

Legal Protection of Consumers Using Online Transportation Services

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Abstract. Transportation is one of the most important means of connecting in aspects of human life. The more developed the means of transportation, the easier it is to establish human relationships. This study aims to determine how the legal protection for consumers who are harmed by online transportation service companies and how the company's responsibility. against misuse of consumer personal data by drivers. This study uses data collection techniques through observation and interviews, the data obtained from the research is processed using quantitative analysis. The results show that the form of legal protection for consumers of online-based transportation according to transportation law in Indonesia from a civil perspective is Compensation. This provision of transportation responsibility can be used as an instrument of consumer protection using online transportation services.

Keywords: Transportation, Protection, Consumer

1 Introduction

Transportation is the movement of people or goods using a tool that is operated by humans mechanically. The purpose of transportation is to facilitate human activities on a daily basis. The importance of the transportation of goods, so that between road signs and means of transportation must be managed through a regulation on transportation that can make the willingness of businesses to transport goods based on the traffic system related to forms of transportation services to be effective and efficient. Transportation services that are often encountered by the community are motorcycle taxis. The meaning of the term ojek is a two-wheeled vehicle that is mined. Ojek is a means of transporting goods using a 2-wheeled transporter, the role of which is to deliver from one place to another, as a form of compensation for services with the provision of wages.

The role of Ojek as an effective and efficient means for some people in their activities.

In Law No. 22 of 2009 concerning road traffic and transportation, it is not regulated regarding online land transportation, especially regarding online motorcycle taxis. But in the Regulation of the Minister of Transportation (Permenhub) No. 32 of 2016 concerning the Implementation of Transportation of People with Public Motorized Vehicles Not On Routes such as taxis, rental transportation, charter, tourism, and including online taxi services.

Transportation is one of the most important means of connecting in all aspects of human activity. The more developed the means of transportation, the easier it is to establish human relationships. The history of transportation begins when the wheel was first invented about 3500

years ago. In general, the lives of Indonesian people often experience changes in the order of their lives. The more sophisticated technology in the world, people are competing to get to know the technology better.

Society is defined as a group of people who form a system, where most of the interaction is between individuals who are in the group. More abstractly, a society is a network of relationships between entities. Entering the 20th century along with the rapid development of technology and the transportation industry has turned into one of the aspects that humans need the most. The existence of transportation can help the wheels of economic movement in the region, both local and national levels. The utility of transportation plays a vital role in helping the distribution of goods and services.

In the last few years, Indonesia is undergoing a transformation in terms of online-based transportation services that have developed rapidly in society, starting from the lower middle class to the upper middle class. At this time, the Indonesian people are feeling disappointed with the problem of transportation which is very crowded and erratic, the high level of congestion and air pollution that makes people reluctant to leave the house or to the office, but on the one hand they must be agile to meet their needs. As a result, they need services that can help the community in fulfilling their daily needs, one of which is using online transportation services.

This online-based transportation service is also known as the ridesharing application, which appeared in Indonesia in 2014. At the beginning of its emergence, it was started by the Uber application which carried UberTaxi as an online application-based transportation service business. Then followed by the emergence of Gojek, GrabBike, GrabTaxi, and Maxim. Unlike Go-Jek, which is native to Indonesia, Maxim is from Russia. This online transportation company has been established since 2003 in its home country, Russia. Maxim was founded by young engineers from the city of Kurgan who are experts in the field of computer manufacturing technology and production processes. The main goal of the establishment of Maxim is to create technology and innovation in terms of taxi orders, where the service becomes more modern, easy to use and safe.

2 Research Methods

The type of research used in this research is empirical research. With data sources, namely Primary Data in the form of Observations, and interviews combined with Primary legal materials in the form of Law no. 22 of 2009 concerning Traffic and Road Transportation, Law No. 8 of 1999 concerning Consumer Protection and Regulation of the Minister of Transportation (PERMENHUB) Number 32 of 2016 concerning the Implementation of Transportation of People with Public Motorized Vehicles Not on Routes and Secondary legal materials in the form of books, journals and Related article . The data obtained were then processed using quantitative analysis.

3 Results and Discussion

3.1 Legal protection for consumers of online-based transportation according to transportation law in Indonesia.

The phenomenon of application-based transportation businesses through internet media such as Go-Jek, Grab Car, Uber and so on is a new form of development for the existing road transportation business. Likewise, online transportation agreements also apply as new

developments (innovations) from conventional transportation agreements. application-based transportation agreement is an innovation that comes from the synthesis between Law no. 22 of 2009 with Law no. 11 of 2008.

