning Traffic and Transportation Road, Article 86.

- a. Driver's License serves as proof of driving competence.
- b. Driver's License serves as Driver registration Motorized Vehicles containing complete identity information Driver.

- c. Data on Driver registration can be used to support investigation, investigation, and police forensic identification activities.
2. Don't ride the sidewalk, the sidewalk is a facility specifically for pedestrians' legs, but it is still often found that reckless motorcycle drivers ride their motorbikes on the sidewalk so that it endangers the safety of pedestrians. Law Number 22 of 2009 concerning Traffic and Road Transportation, Article 131 regulates the rights of pedestrians on the highway:
  - a. Pedestrians have the right to the availability of supporting facilities in the form of sidewalks, crossings, and other facilities.
  - b. Pedestrians have the priority right when crossing the road at the crossing.
  - c. If the facilities as referred to in the paragraph are not yet available (1), pedestrians have the right to cross at the chosen place by paying attention to their safety.
3. Respect pedestrians and cyclists, Highways are not just for traversed by motorized vehicles only. Pedestrians and cyclists have the right to use it. This is by Law Number 22 Years 2009 concerning Road Traffic and Transportation.

In business activities, there is a mutual relationship between businesses and consumers. The interest of business actors is to earn a profit (profit) from transactions with consumers, while the interests of consumers are to obtain satisfaction through the fulfillment of their needs for certain products. In such a relationship there is often an inequality between both of them. Consumers are parties who are always in a weak position and therefore can become targets of exploitation from business actors who are socially and economically have a strong position. in other words, consumers are vulnerable parties exploited by business actors in carrying out their business activities.

To protect or empower consumers, a set of rules of law. Therefore, there is a need for State intervention through the establishment of a legal protection system for consumers.

According to Law Number 08 of 1999, what is meant by: Consumer Protection is all efforts that guarantee the existence of legal certainty to protect consumers. What is meant by a consumer is every user of goods and/or services available in the community, both for self-interest themselves, their families, other people, and other living beings, and not for trade (Article 1 UUPK). According to Mariam Darus Badrul Zaman, consumers are defined by: how to take over the meaning used by the Dutch literature, namely: all individuals who use goods and services in a concrete and real way”.

Consumer protection is organized as a joint effort based on five principles that are relevant to national development, namely:

1. The principle of benefit, is intended to mandate that all efforts In carrying out consumer protection, must provide benefits as much as possible for the interests of consumers and business actors whole.
2. The principle of justice, is intended that the participation of all people can be realized maximally and provide opportunities for consumers and actors efforts to obtain their rights and carry out their obligations fairly. Zulham, consumer protection law, Kencana, Jakarta, 2013, page 16 63
3. The principle of balance, is intended to provide a balance between the interests of consumers, business actors, and the government in the material and spiritually.
4. The principle of consumer safety and security, is intended to provide a guarantee of security and safety to consumers in the use, use, and utilization of goods or services consumed or used.
5. The principle of legal certainty is intended so that both business actors and consumers obey the law and obtain justice in the administration of consumer protection, and the State guarantees legal certainty. Legal principles can be distinguished at two levels,



namely principles or principles of general law principles (the general principle of law) and principles or special legal principles (the specialist principle of law). Principles This general law applies generally to all fields of law and usually is the principle of legislation as regulated in Algemene Bepalingen van Wetgeving voor Indonesia (General Regulations concerning Legislation invitation to Indonesia).

## V. Conclusion

Based on the description that has been stated above, it can be submitted some conclusions as follows:

1. The community as users or consumers of transportation services exists protected by law as regulated in Article 1 point 1 of Law Number 08 of 1999 concerning Consumer Protection.
2. Article 19 paragraph (1) of Law Number 08 of 1999 explains that business actors are responsible for providing compensation for damage, pollution, and/or consumer loss due to consumption of similar goods and/or services produced or traded. The form of compensation is explained through Article 19 paragraph (2) of Law Number 08 of 1999 which can be in the form of a refund, or replacement of goods and/or services of the same or equivalent value, or health care and/or compensation. Go-jek company that is engaged in the business of transportation services that use the media internet is subject to the above regulations, and performs every obligation in fulfillment of guarantees and/or guarantees agreed in the agreement. Gojek company provides compensation fees for lost goods until with Rp. 10,000,000.00 (ten million rupiahs) which applies to services courier instances and accident compensation costs up to Rp. 74 75 5,000,000.00 (five million rupiahs) to all Gojek customers who use the ride.
3. Business actors are responsible for providing compensation for damage, pollution, and/or consumer losses due to consumer goods and/or similar services produced or traded, so Gojek cooperates with Allianz, to provide protection life insurance in the form of personal accident insurance for service users Gojek transportation. Personal accident insurance coverage or personal Accidentonly applies when Gojek transportation service users become Gojek passengers (during the duration of the trip as a Gojek passenger). Benefits provided for Gojek passengers from personal accident insurance Compensation for death and permanent disability due to an accident up to Rp.10,000,000, Reimbursement of Medical Expenses due to Accident up to IDR 5,000,000. –

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