

Legal Protection for Consumers Who Are Injured Due to Mechanic Negligence in Repairing Motorcycles

by Romy Ashadin Anhar

Submission date: 24-Apr-2024 04:08PM (UTC+0700)

Submission ID: 2360242403

File name: HUKUM-1312000159-Romy_Ashadin_Anhar.pdf (465.64K)

Word count: 3322

Character count: 18566



Legal Protection for Consumers Who Are Injured Due to Mechanic Negligence in Repairing Motorcycles

Romy Ashadin Anhar¹, HR Adianto Mardijono²

Article History

18 Manuscript submitted:
Xx Month Year
Manuscript revised:
Xx Month Year
Accepted for publication:
Xx Month Year

Keywords

motorbike mechanics,
legal protection,
consumers, accidents

Abstract

Sometimes accidents are not always due to the negligence of the motorbike driver, but are caused by the unfitness of the vehicle which is caused by the motorbike mechanic being negligent in providing motorbike repair services to motorbike users. Even though accidents often occur due to unsuitable motorbike spare parts, until now there has been no protection for consumers who are injured because mechanics are negligent in providing their services. Therefore, consumer protection is needed for mechanical services that are negligent in providing their services, resulting in harm to the consumer. In this research, the author uses method¹⁹ a normative juridical with the approach of statutory regulatory approach and a conceptual approach. The purpose research is to find out how legal protection is for consumers who are injured due to mechanic negligence in repairing motorbikes. As for the results of this research, a vehicle being repaired in a motorbike repair shop experienced an accident due to mechanical negligence, the business actor can be considered⁹ as the business actor who is responsible for the accident, following the principle of liability based on fault which is used in general consumer protection law.

6

International Journal of Social Sciences and Humanities © 2022.
This is an open access article under the CC BY-NC-ND license
(<https://creativecommons.org/licenses/by-nc-nd/4.0/>).

1 Introduction

In the current era of globalization, the needs of human life are increasing. This requires people to struggle to meet their daily needs, one of which is by buying and selling the goods or services they need. Not a few people also take this opportunity to become business people with the intention of making a profit from goods/services sold to consumers. The need for protection for consumers is due to the unequal position between consumers and business people. (Adi et al.,

12

¹ Universitas 17 Agustus 1945, Surabaya, Indonesia

² Universitas 17 Agustus 1945, Surabaya, Indonesia

2023).

This imbalance pertains to the realm of education, where consumers lack significant bargaining power.(Budi, Supriyadhie, 2019). Consumer protection laws are not designed to stifle business entities; rather, they aim to foster a conducive business environment that promotes the emergence of robust companies capable of competing by delivering high-quality goods and/or services.

Currently, the automotive industry in Indonesia is experiencing progress for two-wheeled vehicles or motorbikes, this is because people have not experienced the availability of efficient public transportation provided by the government, apart from that, another factor is the ease of purchasing new motorbikes nowadays. The number of motorbike riders in Indonesia continues to increase every year. Many people choose to use private vehicles to travel because private vehicles have various conveniences, including being able to arrange routes according to their needs, being able to travel at any time, avoiding having to wait for public transportation to pass by and various other conveniences(Arapenta, 2022).

Transportation problems are the most critical and main problems that are difficult to solve in every city. This is caused by the increase in population, increase in private vehicle ownership and various aspects of problems such as traffic management and accidents are increasing. As motorbike users increase, the rate of traffic accidents also increases. This is due to negligence and lack of awareness of motorbike riders to be more careful when driving or even negligence from motorbike mechanics who are less careful.

According to Law Number 22 of 2009 concerning the Road Traffic and Transportation (hereinafter referred to as Law 22/2009), describe traffic accident is defined as an unforeseen and unintentional incident occurring on the highway involving vehicles resulting in human casualties or property damage. The increasing number of victims in accidents is something that is undesirable for various parties, considering how valuable a person life, which is difficult to measure in units of money (Ruusen, Veibe, & Lembong, 2021). The individual responsible for causing the accident should be responsible for their actions, with the aim of deterring them and encouraging greater care and caution in the future. Even being alert is not enough to avoid accidents, factors also greatly influence when operating a vehicle and knowledge of traffic regulations that must be followed.

