

Responsibilities of Transport of Passengers in the Failure of the Aircraft's Flight Attendant Which Resulted in Disability (Case Study: PT. Garuda Indonesia Airways)

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ABSTRACT

Qualification on the part of the human body that is possible to experience a state of disability both partially and totally is a necessity. Related regulations which are often used by judges as a basis for making decisions, one of which originates from Minister of Transportation's Regulation No. 77 of 2011 concerning the responsibilities of air transport carriers. Explanation of which parts of the body that can be categorized as total permanent disability in the is only partial, meaning that only a few parts of the body are categorized as a state of total permanent disability so that if there is a total permanent disability loss (Permanent) but the body parts are not included in the existing explanation In the the compensation will be considered as a permanent disability in part. This underlies the need to do an evaluation to expand the definition contained in the category of total permanent disability. Judges in making decisions must also be based on philosophical, juridical, sociological and theoretical foundations in order to create justice for the whole society.

Keywords: *Aviation Law, Total Permanent Disability, Expansion Definition*

1. INTRODUCTION

Transportation is very important to support the activities and mobility of the population, and has an important and strategic position in building the nation. This can be seen from the mobility needs of all sectors and regions, because transportation is one of the facilities that support the development currently carried out by the Indonesian Nation. The existence of such transportation has the meaning of giving more value to goods and / or services. Goods and / or services from one location will be of greater value if they are in locations that require the goods and / or services. [1])

The development of a rapidly advancing world as it is today, modes of transportation as mobility in several things such as the economy, security and defense as well as social culture are often always followed to be fast, efficient and competitive.

Because the problem of transportation must pay more attention to its development. In this case, both business actors and the government must be more responsive to the existing problems relating to transportation both regional and national. Transportation is a very fundamental field in the life of Indonesian people. It is also in line with the fact that Indonesia is a large country where there are thousands of islands and a lot of people in it so that the need for transportation to be very important as well as various types of modes of transport by land, air and sea must be able to reach all areas of Indonesia[2])

Role important and fundamental had in the world of transportation is certainly not without reason. The role is reflected in connection with the increasingly evolving life of the community itself. Transportation in other matters also has a broad

and important role in building the nation's economy which is carried out by land, sea and air transportation by transporting people and goods. It has been explained previously that transportation is a movement of places, both the movement of objects and people, the movement is needed with the aim of achieving benefits and efficiency therein. In Article 1 paragraph (3) of RI Law No. 22/2009 concerning Road Traffic and Transportation, transportation is the movement of people and / or goods from one place to another by using vehicles in the road traffic space.

Furthermore, what is also no less important in the need for transportation is various factors such as security, security and smooth transportation that can support the development process in it, such as the distribution of development products, plantations, animal husbandry and even mining products and other development aspects that can develop the Indonesian nation. Besides that, in its function as supporting development in Indonesia, transportation is also seen as an aspect that facilitates various fields such as tourism and can even strengthen unity and can complement all aspects of national life.

Talking about security and safety aspects, it is very important and even fundamental in both land, sea and air transportation where the author is interested in conducting research or analysis of the case that the writer encountered, namely in the World of Aviation. Air Transportation is often referred to as the safest transportation in the world, given that all the sophistication and in-depth research in it makes this Transportation well known for its safety and comfort. However, the safety and security aspects are not only found in the side of the aircraft fleet but also in terms of the services provided by airlines as a service provider in the world of air transportation.

In connection with the above, the authors found that there had been an error or negligence committed by the Aviation Service Provider. Here is the news that the author quoted from the timeline; The spill of hot water gets to the body of the victim precisely on the chest to make blisters occur on passengers of the Garuda Indonesia plane, BRA. Koosmariam Djatikusumo on December 27, 2017, finally the panel of judges was decided by the Central Jakarta District Court in January 2018. [3]) in its consideration, the Panel of Judges consisting of Marulak Purba as the presiding judge, Agustinus Setya Wahyu

Triwiranto (Member Judge) and Titik Tejaningsih (Member Judge) rejected the plaintiff's claim for compensation material of Rp 1.2 billion, but the panel accepted the claim immaterial plaintiff's. "Granted the plaintiff's lawsuit in part, and declared the plaintiff to do the Act Against the Law, and punish the defendant for paying immaterial damages of Rp. 200 Million," said the verdict, the writer quoted from what had been read in the decision by the presiding judge. In the plaintiff's lawsuit, the immaterial loss submitted is quite large, amounting to Rp.10.5 billion. But because the panel of judges considered the aspects of justice and propriety in making decisions, what was granted was only an immaterial compensation of Rp 200,000,000 (two hundred million rupiah).