Electronic transactions between public transportation companies and consumers/service users have started when consumers or users download certain public transportation service applications. In the installation process, prospective customers are asked to choose the terms of the agreement offered by the other party as an absolute requirement.

In Article 1313 of the Civil Code, it is explained that the agreement must be based on an agreement between two parties who agree to the existence of the agreement. The suitability of a contract can be seen from article 1320 of the Civil Code regarding the validity of an agreement. An agreement does not only bind what is expressly stipulated in it but also everything that by its nature the agreement is required based on justice, the conditions that are always agreed upon according to Article 1320 of the Civil Code, must be in the terms of use in the MAXIM application.

There are also those who argue that an agreement is not the same as an agreement. In addition, with the rapid development of technology today, it has various impacts on the procedure for the agreement, including that the agreement means that the parties make the agreement face-to-face directly, but can also be done with the MAXIM application online. The existence of transportation services carried out by MAXIM partner drivers also cannot be separated from the daily activities of the community. In fact, one of the barometers of determining the progress of life and civilization of a society is the progress and development as well as the technology used by the community in transportation service activities. Since the consumer fired the agree button, that's when the electronic contract was born.

Some of the Parties within the scope of the transportation/transportation are :

- a. The carrier, in the passenger carriage agreement, the carrier party is the party who is obliged to provide passenger transportation services and is entitled to receive payment of transportation tariffs (costs) in accordance with those that have been determined.
- b. Passengers, which means parties who are entitled to receive passenger transportation services and are obliged to pay transportation fares in accordance with those stipulated at the beginning of the transaction.

In a carriage agreement, a passenger has two statuses, namely as a subject because he is a party to the agreement and as an object because he is the cargo being transported. The term carriage can be defined as the carrying of goods or passengers. Electronic agreements tend to use a legal system that refers to the norms or rules that apply in a country, including Indonesia. Based on the provisions of the applicable agreement law, there are several important things that must be considered in agreement activities, including the rights and obligations of the parties that are confirmed at the time of the agreement, including in electronic business.

In 2018 there was a case involving online transportation drivers and passengers An online transportation driver named Angrizal Noviandi, had the heart to rob and molested his passengers, the sexual abuse was carried out by Angrizal in his car on his way from Bekasi to Soekarno Hatta Airport, apart from molesting the victim, Angrizal also snatched the victim's property, one of which was the iPhone 6S mobile phone. Although he works as a partner and is a driver of an online transportation service company, in reality Angrizal is not a driver who is officially registered because after an investigation the account used by Angrizal is not in his name. The practice of switching online transportation driver accounts can result in losses to passengers. The real purpose of transportation, which is to deliver passengers to their destination safely, is not achieved. In this regard, the government should be able to provide legal certainty

so that no party is harmed. The regulation of this application-based online transportation tool is very necessary for the realization of legal certainty and the protection of the rights of the parties.

The existence of electronic contacts is basically a manifestation of the initiative of the parties to make an agreement, this is highly protected by Article 1338 of the Civil Code which enforces the principle of freedom of contract. According to Agustriawan as a resource person interviewed by the author, that the development of technology and information is progressing very rapidly, various innovations are given to the community in order to have convenience in carrying out activities, especially in terms of transportation. Online transportation is one of many examples of technology development. Not to mention the tariff competition by several online transportation companies, where the Maxim company is much cheaper than other transportation companies, Although Maxim is fairly new and still lacking in fulfilling choices in its application, Indonesian citizens even in big cities have used Maxim a lot. for online transportation services.

The form of this responsibility is compensation, where the provisions of this transportation responsibility can be used as an instrument of consumer protection using public transportation services. Based on the above provisions, public transport consumers have the right to be served correctly and properly by business actors. Consumers are also entitled to the safety and comfort of the public transportation services used. To ensure this safety, services must be of good quality standards, business actors must use vehicles that are truly roadworthy to transport passengers.

3.2 Liability of Online Transportation Companies for Misuse of Consumer Personal Data by Drivers

Companies that provide information technology-based applications in providing people transportation services are required to cooperate with public transportation companies that already have a transportation operation permit, so that information technology-based application companies are not allowed to act as public transportation companies, which include setting fares and collecting fees, recruiting drivers. , and determine the driver's income.

Software platform-based transportation tools (applications) provide various benefits, “Software platforms deliver a variety of efficiencies, including reducing transaction costs, improving allocation of resources, and information and pricing efficiencies”.

