



LEGAL ANALYSIS OF PARTNERSHIP AGREEMENTS BETWEEN OJEK COMPANIES ONLINE WITH MOTORCYCLE TAXI DRIVER ONLINE

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Abstract: online motorcycle taxi is one of the businesses created from technological developments. Online motorcycle taxis themselves use a partnership agreement as an agreement between online motorcycle taxi companies and online motorcycle taxi drivers. In the partnership agreement between the MAXIM online motorcycle taxi company and MAXIM online motorcycle taxi drivers, the agreement made is a standard agreement which does not give the driver any other choice, which is in conflict with the terms of the agreement. Therefore, this study aims to look at the course of the partnership between the MAXIM online motorcycle taxi company and MAXIM online motorcycle taxi drivers and the legal protection provided in the MAXIM partnership agreement using normative juridical research methods with descriptive analytical specifications.

The results of the research on the partnership agreement between online motorcycle taxi companies and online motorcycle taxi drivers are that MAXIM as the service provider company has previously made a partnership agreement and the agreement is a standard agreement where drivers cannot do anything in the contents of the agreement, in other words, they can only accept if want to be part of the MAXIM online motorcycle taxi driver partner where this is not in accordance with the terms of the legal agreement. The legal protection that MAXIM online motorcycle taxi drivers get is preventive legal protection and repressive legal protection. preventive legal protection is legal protection provided by the Indonesian government, while repressive legal protection is protection provided by MAXIM.

Keywords: Agreement, Partnership, Online Transportation.

INTRODUCTION

In The Era technological developments, the development of technology is experiencing very rapid development. Various sectors of people's lives have increased in various sectors one of which is technology (Sofyan D, 2021). In Indonesia country, technology continue to experience developments every year and continue to expand so that people can live their lives easily. One sector that is also experiencing changes in the Times is the sector transportation.

Transportation is basically very important to people's lives because it can improve social welfare and improve economic progress and decent work as stated in the 1945 Constitution, namely "everyone has the right to work and a decent livelihood for humanity" 1945 Constitution Article 27 paragraph 3.

One of the technological breakthroughs is Ojek Transportation Online, Ojek Online itself offers various facilities or features that can be enjoyed by the people of Indonesia. Starting from services between goods, cargo, food or take the community itself. On the other side of the object online this is also used by people who are looking for work by joining a motorcycle taxi partner online namely working as a motorcycle taxi driver online because the requirements are easy and not tied to certain rules as well as profitable earnings and bonuses.

In Permenhub number 108 of 2017 concerning the implementation of transportation of people with public motor vehicles not in route, transportation online described in Article 1 Paragraph 2 and 3 where in Paragraph 2 describes the motor

vehicles for the transport of people and in paragraph 3 describes the general passenger car vehicles and public passenger bus cars for urban areas or special areas.

In the Permenhub also explained about the application company listed in Article 1 Paragraph 22. Rules for organizing transportation online itself in Permenhub contained in Articles 5 and 6 which in article paragraph 1, 2, 3 describes the specifications of taxi transportation as a whole and in Article 6 paragraph 1 letters a to g and Paragraph 3 which describes the tariff agro transportation online. Where is transportation online it is written that the activities of driver-partners are included in the category of General Motor Vehicles not on the route and also explained by the applicator in general.

Business systems carried out by motorcycle taxi companies online with potential partners is a partnership system. The partnership is described in law No. 9 of 1995 on Small Business Article 1 Paragraph 8, namely "Collaboration between small businesses with Business Medium or with great effort accompanied by construction and development by medium-sized businesses or large businesses with regard to the principle saling require, mutually reinforcing, and mutually beneficial". The purpose of this article is cooperation involving large and medium or small businesses that generate profits on both sides with equal standing.