In Indonesia, the number of victims who die from traffic accidents reaches 120 people per day and most of the cases occur in motorbike riders. It is not uncommon for motorbike accidents to result from *machine errors* where the motorbike has engine problems or even *spare parts* that are not suitable, therefore many motorbike repair shops provide mechanical services to solve various problems on motorbikes. Sometimes accidents are not always due to the negligence of the motorbike driver, but are caused by the unfitness of the vehicle which is caused by the motorbike mechanic being negligent in providing motorbike repair services to motorbike users. As happened some time ago, a video went viral on YouTube of a motorbike rider named Sodri having an accident at PIK Jakarta. After investigation, the cause of this accident was because the frame of the motorbike he was riding suddenly broke. As a result of the accident, the victim suffered minor injuries(Hengstz, 2016).

Even though accidents often occur due to unsuitable motorbike spare parts, until now there has been no protection for consumers who are injured because mechanics are negligent in providing their services. Therefore, it is necessary to protect consumers for mechanical services that are negligent in providing their services, resulting in harm to the consumer.

2 Materials and Methods

The methodology employed this research use normative juridical with a statutory regulatory an approach involving the examination of laws and regulation pertaining to the issues discussed and a conceptual approach by studying legal views and doctrines. This approach is carried out when the researcher does not move away from This is done because there are no legal regulations for the problem at hand. The legal materials utilized comprise primary legal sources, encompassing statutory regulations and legal sources in the form of books and legal journal articles related to the issues to be discussed(Marzuki, 2022).

3 Results and Discussions

Legal protection for consumers who are injured due to mechanic negligence in repairing motorbikes

Legal protection refers to actions or efforts aimed at safeguarding society from arbitrary actions by authorities that deviate from the rule of law, with the goal of establishing order and tranquility so as to enable man to enjoy his dignity. Consumer protection is any effort that ensures legal certainty to provide protection to consumers, namely by increasing the dignity and worth of consumers and opening access to information about goods/or services for them, and developing the attitude of honest and responsible business actors(Hartono, Wakhinuddin, & 2018).

Based on Article 1 No 1 of Law Number 8/1999 concerning Consumer Protection (hereinafter referred to as Law 8/1999), definitoin of consumer protection is effort that ensures legal assurance to furnish protection to consumers. Consumers have a number of legal rights that need to be protected in their fulfillment. These rights should receive understanding and respect from all parties in national and state life. In other words, consumers as service users must prioritize safety and comfort. Article 7 of Law 8/1999 regulates of business people, including:

- a) Maintain good faith in conducting business activity;
- b) Furnish accurate, transparent, and truthful information concerning the condition and warranty of goods or services, along with instructions for use, repair, and maintenance;
- c) Giving treat consumers with fairness, honesty, and without discrimination;
- d) The quality guarentee of goods services manufactured or traded in compliance with the prescribed quality standards;
- e) Allow consumers to test or sample specific goods services, and offering guarantees or warranties for manufactured or traded goods;
- f) Offer compensation, redress, or reimbursement for losses incurred due to use,

*Title of manuscript is short and clear,
implies research results
(Authors)*

consumption, or utilization of traded goods services;

- g) Giving compensation, redress, or replacement if the received or utilized goods services do not meet the agreed-upon terms.

Article 7 Law No. 8/1999 mandates that business entities must offer warranties or guarantee for goods manufactured or traded. After-sales service is the responsibility of business entities to ensure the quality of the goods they sell, which may include follow-up consultations, guarantees for replacement of damaged goods, maintenance services, provision of spare parts, and similar provisions.

As per the general explanation in Law 22/2009, traffic accident is defined as an unforeseen and unintentional incident occurring on the road involving vehicles, with or without other road users, leading to injuries or damages to property. An accident can be further described as an unplanned event that may stem from human factors, road conditions, vehicle conditions, environmental factors, or a combination thereof, potentially disrupting regular operations and leading to injuries, pain, fatalities, property damage, or other undesirable outcomes.

The more motorbikes there are in the community, the more motorbikes require regular maintenance by repair shops or motorbike mechanics, which means that mechanics are sometimes negligent in carrying out their work, resulting in accidents for consumers. This is also not uncommon for business people to often provide *spare parts* or spare parts that do not comply with the agreement in the payment receipt, which results in dissatisfaction and losses to consumers (Ndun, 2018). According to Article 8 paragraph (1) letter f of Law 8/1999, business people are prohibited from production and/or trading goods and/or services that do not comply with the promises stated in labels, information labels, advertisements or sales promotions for the item said goods or services.