Data information collection is carried out through registration on the MAXIM mobile application as well as a condition so that consumers can enjoy and take advantage of the various types of services offered. At the registration, consumers will be asked to provide an e-mail address, name, telephone number. In addition, consumers are asked for approval so that their location can be tracked and monitored using the Global Positioning System (GPS) on the MAXIM mobile application in real time (at that time) or hereinafter referred to as geo-location. The important thing that must be considered by application service providers in running their applications is the security features .

The use of geo-location, among others, is to find drivers who are around consumers, assist drivers in calculating costs and analyze application usage patterns to improve application performance. Provision of personal information/data of MAXIM service users in the form of e-mail, name, phone number, and account password, among others, is used to verify ownership of an account in the MAXIM mobile application, a means of communication between service users and service providers (drivers) in connection with service orders. selected and to provide information about the application itself, for example if there is an application update or promotional offers.

Such Personal Information by MAXIM will not be shared with any party other than the relevant drivers and third-party companies and individuals without the consent of the

consumers. However, based on the privacy provisions, terms and conditions as well as the terms of use of MAXIM which have been read and agreed upon by the consumer at the time of registration, MAXIM is authorized to disclose the consumer's Personal Information as long as it is legally required, or required to comply with the provisions.

The form of responsibility of the motorcycle taxi driver concerned for the safety of service users, because the responsibility of the driver is needed when making a legal mistake to the rights of the motorcycle taxi passengers. Motorized motorcycle taxi service users are referred to as consumers, in Law no. 8/1999 in Article 1 number 2 explains that "Consumers are every person who uses goods and/or services available in the community, both for personal, family and other people's interests and not for trading". Service users must get juridical protection with the existence of a law and certainty, in the event of a loss to the two-wheeled vehicle public transportation service provider. A loss experienced by users of two-wheeled transportation services is if there is an accident, due to the actions of the motorcycle taxi driver who are not careful.

A juridical certainty to protect service users in the form of guarantees for the rights of service users, to supervise irresponsible business entities. Legal provisions relating to the company's liability arise because of their actions or omissions that cause harm to the consumer. This can be backed up with Article 1365 of the Civil Code (KUHPerdata) by requiring the company to pay compensation and Article 1865 of the Civil Code with the obligation of the accusing party (consumer) to prove it. In civil law efforts to prove and determine who has committed an unlawful act, according to the provisions of Article 1243 and Article 1365 of the Civil Code, the principle of liability based on fault is regulated. In this article, the element of error determines responsibility, which means that if there is no evidence of an error, there is no obligation to provide compensation .

Then it could also be Article 19 paragraph (1) of Law No. 8 of 1999, where business actors are responsible for providing compensation for damage, pollution, and/or consumer losses due to consuming goods and/services produced or traded. The form of compensation is explained through Article 19 paragraph (2) of Law No. 8 of 1999 which can be in the form of refunds, or replacement of goods and/or services of similar or equivalent value, or health care and/or compensation. The provision of compensation does not eliminate the possibility of criminal prosecution. If the business actor wants to escape from responsibility, the business actor is burdened with the obligation to prove.

The legal relationship between the MAXIM company and its service provider (driver) is a partnership. In the MAXIM Terms of Use in point 5 regarding Responsibilities it is explained that the service provider is only a partner and not an employee, agent or representative of MAXIM. The law that regulates Manpower only regulates workers who are in an employment relationship based on a work agreement, not covering the legal relationship doing work outside the employment relationship. So, in terms of responsibility, the legal relationship based on this partnership lies with the workers themselves, for example if there is damage to the motorbike it is the responsibility of the driver, not the MAXIM company.

Therefore, MAXIM is clearly not responsible for the storage of consumer personal data by drivers in any way so that MAXIM will also not be responsible for any misuse of consumer personal information by drivers after the end of the services provided. This explanation is contained in the MAXIM Privacy Terms. However, for MAXIM drivers who are reported and can be proven to have misused consumer personal data, either in the form of threats or seductions aimed at consumers, the sanctions are issued/dismissed. In an online news site that the author got, it was reported that there were drivers who were annoyed with consumers

because they used promo codes continuously so that drivers did not get money directly, so the drivers and their colleagues threatened to teach consumers a lesson.

4 Conclusion

Consumer protection for online transportation service users arises because of the rights and obligations of consumers and business actors in accordance with Law No. 8 of 1999. Consumer protection provided by online transportation companies is by way of Compensation, providing insurance for passengers and goods transported using online transportation services. In addition, the implementation of passenger transportation has given consumers the right to get a fair price by determining a standard tariff that is known by the passengers. Meanwhile, the consumer protection provided by the government is still not optimal. Consumer protection laws still cannot protect and place consumers in a weak position.

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