This is based on the impact of the incident on the victims experiencing injuries and illnesses until the value of beauty is reduced and even the sensitivity is so. The Assembly was of the opinion that in addition to impacting physical pain, this incident had a psychological effect on the victim where the sadness and disappointment that tortured the plaintiff's heart let alone a woman and had also claimed the plaintiff's sense of self-happiness both when suffering from pain even today.

Previously, in the claim, the plaintiff conveyed the argument that there was a condition of 'total permanent disability' experienced by the plaintiff, which based on Article 3 letter c number 1 of the Minister of Transportation Regulation No.77 of 2011 concerning Air Transport Carrier Responsibility was given compensation of Rp 1.25 billion. It's just that the assembly has a different opinion. The Assembly considers that based on the elaboration of the definition of permanent disability as outlined in the Regulation a quo, the injury suffered by the plaintiff cannot be categorized as permanent disability either in total or in part. This is because the body part is in the form of a chest, not included in the definition of permanent disability described in the permenhub a quo, which includes the loss of hands, feet, or eyes so as to affect the ability of the plaintiff to function normally. In addition, the assembly also stated that the elements of acts against the law of the defendant as required in Article 1365 of the Civil Code have been fulfilled, such as the fulfillment of an element of error, there is a legal cause and effect due to an action as well

as losses and the loss itself. Initially, the defendant argued that the accident occurred not on the basis of intent. However, the Assembly considered that the fulfillment of the element of error was not only based on deliberate factors but also because of the lack of caution.

'So that the spill of hot water either intentionally or because of carelessness remains a form of error that is the responsibility of the defendant. Considering, that the element of error in the act against the defendant's law has been fulfilled, 'said the Assembly.

2. FORMULATION OF THE PROBLEM

Which become the Foundation The need for expansion of the definition of total permanent disability in the Minister of Transportation Regulation No. 77 of 2011 concerning Responsibilities of Air Transport Carriers?

3. METHODOLOGY

Based on the title raised by the author, the type of research used is normative legal research. This paper is deductive-prescriptive with secondary legal material, especially about minister transportation regulation 77/2011 concerning responsibilities of air transport carriers.

4. RESULT

Speaking about the definition of total permanent disability experienced by the victim in this case that is a passenger on the Garuda Indonesia airline, the total permanent disability itself is a loss of function of one limb, including mental disability as a result of an accident (accident) suffered so that passengers are no longer able to do jobs that provide decent income according to their education, expertise, skills and experience before experiencing disability.

In the definition of total permanent disability which is one of the main points in the analysis of this paper, it has been explained in detail that what happened to the victim on the Garuda Indonesia airline is a state of disability which is a total permanent disability. This is evident that the victim's body parts namely the chest can no longer function as before because of a sense of sensitivity and also the shape is different. So it is fitting that compensation given to victims be adjusted to the nominal stipulated in the Act and related regulations.

For passengers who are declared permanent total disability by the doctor within a period of no later than 60 (sixty) working days since the accident is given compensation of Rp. 1,250,000,000.00 (one billion two hundred fifty million rupiah) per passenger (Article 3 letter c number 1 Permenhub 77/2011).

In connection with the rules governing material compensation from a loss that occurred, Indonesia itself has two rules that become a reference in the aviation world, namely Law No. 1 of 2009 concerning aviation there is also a regulation of the minister of transportation No. 77 of 2011 concerning the responsibilities of air transport carriers, both of which do have different positions the law has a higher position than ministerial regulations, but we need to know together that there are several cases related to compensation including the case by the author of this appointment where the judge in the decision refers to the provisions in Permenhub No. 77 of 2011. Because detailed provisions on the nominal compensation for further damages are explained in the regulation.