If we look at consumers, business actors often get unsatisfactory results. Therefore, legal protection is needed for consumers in order to protect their rights. Compensation that often occurs only takes the form of negotiating motorbike repairs, even though consumers feel motorbike losses and health care losses due to accident injuries, and compensation for both is really needed. Regarding accidents, article 229 paragraph (1) of Law 22/2009 explains that traffic accidents classified in 3 :

- a. Minor traffic accidents
- b. Moderate Traffic Accident
- c. Serious traffic accident

And finally, serious traffic Apart from that, the accidents in Article 229 paragraph (1) of Law 22/2009 are accident that can be cause by road user negligence, vehicle unfitness, as well as road and/or environmental unworthiness, the explanation of which is contained in Article 229 paragraph (5) Law 22/2009. Regarding sanctions that cause accidents, it is written in article 310 paragraph (1) of Law 22/2009 which reads if any individual operating a motorized vehicle who, due to their negligence, causes a traffic accident resulting in damage to the vehicle or goods as stipulated, shall be subject to a max imprisonment of 6 months or a fine not exceeding IDR 1,000,000.

In this case, consumers are entitled to claim compensation if they experience loss due to the mechanic's negligence in repairing the motorbike by proving that the loss they experienced in repairing the motorbike was directly caused by the mechanic's negligence, and not due to other factors, as well as showing that they suffer financial losses, personal injuries, or other losses as a result of such negligence (Fauzi, Koto, & Kaptan Muchtar Basri No, 2022).

Liability of business actors who are negligent in providing motorbike repair services

A principle associated with the notion of legal obligation is concept of legal responsibility. Legal responsibility implies an individual can face sanctions in the event of contrary actions (R. Subekti, 1981). Typically, when sanctions are imposed on a wrongdoer, it's because of the actions of that individual, rendering them accountable. Generally, the principle of legal responsibility encompasses the principle of fault liability or liability based on fault. According to the Indonesia Civil Code (KUH Perdata), particularly articles 1365, 1366, and 1367, this principle asserts that an individual can only be retrieved legally responsible if there is evidence of wrongdoing (Christian Arapenta, 2022).

Talking about consumers, of course on the other hand there are producers or sellers of goods services who are known as business actors. Business actors are further defined in Article 1 number 3 of Law 8/1999, which states that every individual or business entity, form legal entity or not, established and residing or conducting activities within the jurisdiction of the Republic of Indonesia, either independently or collectively through agreement, organizing business activities across various economic sector. In the Law 8/1999, business people must conduct their business activities in good faith, while consumers are expected to act in good faith when engaging in transactions to acquire goods or services. (Hadjon, 1987). In Law 8/1999, it appears that good faith is emphasized more on business actors, because they follow all stages in carrying out all business activities, so it can be interpreted that the obligation of business people to have good faith starts from the time the goods are designed produced until the after sales stage. This expectation arises from the potential for consumers to incur losses, which can occur from the moment goods are designed produced by the producer. Conversely, for producers, the possibility of incurring losses from consumers begins when transactions are conducted with business actors.

In the world of the motorbike repair industry, consumer trust in the skills and professionalism of business actors is the main key. However, in every business, negligence or errors can occur, resulting in serious risks to consumer safety and the reputation of the business itself. This sub-chapter will discuss in depth the responsibilities of business people when negligence occurs in providing motorbike repair services (Muchammad Ivan Firmansyah & Ferry Rosando, 2022).

The responsibility of business actors does not only cover legal aspects, but also professional ethics and moral responsibility towards consumers and society in general. By understanding the responsibilities inherent in business actors in the context of motorbike repair activities, we can build a solid foundation to ensure consumer safety and trust, as well as maintain the integrity and sustainability of the motor vehicle repair industry (Muchsini, 2003).

Consumers have the right to accept responsibility and compensation for errors made by mechanics. Article 19 paragraph (1) Law 8/1999 states the offending business provides sufficient compensation for damage or loss incurred by consumers consuming or utilizing the goods or services produced or traded.

*Title of manuscript is short and clear,
implies research results
(Authors)*

Aggrieved consumers can accept the compensation provided by the business actor. by refunding money or replacing goods and services of the same or equivalent value, or providing appropriate compensation, which is stated in article 19 paragraph (2) Law 8/1999 which states that compensation as mentioned in paragraph (1) forms of refund or replacement of goods from same value or conditions of healthcare or compensation in accordance with the provisions of the applicable law and regulations.