Therefore, from this partnership system it will give rise to a partnership agreement. Partnership agreement made by motorcycle taxi company online with the driver partner must meet the requirements of the validity of the agreement as stated in Article

1320 KUHPer that both parties are capable of binding themselves to the agreement made and for lawful reasons. From this, partnership agreement between ojek companies online with the prospective driver is an electronic agreement or e-contract, karena community who want to be a partner must login in website which has been provided by the motorcycle taxi company online by filling in starting from personal data, motor specifications and driving letters, facial photos and KTP, until the electronic signature for approval of the requirements that have been made previously by the motorcycle taxi company online.

According To Law No. 13 of 2003 on employment contained in Article 1 Paragraph 14 which reads “agreement between workers / laborers with employers or employers that contain the terms of the terms of employment, rights, and obligations of the parties”, in the explanation can be seen that an agreement must contain the terms of employment, rights, and obligations of employment and the contents of the agreement which the content of the employment agreement must be consistent from beginning to end, the provisions of which are contained in Article 54 Paragraph 1 of Law No. 13 of 2003 on employment.

However, in the case of object online do not use Law No. 13 of 2003 on employment due to the absence of elements of command, work, and wages which this occurs in the employment agreement between employers and employees, but the motorcycle taxi system online using a partnership system where the position of both parties is equal, this partnership system is listed in Government Regulation No. 17 of

2013 on the implementation of Law No. 20 year 2008 on Micro, Small, and Medium Enterprises Article 10 paragraph 3 which describes the implementation of partnerships.

Partnership agreement is basically an agreement where the parties involved in the agreement have an equal position and can be called that the position of ojek driver partners online parallel to ojek companies online. Where in this case both the company and the partners have the necessary things and must uphold the principle of mutual need, trust, strengthen, and benefit which is necessary in the partnership being run.

MAIN PROBLEM

Based on the description above, the problems arising from this study are :

1. How is the legal analysis of partnership agreements between motorcycle taxi companies online with motorcycle taxi driver online?
2. What are the legal protections for motorcycle taxi driver partners online in the implementation of the partnership agreement?

METHOD OF RESEARCH

The type of research used in this study is juridical research normative. What is meant by juridical research normative juridical, where is the law understood like what is written in law or law understood as rules or norma that is, the norms of behavior the man considered right (asikin, 2012). This normative legal research is based on primary and secondary legal materials, namely research that refers to the standards contained in statutory regulations (Soekarto, 1984).

Based on the descriptions of the background of the problem, the authors use descriptive analytical research specifications. This descriptive study aims to measure and observe the course of the existing partnership system in Indonesia and provide an overview of the problems that occur and arise in the Partnership Agreement system. While the analytical research aims to analyze the problems arising from this study.

RESEARCH RESULT AND DISCUSSION

1. Legal Analysis Of Agreements Partnership the Ojek company Online with motorcycle taxi driver Online

A covenant is two or more people who agree to commit themselves to an act that has been promised to achieve a common goal. According to Article 1313, the definition of a covenant is: "a covenant is an act by which one or more persons bind themselves to one or more others". According to Subekti, agreement is an event or relationship between two or more people who mutually promise to carry out a thing (Subekti, 1987). Meanwhile, according to Hartono Hadisoepito who mentioned the agreement is the most important source of engagement that arises because of the agreement created (Johannes & Lindawaty, 2004). Meanwhile, KRMT Tirtodiningrat gives the opinion that the agreement is a legal act that is based on the agreement between the parties and gives rise to the legal consequences of the act and can be imposed by law (Meliala, 1985).

The terms of the validity of the agreement are contained in Article 1320 of the Civil Code regarding the terms of the validity of the agreement which includes agreeing to bind oneself, the ability of the parties, because of a certain matter, and lawful reasons.

Partnership agreement is an agreement with both parties have equal levels. The partnership agreement itself is regulated in law No. 20 year 2008 on Micro, Small, Medium Enterprises Article 1 Paragraph 13 which states that, partnership is cooperation in business linkages, either directly or indirectly, on the basis of the principle of mutual need, trust, strengthen, and benefit involving Micro, Small, and medium enterprises with large enterprises. Based on Article 1618 of the Civil Code, states that civil partnership is an agreement by which two or more people bind themselves to include something (inbeng) in the partnership with the intention of dividing the profits that occur because of it.