With the promulgation of a regulation in the Official Gazette or State Gazette, the regulation has binding force. As stated in Article 87 of Law P3 "Legislation comes into force and has binding power on the date of promulgation, unless otherwise specified in the relevant legislation." This is intended so that everyone is aware of the regulations referred to so that thus applies the principle of legal fiction "Iedereen wordt geacht de wet te kennen." This means that everyone is considered to know the law. Therefore there is no reason for those who break the law that he does not know the law [8]

Passengers who are declared permanent permanent disability by a doctor for a period of not later than 60 (sixty) working days from the occurrence of the accident are given compensation of Rp. 1,250,000,000.00 (one billion two hundred fifty million rupiah) per passenger (see Article 3 letter c number 1 Permenhub 77/2011)

Total permanent disability referred to here is total loss of sight from 2 (two) eyes that cannot be healed, or severed 2 (two) hands or 2 (two) legs or one hand and one foot on or above the wrist or foot, or total vision loss from 1 (one) eye that cannot be cured and 1 (one) broken hands or feet

on or above the wrist or foot (see Article 3 letter d Permenhub 77/2011).

The explanation explained in the Permenhub can be seen together that only covers a few body parts which can be categorized as total permanent disability. Whereas in fact the human body that can potentially experience disabilities both partially permanent disabilities and total permanent disabilities is the whole body and not just divided into several parts of the body.

Bearing in mind that if the qualifications of the body parts described only cover a few of the stipulated parts, it is certain that this can lead to legal uncertainty within the community and can also injure the values of justice if the compensation given does not correspond to what was suffered by the victim.

This qualification in the explanation of compensation is what needs to be underlined because of the mirroring of the case raised in this paper, we can see together that the victim only received material compensation of Rp. 200,000,000.- (Two Hundred Million Rupiah) alone because in the court ruling the judge saw that the body part that was defective was not included in what was categorized as a body part that was a total permanent disability. Of course this really hurts the sense of justice for the victim because what he suffered is a tremendous pain plus his condition cannot return as before. The Judge can actually provide a ruling that is more relevant and fulfills the justice element for the plaintiff in this case is the victim. Even though the judge in making a decision one of the aspects is by referring to the provisions in the existing regulations, but the judge is essentially possible to give a decision that should fulfill the element of justice by looking at the fact that what suffered by this victim is a total permanent disability and not just a partial disability only.

We need to realize, the concept of responsibility and regulations governing the accountability of airlines to passengers and / or shipper of goods already exist and have legal certainty. But indeed, in terms of the explanation referred to in the definition of defects, it is felt that the qualifications are not yet broad and should be further refined given that the potential for similar incidents to occur again in the future.

In addition, it is also appropriate that judges in making decisions always prioritize justice and expediency. In another meaning that is still paying

attention to the actual situation when a loss was found by the victim and still consider as fair as possible for the plaintiff or defendant. Even the compensation given must still take into account the facts of the trial and also consider the opinion of the expert if presented at the trial so that the nominal given later in the compensation can be adjusted to the facts and justice for the parties.

The airline, which in this case is Garuda Indonesia, also gave up the responsibility for compensation which must be given in the applicable regulations. This includes relating to compensation from the airline to the victim in the event of a loss due to errors or negligence of the airline. So that the existing rules are very tightly held by all airlines in resolving disputes against consumers as well as being a reference in taking every action to create a flight that is comfortable and safe for their customers.

In this discussion, discussing what is the basis for the need to expand the definition of total permanent disability in the Minister of Transportation Regulation No. 77 of 2011. This is in order to create a legal certainty and usefulness in society. The broadening of the definition is certainly not without reason or a strong foundation, because the creation of a norm in legislation is certainly based on something clear. There are several reasons for the need to expand the qualifications of total permanent disability in the Permenhub, one of which is a philosophical foundation. Pancasila and the opening of the Constitution should be used as a benchmark in making every existing regulation to create a justice and certainty in it.

Our country Indonesia has an ideology that is Pancasila, in the second principle stating that "Humanity is just and civilized", the statement must certainly uphold the values of humanity with justice. So that with the expansion of the qualifications in Permenhub related to defining total permanent disabilities, of course, it can be in line and sustainable with Pancasila precisely in the 2nd precepts. It is hoped that this will create national legal values that are closely oriented to the values of Pancasila.

In addition there is also a juridical basis which has a very close relationship with one of the objectives of this expansion in the form of judicial correction of the principle of legality. Because of this the question arises, how when the condition of someone who is a victim has been declared by the

doctor to have total permanent disability but when the victim makes a material claim for justice but the nominal value granted by the panel of judges does not match the loss found by the victim This is only because the qualifications contained in the regulations do not have a broad definition of the loss of a person's body parts. Therefore, the explanation that needs to be broadened is aimed at ensuring there is a need for certainty, so that the judge can later decide in his decision according to the loss than found by a victim, not just referring to what is stated in the regulations only.

