Completion Of Indemnity Due To E-Toll Payment System Errors (Study At Pt. Jasa Marga)

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Abstract

In general, Consumer Protection based on UU No. 8 of 1999 concerning Consumer Protection (UUPK) has provided consumers with protection from business actors, especially in relation to consumers shipping goods and service providers. Business operators must fulfill the rights of consumers of goods shipping services. If there is a violation of consumer rights by a business actor and the consumer can be sued under Pasal 19 ayat (1) UUPK, the Business Actor shall be responsible for providing compensation for damage, and/or consumer losses due to services produced or traded to consumers. In e-Toll payments currently using automated systems or technologies where human labor is no longer needed but using a machine so that negligence can occur including wrong calculation on the e-Toll machine, an agreement has been made, which at the entrance or toll gate is tariff boards for each car, so as soon as the driver enters the toll gate there is an agreement in which the legal requirements of Pasal 1320 KUHPer are competent, agreed, a lawful subab. There was already an agreement because it was competent and agreed.

Keywords: Consumer Protection, Agreement

I. Introduction

In general, Electronic Toll (E-Toll) is used to pay for toll entrance doors since 2017, by attaching the card to the sensor. However, it can cause errors if the system is error or misread. Just like in Pandaan City Malang, there were 5 times counting errors to date. One of them is someone who came from pandaan going to Pasuruan via the Pandaan Toll Road, he exits the Pandaan-Pasuruan toll road subject to Rp. 31,000.00 then after returning from his business he passes the Pasuruan-Pandaan toll road and on the Rp. 47,000.00. Making toll road users uncomfortable if the car is counted as group I, it can be wrong to be group II, it often happens in 2018-2019.

II. Method

The research used is empirical juridical which field research is maximized.1 The use of empirical juridical methods in this thesis research, taken from primary data can be obtained by means of interviews, observations and questionnaires from community life.2 Secondary data can be obtained by collecting data using field studies and library studies from the results of the collection and discovery of data and information through field

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1 Amirudin, Introduction Legal Research Methods, Rajawali, Jakarta 2010, p. 10
2 Bambang Waluyo, Legal Research in Practice, Sinar Grafika, Jakarta, 2002, p. 15
studies at Jasa Marga regarding Juridical Review of EDM or toll payment systems using e-Toll.

III. Main Heading of the Analysis or Results

A. Legal Relationship Between PT. Jasa Marga and Consumers

Rights and obligations of citizens are reciprocally contested by legal relations. In fulfillment, one party has the right to demand something from another party, and the other party must also fulfill the demand. Sehingga here the toll road users suffer losses, the PT. Jasa Marga is required to fulfill demands or provide compensation accordingly.

The legal relationship has occurred when the business actor gives promises as well as information related to goods or services because since then the rights and obligations of the parties have arisen between the toll road users and PT. Jasa Marga. The legal relationship is based on Pasal 1320 and 1338 KUHPer in which the business actor has agreed on what was promised when delivering promises on an advertisement, or leaflet or brochure, so that the promises will apply as a law for those who made it.

Pak Dharto as the PT. Jasa Marga explained that the rights of the community as toll road users to use public services are regulated in Pasal 88 PP No. 15 of 2005 concerning Highway. The public’s insight as a toll road user if an error occurs from the highway business entity is entitled to claim damages as much as the loss to the Highway Business Entity and is entitled to receive services according to the SPM Toll that has been described in Pasal 8 of PP Number 15 of 2005. interview while doing research at PT. Jasa Marga.3

B. Liability or Compensation Due to The E-Toll Payment System

If an obligation is not fulfilled by one of the parties to the agreement, then legal liability occurs, this will result in the other party experiencing loss due to the rights not fulfilled by either party. KUHPer, the model of legal liability is accountability with an element of error (intentional and negligence), as stipulated in Pasal 1365 KUHPer, accountability with an element of error, specifically the element of negligence.

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3 Interview with Mr. Dharto as a Service or traffic, March 3, 2020 at PT. Jasa Marga (Persero) Tbk., 1982, p. 1
In Pasal 1365 KUHPer regarding acts that violate the law is based on violations in the Act. The element of error in an act that violates the law must be a mistake, in which the error must be proven to claim the loss suffered. In an act that has violated the law, a relationship of cause and effect has been issued between the action of one party and the other consequences arising from the act can be held responsible or not. There is a legal requirement for an agreement in Pasal 1320 in which the agreement is contradictory or incompatible is an agreement which in the agreement is a subjective element. So that at the beginning before entering the toll road, a tariff has been set in accordance with the type of vehicle group that was mounted on the highway.⁴

Accountability to PT. Jasa Marga through this compensation is based on losses which have been caused due to negligence or mistakes by his own party. So that the losses caused by consumers in the form of not receiving in accordance with the amount that must be paid so that the PT. Jasa Marga compensates according to the amount of the loss.⁵

In response to the demands of PT Jasa Marga, it is obligatory to claim that the Decree of the Directors of PT. Jasa Marga (Persero) Number 144 / KPTS / 2007 Regarding Guidelines for Handling Claims from highway Users is also confirmed that the settlement of claims from highway users will be replaced by PT. Jasa Marga (Persero) if the losses suffered are real losses and real direct losses that are real due to negligence committed by the company in operating the highway. Direct losses in the form of those suffered by road users, namely vehicle damage, injuries, bodily defects and death and real losses are quantitative losses that are directly suffered by road users.