If a vehicle being repaired at a motorbike repair shop has an accident due to mechanic negligence, the legal responsibility of the business people can be arranged based on the type of vehicle and the circumstances of the accident. For example, if the vehicle being repaired at a motorbike repair shop is a motorbike, the business actor can be considered as the business actor responsible for the accident, following the regulations regarding two-wheeled motorized vehicles. This is caused by principle of liability based on fault which used in general consumer protection law. In addition, business actors who produce or sell motorized vehicles can be considered as business people who produce goods whose use sustainable for a period at least 1 year. This means that business actors must provide spare parts or after-sales facilities, as well as fulfill guarantees or guarantees as agreed (Dewi, Apriani, Hukum, & Karawang, 2022). In the case of an accident due to mechanical negligence, the business actor can be considered as the business actor who is responsible for the losses experienced by consumer, including costs of reinstalling the vehicle engine. Business actors must provide some form of compensation, such as reinstalling the vehicle engine or replacing damaged parts (Bisri, 2008).

4 Conclusion

The rights possessed by consumers are the right to comfort, security, safety, and compensation when using motorcycle repair services. The obligation of business people is to act in good faith in carrying out its business activities, by providing correct, clear and honest information regarding the condition and guarantee of the goods or services offered, as well as providing compensation for any losses due to the use of this service. If a vehicle being repaired at a motorbike repair shop has an accident due to mechanical negligence, the business actor can be considered as the business actor responsible for the accident, following the principle of liability based on fault used in general consumer protection law.

References

- Adi, C., Putra, G., Nyoman, I., Budiarta, P., Made, N., & Ujianti, P. (2023). Perlindungan Hukum Terhadap Konsumen dalam Perspektif Kesadaran Hukum Masyarakat. *Jurnal Analogi Hukum*, 5(1), 13–19.
- Arapenta, D. C. (2022). Kecelekaan penumpang ojek online ditinjau dari persepektif hukum asuransi dan perlindungan konsumen. *Jurnal Ilmiah Sosial Dan Humaniora*, 2(1), 32–50. Retrieved from <http://journal.pppci.or.id/index.php/jurisandsociety/article/download/37/23>
- Bisri, I. (2008). *Sistem Hukum Indonesia: Prinsip-Prinsip & Implementasi Hukum Di Indonesia*.
- Budi, A. P. S., Supriyadhie, H. M. K., & ... (2019). Pertanggungjawaban Hukum Pilot Dalam Insiden Kecelakaan Pesawat Udara Akibat Kelalaian (Pilot Error). ... *Law Journal*, 8, 2428–2441. Retrieved from <https://ejournal3.undip.ac.id/index.php/dlr/article/view/27102%0Ahttps://ejournal3.undip.ac.id/index.php/dlr/article/download/27102/24175>
- Christian Arapenta, D. (2022). KECELEKAAN PENUMPANG OJEK ONLINE DITINJAU DARI

PERSEPEKTIF HUKUM ASURANSI DAN PERLINDUNGAN KONSUMEN. In *Jurnal Ilmiah Sosial dan Humaniora* (Vol. 2).