Another thing that is important is the order of regulations governing compensation in similar cases. Actually the provision of compensation to victims who in this case are passengers related to disabilities has been regulated in the Law and the Minister of Transportation, but if there are rules that have not been regulated, for example, as the case raised in this paper where the total permanent disability qualifications only cover a few body parts then the rules related to compensation in this case must be regulated further.

It should also be underlined that the recovery or recovery of a sick or disabled passenger either partial or total permanent disability can only be stated by a doctor not unilaterally by the airline, because the statement must be issued by neutral parties and the airline must also have the principle of responsibility absolute if there is an element of error in it.

Air transportation is indeed known as one of the safest modes in the world, but outside of the security of the fleet there are also small risks that can occur which can cause harm to others as the case discussed in this paper. Various kinds of risks are also closely related to the existence of compensation both material and immaterial.

The results of interviews of the authors to several experts beforehand also show that compensation provided by the airline can actually be requested more than what is stated in the nominal amount of the relevant rules or in other words it is indeed possible to occur during the litigation process to the Court. Later the court will decide whether the compensation claim is granted or not.

Furthermore, we can also see that in fact the Judge in making decisions is allowed to decide on the nominal amount of compensation more than what has been stipulated in the legislation as long as it is necessary to note that the judge in deciding similar cases must also be in accordance with his

beliefs and must consider the sense justice is also legal certainty. Because in essence the judge can choose the tendency between the theory of legal certainty or the theory of justice. When referring to the theory of legal certainty, the judge will refer to what is contained in the law, meaning that if a predetermined amount already exists, it will be followed in the decision, but if the judge refers to the theory of justice, the judge can set aside compensation from existing regulations because it is considered not in accordance with the losses obtained.

Here again the question arises that whether the definition of permanent disability in the regulation lacks broad qualifications in body parts, the definition of total permanent disability in Permenhub, contradicts the definition of permanent disability as regulated in Article 141 paragraph (1) of the UUP, which states as follows: "permanent disability is the condition of loss or cause the malfunction of a limb or that affects normal activities such as loss of hands, feet or eyes, including in the sense of permanent disability is mental disability as regulated in the legislation in the insurance business. " Based on this definition, the judge should give a decision referring to and referring to the explanation of Article 141 paragraph (1). Where the non-functioning of the breasts as a very important limb for women can be categorized as permanent disabilities.

Given that the human body part consists of many parts in which all parts are possible to potentially experience disabilities. Moreover, the defective part in this case is the victim's breast where it is clearly very valuable and vital for women. Whereas from the description of the case that has been explained, the victim felt a part of the body, namely her breasts, experiencing extreme pain when scalded until treated, even the victim also said that the breast was not only able to return to normal, but also experienced aches and pains to this day.

As a result of this, compensation should be adjusted to the sense of justice of the victims who have suffered even up to now due to adverse events experienced. Requests for compensation are more in nominal terms than what is contained in the Law or Permenhub is allowed. In fact, the compensation given must also see who the party affected by the loss is. It can be distinguished, for example, if a loss or (Damages) is found by an

Artist, Professor, Community Leader, Royal Family and several parties who have a certain social status, then the immaterial compensation must also be given more than an ordinary person, because in principle every the victim has the right to submit compensation to the court but all is returned to the Judge's Decision and Policy.

In general, differences in social strata does not mean that a person's position in the eyes of the law is seen as different and get differentiated treatment. But in essence that one's position in a particular social environment does need to be seen as a value that must be adjusted when a person has a loss that must be compensated. This is because if all people are declared equal in terms of compensation then they are deemed unable to fulfill their sense of justice towards others. The previous explanation which states that there are differences in compensation for example to artists, professors, community leaders or even the royal family is seen as important things that are aligned because their position is also considered more valuable than one's position in general.

The case of the victim on behalf of BRA Koosmariam where he found burns due to hot water flushing while on a Garuda Indonesia flight, is one example that can be an illustration that the position of certain social strata should be given compensation according to one's position. The victim referred to here is someone with descendants from the Keraton of Central Java precisely in the solo area where his presence and position is indeed considered very important especially in the scope of the kingdom and surrounding communities.