In the partnership agreement made between the online motorcycle taxi companies with online motorcycle taxi drivers, has been made previously by the online motorcycle taxi company as an application service provider. So it can be said that the partnership agreement is a standard agreement, where online motorcycle taxi drivers can only accept or reject the agreement that has been made. Standard agreement is an agreement made in writing by one of the parties in which the agreement has been written several things that will be

agreed, generally the parties who will make the agreement only fill in the data that is informative, do not have the opportunity to negotiate.

The agreement that occurs in online motorcycle taxi companies with online motorcycle taxi drivers is a partnership agreement that is an electronic agreement. Electronic agreement is an agreement that binds the parties involved without the need to meet in person, that is, they meet virtually or online with a mobile phone or computer media intermediary. Law No. 19 of 2019 on amendments to law No. 11 year 2008 on information and electronic transactions jo PP No.82 of 2012 on the implementation of electronic systems and transactions an electronic agreement or electronic contract is an "agreement of the parties made through an electronic system". An electronic agreement is declared valid if the agreement is made electronically based on the provisions of the elements contained in Article 1320 of the KUHPer regarding the terms of its validity agreement.

The position of the online motorcycle taxi company with online motorcycle taxi drivers is equivalent. Where in this agreement each party will carry out their respective duties both for online motorcycle taxi companies and for online motorcycle taxi drivers. Based on equality in his position, the consequences arising from the making of the agreement will arise rights and obligations for each party to be fulfilled and implemented as a form of achievement of the parties bound.

2. Legal Protection For Motorcycle Taxi Driver Partners Online In

The Implementation Of The Partnership Agreement

In terminology, legal protection can be interpreted as a combination of the two notions of "protection" and "law". KBBI defines protection as protection or action. In this case, the law can be interpreted as an officially binding regulation, or a practice approved by the government. With reference to this understanding, legal protection can be defined as an attempt to protect a matter that has been made by a government or agency with a set of existing regulations. In short, legal protection is a function of the law itself, providing protection.

According to Setiono, legal protection is the act or attempt to protect the public from arbitrary acts by the authorities that are not in accordance with the rule of law, to bring order and tranquility so as to enable human beings to enjoy their dignity as human beings (Setiono, 2004).

Legal protection in the online motorcycle taxi business, namely between online motorcycle taxi companies and online motorcycle taxi drivers, there are two types. That is, preventive and repressive protection of the law. Preventive legal protection is the legal protection provided by the government. Meanwhile, repressive legal protection is the protection provided by MAXIM.

Preventive legal protection provided by the government with the issuance of rules, namely Permenhub No. 12 of 2019 on the protection of the safety of motorcycle users used for the benefit of society. As stated in Article 11, 12, 14, and 16 of the

formula for calculating the cost of services. The service cost calculation Formula is divided into 2 (two), namely direct costs and indirect costs. Direct costs as of Article 11 paragraph 3 consist of vehicle depreciation, capital interest, driver, insurance, motor vehicle tax, fuel oil, tires, maintenance and repair, mobile phone depreciation, credit or internet quota, and profit partners. Meanwhile, indirect costs as where Article 11 paragraph 4 is the cost of application rental services. Meanwhile, the repressive legal protection itself can take the form of sanctions, fines, or imprisonment.

Legal protection in online motorcycle taxis relates to the rights and obligations of the subject of law itself. The subject of law in question is a human being who has rights and obligations related to carrying out activities or legal acts that he does.

The protection obtained by MAXIM online motorcycle taxi drivers is insurance and feedback features. The insurance that the driver gets is taken care of by YPSSI (Yayasan Pengemudi Selamat Sejahtera Indonesia). YPSSI itself is MAXIM's partner who handles insurance for drivers and passengers. In addition, the feedback feature itself can also be used by drivers who experience losses when executing orders.