- Dewi, L. A., Apriani, R., Hukum, F., & Karawang, U. S. (2022). *Perlindungan Hukum Terhadap Investor Saham Akibat Kepailitan Perusahaan Go-Public*. 9(5), 2293–2302.
- Fauzi, A., Koto, I., & Kapten Muchtar Basri No, J. (2022). Perlindungan Hukum Bagi Konsumen Yang Telah Dilanggar Haknya Melalui Jalur Litigasi Dan Non-Litigasi. *Jurnal Yuridis*, 9(1), 13–26. Retrieved from <https://ejournal.upnvj.ac.id/Yuridis/article/view/3963>
- Hadjon, P. M. (1987). *Perlindungan Hukum bagi Rakyat di Indonesia*. Surabaya: Bina Ilmu.
- Hartono, L. S., Wakhinuddin, S., & ... (2018). Faktor-faktor Yang Mempengaruhi Tindakan Tidak Aman Pada Mekanik Bengkel Toyota Di Kota Padang Tahun 2017. *Automotive Engineering ...*, (3). Retrieved from <http://ejournal.unp.ac.id/students/index.php/poto/article/view/3523%0Ahttp://ejournal.unp.ac.id/students/index.php/poto/article/download/3523/2387>
- Hengstz, Y. M. (2016). Penegakan Hukum Pidana Terhadap Kelalaian Pengemudi Yang Menimbulkan Kecelakaan Di Jalan Raya. *Lex Crimen*, V(1), 107–115.
- Marzuki, P. M. (2022). *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.
- Muchammad Ivan Firmansyah, N., & Ferry Rosando, A. (2022). Perlindungan Hukum Investor/Member Perjanjian Investasi Online (@nitip.invest). In *Seminar Nasional Hukum Dan Pancasila* (Vol. 1). Retrieved from <https://orcid.org/0000-0001-9279-0756>
- Muchsin. (2003). *Perlindungan dan Kepastian Hukum bagi Investor di Indonesia*. Surakarta: Universitas Sebelas Maret.
- Ndun, I. J. (2018). Perlindungan Hukum Bagi Konsumen Atas Garansi Suku Cadang Sepeda Motor Honda. *Mimbar Keadilan*, 1–17. <https://doi.org/10.30996/mk.v0i0.1603>
- R. Subekti. (1981). *Hukum Acara Perdata*.
- Ruusen, A. S., Veibe, S., & Lembong, R. R. (2021). Penegakan Hukum Pidana Karena Kelalaian Pengemudi Kendaraan Yang Mengakibatkan Kecelakaan Lalu Lintas. *Lex Crimen*, 10(2), 97–108.

*Title of manuscript is short and clear,
implies research results
(Authors)*

Legal Protection for Consumers Who Are Injured Due to Mechanic Negligence in Repairing Motorcycles

ORIGINALITY REPORT

17%

SIMILARITY INDEX

14%

INTERNET SOURCES

11%

PUBLICATIONS

11%

STUDENT PAPERS

PRIMARY SOURCES

1	journal.uin-alauddin.ac.id Internet Source	2%
2	ejournal.warmadewa.ac.id Internet Source	1%
3	Submitted to Bayard Rustin High School Student Paper	1%
4	www.iiste.org Internet Source	1%
5	www.ijstrm.in Internet Source	1%
6	ejournal.45mataram.ac.id Internet Source	1%
7	H Sitohang, Rosmiati, S Merni. "K-Means method for analysis of accident-prone areas in Palangka Raya", Journal of Physics: Conference Series, 2020 Publication	1%

8	Submitted to SolBridge International School of Business Student Paper	1 %
9	Meyke Alvianieta Ali. "Consumer Legal Protection in Electronic Commerce Transactions", Estudiante Law Journal, 2019 Publication	1 %
10	journal.berpusi.co.id Internet Source	1 %
11	Submitted to Universitas Muslim Indonesia Student Paper	1 %
12	Submitted to Universitas 17 Agustus 1945 Surabaya Student Paper	<1 %
13	ijmmu.com Internet Source	<1 %
14	La Ode Angga, Rory Jeff Akyuwen, Adonia Ivone Laturette, Dyah R.A. Daties et al. "Responsibilities of Industry Actors to Environmental Conservation in Coastal Areas", International Journal of Sustainable Development and Planning, 2021 Publication	<1 %
15	Submitted to Universitas Warmadewa Student Paper	<1 %
16	Submitted to Universitas Negeri Semarang	

<1 %

17

dspace.uphsurabaya.ac.id:8080

Internet Source

<1 %

18

Submitted to UIN Syarif Hidayatullah Jakarta

Student Paper

<1 %

19

Rudi Gunawan, Helvis Helvis. "Authority of the Indonesian Doctors Association (IDI) in Providing Recommendations for Medical Practice Permits", AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam, 2023

Publication

<1 %

20

pdffox.com

Internet Source

<1 %

21

www.legal.isha.or.id

Internet Source

<1 %

22

Meliyani Sidiqah. "The Implication of the Development of Technology on Land Transportation Law in Indonesia", SASI, 2023

Publication

<1 %

23

biarjournal.com

Internet Source

<1 %

24

jurnal.untag-sby.ac.id

Internet Source

<1 %

25

Kristianto Kristianto, Carunia M. Firdaus, Najid Najid, Toni Hartono Bagio. "Modeling of the Effect of Toll Road Characteristics on Accident Rate", *Mathematical Modelling of Engineering Problems*, 2024

Publication

<1 %

Exclude quotes On

Exclude matches Off

Exclude bibliography On