When the victim, in this case finds a loss, especially on his body, then it is appropriate for the victim to be given commensurate compensation for the condition he found as a result of the negligence of an airline's cabin crew. Circumstances that are clearly a total permanent disability in one part of his body, can no longer be seen as a condition with temporary permanent disability or even considered an ordinary injury. The compensation found by the victim was very small in the form of Rp. 200,000,000 (Two Hundred Million Rupiah). Never fulfill the element of justice, if the compensation follows the provisions in the existing legislation related to total permanent disability of Rp. 1,250,000,000 (One Billion Two Hundred Fifty Million Rupiah) is still considered to be very small compared to the

losses found by the victims, moreover it is added that the fact that the victim is a person who has a pedigree from the Keraton solo area.

The true victim, when he first discovered the burns caused by hot water flushing by one of the cabin crew on the Garuda Indonesia airline, did not want to make a claim to the Court because he hoped that compensation be commensurate with the airline. But indeed because the attitude of the airline which at the time seemed to disappear after it was felt the victim had recovered, the victim felt disappointed and eventually followed suit in compensation. The judges should be able to provide appropriate compensation based on total permanent disability qualifications, even if it is necessary to provide more compensation given the previous explanation that the victim is someone of royal blood.

Sociologically, with the expansion of interpretation related to total permanent disability at Permenhub which is often used as the basis for making decisions, it is certainly able to reflect the will in fulfilling legal needs in the community where this has been strived for a long time ie 60 (Sixty) more years ago. This is based on the values of an independent, sovereign, just and prosperous nation. Conditions in Indonesian society that have developed along with the ongoing developments in the international world also with the demands in terms of legal certainty and justice are very strong, resulting in some formulations of law related to qualifications in the interpretation of total permanent disability in existing laws and regulations. can again be used as a legal basis in overcoming problems that arise in the dynamics of society. It can be seen in the description of the case that has been explained before, where in that case the qualifications in the explanation of total permanent disability which are the basis of the judge in taking decisions are very broad and only partial in nature. Because in the formulation contained, the provision of parts of the body which are considered to be only partial can result in the Indonesian people feeling that in the case described previously cannot achieve the goal of fair law.

The expansion of qualifications in the total permanent disability reduction is also essentially based on the idea of flexibility in terms of avoiding rigidity. Because we all know in the case raised in this writing there is rigidity in the court's decision where the judge only based on the claim

for compensation from the definition of total permanent disability that exists in the Ministry of Transportation only, whereas in fact the judge can choose the tendency between the theory of legal certainty or the theory of justice . When referring to the theory of legal certainty, the judge will refer to what is contained in the law, meaning that if a predetermined amount already exists, it will be followed in the decision, but if the judge refers to the theory of justice, the judge can set aside compensation from existing regulations because it is considered not in accordance with the losses obtained.

Furthermore, the expansion of interpretation in the definition of total permanent disability contained in Permenhub 77 of 2011 is in line with the results of interviews conducted with Prof. Dr. HK Martono, SH, LL.M., which is related to the definition of permanent disability in the regulation which qualifies only covers a few parts of the body, he said that if the formula was formulated in detail then all body parts must be included in the qualification of permanent disability keeping in mind that any part of the human body is possible to have a permanent or permanent disability. If it is not mentioned in the explanation, then later in the court can be asked for information from relevant experts, but it should be included in the Act and related Regulations in order to create legal certainty.

From the various aspects that have been explained previously in order to create justice as well as legal certainty in society, it is necessary to evaluate the concept of total permanent disability within the Ministry of Transportation itself so that it can further support justice and also be comprehensive for the future if similar cases are found again. We can agree that because parts of the human body are not only partial but must also be reconstructed in the definition of total permanent disability, remembering that every event that results in a defective part of the human body covering all parts of the body from head to toe so it is fitting this need further study to be expanded.

In connection with the previous aspect, if a person is clearly experiencing permanent total disability, anywhere his body needs to be seen as the same thing in the anatomy of the human body. That is, there is no part that is more important than other parts but all parts of the human body are very meaningful and worthy of respect even to the

point where the human mentality is also valued and important.

Another goal is that compensation in terms of nominal must also be re-evaluated because it must follow economic inflation, it is also necessary to study the nominal amount whether it is still appropriate and relevant to the existing conditions or must be added again and can be adjusted to the development of existing international rules . These studies can be conducted, for example, every 2 years to create a nominal amount of compensation that is fair and in accordance with the current situation in each case.