Legal protection between the MAXIM online motorcycle taxi company and the driver is not explained in detail in the content of the MAXIM partnership agreement. On the content of MAXIM partnership agreement Part XI on special requirements and limitation

of liability point to 3 (Three) which states that: "MAXIM shall not be liable to the partner for any actions by third parties, when the partner suffers any damages, including loss of profits".

Based on these conditions, MAXIM will not be liable for any losses suffered by the partner in the event of loss or loss of profit as a result of the actions of third parties. However, the legal protection of MAXIM online motorcycle taxi drivers is carried out by the Selamat Sejahtera Indonesia Driver Foundation. This foundation is an insurance foundation that handles losses for MAXIM online motorcycle taxi drivers.

MAXIM also received complaints from MAXIM online motorcycle taxi drivers through the feedback feature. In this feature the driver can describe the problems that occur. On the other hand, if the driver commits an act of default, MAXIM can stop access and information on the relevant driver's account until the termination of the partnership relationship with the driver in question.

If we relate it to preventive and repressive legal protection, Permenhub No. 12 of 2019 concerning the protection of the safety of motorcycle users used for the benefit of the community is a regulation made by the government of Indonesia as legal protection for online motorcycle taxi drivers, especially MAXIM online motorcycle taxi drivers, which preventive legal protection is contained in Articles 11, 12, 14, 16, 18 Permenhub No. 12 of 2019 on the protection of the safety of motorcycle users used for the

benefit of society which can be used as a reference in carrying out partnerships with MAXIM companies. In addition, the protection obtained by the driver based on Permenhub No. 12 of 2019 on the protection of the safety of motorcycle users used for the benefit of the community as stated in the sound of Article 16 Paragraph (3) letter and i mention the certainty of getting compensation in the event of an accident, and the certainty of getting social security protection for employment and Social Security for health in accordance with the provisions of the legislation.

Meanwhile, repressive legal protection carried out by MAXIM is the feedback feature that can be used by drivers who have complaints or complaints and insurance that is handled by Selamat Sejahtera Indonesia Driver Foundation.

CONCLUSION

Based on the discussion and analysis of this research, then the conclusion is:

1. In the partnership agreement between MAXIM and ojek drivers online MAXIM, is a standard agreement that has been made by the company where the driver is only given access to fill in the identity but the content of the clause has been determined by the ojek company online. The driver has only a choice take it or leave it in implementing the agreement he made. In partnership between MAXIM and ojek drivers online, the process of agreement of the

parties occurs when the motorcycle taxi driver online MAXIM signed up to be a motorcycle taxi driver online MAXIM. Where in the series of registration in the live, prospective motorcycle taxi driver online MAXIM was not informed of the partnership agreement that must be mutually agreed upon. Which in this case the motorcycle taxi driver online MAXIM is considered to agree to the content of the partnership agreement by clicking as one of the indicators that the driver has completed registration. Legal relationship between MAXIM and motorcycle taxi drivers online MAXIM is a partnership relationship between MAXIM and ojek drivers online MAXIM is equal. Because there is no element of salary, orders, and time as described in the Labor Law where in the labor agreement the position is the boss with subordinates and/or employees. While in a partnership, the position is the same or the absence of a boss or employee.

2. Legal protection between ojek companies online MAXIM with motorcycle taxi driver online MAXIM which preventive legal protection is contained in Articles 11, 12, 14, 16, 18 Permenhub No. 12 year 2019 about the safety protection of motorcycle users used for the benefit of society yang can be used as a reference in running a partnership with MAXIM company, in addition to the

protection obtained by the driver based on Permenhub No. 12 year 2019 about the safety protection of motorcycle users who are used for the benefit of the community as stated in the sound of Article 16 Paragraph (3) letter and I mention the certainty of getting compensation in the event of an accident, and the certainty of getting Social Security Protection Employment and Health Social Security in accordance with the provisions of legislation. Meanwhile, repressive legal protection carried out by MAXIM is the presence of features feedback which can be used by drivers who have complaints or complaints and insurance that is handled by Selamat Sejahtera Indonesia Driver Foundation

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