C. Implementation of Indemnity Due to E-Toll Payment System In PT. Jasa Marga

Highway service providers, namely PT. Jasa Marga is intended to make it easier to achieve goals quickly or can be said as an alternative way to cut time. PT. Jasa Marga has a large scope, including building on March 1, 1978 operating only Jakarta-Bogor-Ciawi (Jagorawi Toll Road) while the growing and congested traffic finally PT. Jasa Marga expanded its Work Area to include the Surabaya Toll Road which is the center of Java.

⁴ Ahmadi Miru, Consumer Protection Law, PT. Raja Grafindo Prasada, Jakarta 2004, p. 20
⁵ Zulham, Consumer Protection Law, Kencana Pradana Group, Jakarta 2013, p. 23
Timur, Tol Sidoarjo, Gempol, Pandaan, Mojokerto, Pasuruan, Malang Is a subsidiary of PT. Jasa Marga Surabaya.

Noted from the results of the study can be known from 2018-2019 there are about 36 (Thirty-six) e-Toll payment errors as clarified in the following table:

Table 1. Highway that occur Payment errors on the e-Toll system

<table>
<thead>
<tr>
<th>Highway Area</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highway Surabaya</td>
<td>18</td>
<td>12</td>
</tr>
<tr>
<td>Highway Pandaan Gempol</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Highway Sidoarjo</td>
<td>-</td>
<td>1</td>
</tr>
</tbody>
</table>

In the data above almost all of them or as many as 34 times have been given compensation or compensation and the remaining 2 due to driver error. In this problem the payment system that uses electronic money. This electronic payment system is easier and can be done anywhere because it does not require meetings with people who will trade using only the transaction number. However, this electronic payment system also has a weakness which if an error occurs caused by the network and something else. Therefore we must prevent that from happening.

Errors in the e-Toll payment system also use an electronic payment system in the form of a card. This card is called e-Toll (electronic Toll) or e-money (electronic money) which only needs to be attached to a machine without the need to use a password to make transactions. E-Toll (electronic Toll) or e-money (electronic money) is often used by the public to conduct transactions on toll roads that have used the new payment system. That leads to errors that arise on the payment because it does not match the nominal stated.

How to claim or compensation from PT. Jasa Marga Against payment errors e-Toll System:

1. Come to Jasa Marga Office or call 14080
2. Submit evidence or physical goods in the form of receipts that come out of the e-Toll machine before 3x24 hours
3. Jasa Marga Officers will prepare minutes for 14 working days
4. During the 14 days, Jasa Marga will check the evidence or physical goods in the form of receipt in accordance with applicable regulations.

5. If indeed the error originates from Jasa Marga then it will be replaced according to the losses incurred in the form of cash.

6. If the mistake is indeed from the customer, Jasa Marga will not compensate the loss.

The cause of the electronic Toll system or mechanism could be an error due to:

1. Programs that have been too long
2. The program on the e-Toll machine currently still uses v1.0 which is quite old so it cannot perform fast processes, whereas currently it should have used v2.2.
3. E-Toll card that has been damaged
4. An e-Toll card that is usually stored in a wallet will experience friction for a long period of time, making the chip on the card difficult to read.
5. Reader on the e-Toll machine is scratch or wet
6. The reader or the reader on the e-Toll machine has certain vulnerabilities or weaknesses such as scratches or wet, scratches can be caused by frequent vehicle users rubbing their cards if they are not read so that the reader can cause errors.
7. The driver replaces the card from the entrance and the exit.
8. Card replacement from the entrance and exit of different tolls is actually not permitted because the e-Toll card used to enter the toll has been read by the machine so that the card used to exit must be with the same card, otherwise it can cause double tap or calculation error.
9. The driver makes transactions too quickly so the engine does not read the vehicle correctly.
10. In this case there are basically drivers who are in a hurry and those who are not, for drivers who are in a hurry will definitely do a tap and go (sticking and moving). Tap and go is not recommended because a reader takes at least 5-10 seconds to read.
11. The driver attaches the e-Toll card several times.
12. Pasting an e-Toll card repeatedly is not recommended because the machine has read the card and requires a process, if indeed it is repeated it will cause a double tap.
In the implementation of e-Toll as a whole in Indonesia, of course, has a network that is not yet perfect, so it needs special attention to fix errors on the system. Efforts to prevent the e-Toll payment system error from happening:

1. Update an outdated program
2. Sell e-Toll cards at toll entrances
3. Change the Reader or repair the scan system on the e-Toll machine
4. Keep operating someone to avoid these mistakes

More precisely so that not many people experience payment errors on the e-Toll system, Jasa Marga should give warnings or information to the public who use toll roads. Erroneous payment on the e-Toll machine is considered minor by Jasa Marga because it rarely happens so the marga service is not so prioritized even though if indeed toll road users travel long distances and suffer significant losses or above Rp 200,000.00 it remains. Even the community feels disadvantaged, and the Indonesian economy is not the same, so Jasa Marga should provide information about payment system errors on e-Toll.

IV. Conclusion

Errors in the e-Toll payment system can be used as a basis for a lawsuit for compensation by using illegal acts in Pasal 1365 KUHPer and also violating Law Pasal 1320 KUHPer which is about agreement.

In the implementation of PT. Jasa Marga has prepared several kinds of things, including faults on damaged toll roads, to unsatisfactory services (e-Toll payment system, officers not at the gate, not fast toll road services). In the case of damaged toll roads, which if there are toll road riders suffer losses due to highway mistakes such as hollow roads, bumpy roads, highway fences are not available, PT. Jasa Marga will provide the appropriate compensation to the driver if the driver makes compensation claims. Then in the case of unsatisfactory services can make a claim by providing evidence if payment is wrong, and can also provide input by calling 14080.

References

Books:


*Journal articles:*

*Legislation:*
UUPK
KUHPPerdata