The broadening of interpretation related to total permanent disability in Permenhub 77 of 2011 not only avoids the ruling that can lead to injustice but also legal certainty but includes judicial correction of the principle of legality. In addition, this also aims to create safety for the importance of all parts of the human body that are always possible to occur with defective conditions and also in terms of protecting the general public, given the aviation world which is known for its safety and comfort, but there are still many risks that can be posed in the world Good flight is for passengers and the sender of goods. So that if certainty and fairness have been created in the legislation, both the airline and its customers can be protected by their Rights and Obligations in a continuous reciprocal relationship.

5. CONCLUSION

In ruling a verdict, it is certain that the Judge refers to the relevant regulations in accordance with the actions carried out. In this case the regulation in question is Law No. 1 of 2009 concerning flights and also the Minister of Transportation's Regulation No. 77 of 2011 concerning the responsibilities of air transport carriers (Permenhub 77/2011). These rules actually set clearly about what must be done and prohibited to do in flight to regulate how the compensation concept is given. But the compensation meant in the related regulations must indeed be expanded, in addition to expanding the interpretation of the definition of total permanent disability but also the existing regulation must renew the nominal amount in compensation given to the victim. These regulations, both Laws and Ministerial Regulations, need to be carried out a thorough evaluation related to various kinds of rules therein

which must follow the times and also the value of justice in society.

The reason underlying the emergence of the expansion of interpretation related to total permanent disability in Permenhub 77 of 2011 concerning the responsibilities of air transport carriers is that one of them can be seen as the development of existing law in Indonesia. This is because human body parts should not be only partially regulated in the case of compensation if a condition occurs that can injure to make parts of the body become partially or totally deformed. All parts of the body must have the same risk of the occurrence of these defective conditions, from head to toe. The related regulations listed in Permenhub 77 of 2011 only regulate some body parts that can be compensated in the amount of Rp. 1,250,000,000 (One Billion Two Hundred Fifty Million Rupiah) where the body parts only cover the eyes, hands and fingers and feet and fingers as well. If a similar case befell the victim, BRA Koosmariam, where he was exposed to hot water due to the negligence of one of the cabin crew on the Garuda Indonesia airline and resulted in total permanent disability on the breast, this occurred again in the future with other body parts not regulated in Permenhub 77 of 2011 as total permanent disability, it is clear that this can injure a sense of justice and also legal certainty towards the community. This is what needs to be used as an evaluation in the future so that the qualifications in the explanation of total permanent disability for which compensation can be granted must be adjusted to the condition of all parts of the human body so that if a similar case occurs, compensation can be given as fairly as possible. Moreover, philosophically, juridical and sociological expansion in the interpretation is considered to have been in accordance with the values of living law and the value of national law which is very oriented to the values that exist in Pancasila. In addition, what is important is that although the rules governing compensation for victims in nominal terms already exist, they must also be adjusted according to the value of economic inflation, it is also necessary to study the nominal amount whether it is still said to be appropriate and relevant to the existing conditions or must be added and can be adjusted to the development of existing international rules, and can be reviewed for example every two or three years to create justice and benefits for victims who

are entitled to receive compensation in accordance with the dynamics of the economy that is always running.

6. SUGGESTION

For the Ministry of Transportation institution (KEMENHUB) whose rules are used in cases related to aviation and its compensation, in order to see whether the existing regulations can still be said to be in accordance with the needs and values of justice in society. As a writer, I feel that the rules regarding compensation and the conditions of which body parts can be compensated are no longer relevant because the qualifications of the body parts described are very narrow and may not be partial. In addition, a very low nominal value for compensation also needs to be added and re-evaluated so that the value is not considered too small compared to, for example, loss of a part of the body or experiencing partial or total disability even to mental disability. By updating and evaluating the existing rules, it is hoped that Indonesian people can feel justice as a tangible manifestation

After the related regulations have been extended, especially regarding the qualifications of total permanent disability, there is also a need to be given more flexibility to the judges when they want to give a verdict in order to consider the situation of victims who have certain conditions, whether they are disabled until death. In other words, the judge is allowed to judge subjectively whether the compensation given to the victim will be adjusted to the actual conditions seen from the trial and the available evidence so that the judge no longer only refers to the definitions listed either in the law or Minister of Transportation Regulations. Of course, the freedom given to this judge needs to be given the signs and also oversight in passing the verdict later in order to create balanced justice for the parties in it.

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