



# Legal Protection of Health and Work Safety (K3) on Automotive Worker

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This purpose of this research is to investigate legal protection of health and work safety. The research method being used is normative juridical research, namely research using library data derived from primary sources, secondary sources, and tertiary sources, which analysed all data descriptively. This study aims to (1) Analyse the implementation of occupational health and work safety (K3) in companies in the automotive sector, (2) Describe the company's liability for workers who experience work accidents.

**Key words:** *Health and work safety (K3), Worker, Protection.*

## Introduction

Legal protection for workers fulfills the fundamental rights inherent and protected by the constitution, as stipulated in Article 27, paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which reads, "Every citizen has the right to work and a decent living for humanity." Article 33, paragraph (1) states, "The economy structured as a joint effort of kinship." Protection of workers is intended to support the welfare of workers and their families by guaranteeing workers' rights and ensuring equality of opportunity and treatment without discrimination, while still taking into account the progress of the business world and the interests of employers. Regulation for workers protection is dictated under Law No. 13 of 2003, concerning Manpower and implementing regulations of legislation in the field of human resources.

Protections that apply in the field of labour law include anything related to employment relations. Work is carried out under the leadership and living conditions associated with the employment relationship (Soepomo, 1999). Work relations are established based on an agreement made by workers and employers in the form of a work agreement. It definitively depicts that the employment relationship is a relationship that exists between the employer and the worker based on a work agreement that governs, either over a specified period or

indefinitely, wages, orders, and work (Irsan, 2005). In this working relationship, the Government participates to ensure the continuity of the employment relationship that is carried out, namely by mapping the juridical instruments of employment.

Social security is a social protection used for the provision of basic needs for all Indonesian people, in accordance with Law No. 24 of 2014 on social security, administered by the Social Security Organizing Agency. The forms of social security provided by the state is BPJS kesehatan (Health insurance), which generally applies to all people, and BPJS Ketenagakerjaan (Employment insurance), which applies to all workers. Employment insurance consists of 4 (four) programs, namely: (i) work accident insurance; (ii) old age savings; (iii) pension guarantees; and (iv) death guarantees. These insurances are mandated by law to be acquired by all employees under companies operated in Indonesia.

### **Research Methods**

This research uses a qualitative research method. The data obtained include interview transcripts, field notes, personal documents, and other materials. The critical paradigm used in this study considers that theories containing supposed truths are not always absolutely correct because in practice, these truths are different in real life.

This type of qualitative approach research will be carried out with a descriptive method process because this study has the objective of investigating things that can formulate health and work safety (K3) implementation laws and regulations.

Primary data sources are data taken directly from the source, such as informant interviews and observations made at the location in question. Secondary data are from previous data in the form of notes, newspapers, documents, reports, and other sources related to the research theme.

- a. Safety Act No.1, 1970.
- b. Health Act No.23, 1992.
- c. Manpower Act No. 13 of 2003.
- d. Regulation of the minister of human resources and transmigration No. 51/2012 about optimizing the workforce supervision in provincial and regional/city areas.

Data analysis was casuistic in character, deep (in-depth) and holistic, and done by a qualitative method that felt most appropriate to the study of human life in limited cases. The data analysis method in this study was based on the strategy of the induction-conceptualization approach, which itself bases the building of a concept or theory on the facts/practical information (data). The effort to build a concept or theory starts from the information, then transitions to a high



level of abstraction. The results of this data abstraction conveyed "meaning" through interrelation with a more natural category system of its nature.

In this study, validation of data used data source triangulation methods to ascertain the truth of certain information through various methods and sources of data acquisition. For example, other than through interviews and observations, researchers used participant observation, written documents, archives, historical documents, official records, personal notes or writings, and videos, pictures, and photographs.

### **Result of Research & Analysis**

Worker protection is a significant factor in occupational health and safety. This approach stems from the increasingly adverse effects of the Laissez Faire doctrine in Europe in the Middle Ages. This doctrine carries the philosophy of economic liberalization, especially in the industrial sector. Government intervention in economic/industrial relations is not permitted. In action, it also ignores various regulations that have been set by the government (Neil, 2002).

Occupational Health and Safety are the efforts undertaken to prevent, mitigate, and reduce accidents and impact. This is achieved through identification measures, analysis and hazard control. Occupational Health and Safety, according to Suyadi Prawirosentono, is "creating an atmosphere and a working environment that guarantees the health and safety of employees so that work tasks in the company's work area can run smoothly." (Prawirosentono, 2002).

Occupational Health and Safety are the policies and actions that ensure the integrity and perfection of human beings, particularly in physical and mental labour, and cultivate the work and culture that supports a fair and prosperous society (Iman, 2003). In Indonesia, various regulations have been implemented, such as necessary provisions on labour protection in law No. 14 of 1969 and law No. 1 of 1970, as well as other regulations that complement these provisions, especially in chapters 9 and 10: "Each workforce entitled to the protection of our safety (Basir, 2009)." Health and morality are prioritized, especially morals that concern the maintenance of humanitarian and religious dignity. In particular, the Occupational Health and Safety Management System is regulated by the Minister of Manpower, number PER. 05/MEN/1996 Article 1. It is said that Occupational Health and Safety Management System (SMK3) is part of the overall management system that includes organizational structure, planning, responsibilities, implementation, procedures, processes and resources required for the development, implementation, achievement, assessment, and maintenance of Occupational Health and Safety policy that control labour-related risks and guarantee a workplace that is safe, efficient and productive.

Work accidents are never forecasted nor expected to happen. Because of that, one should always be mindful to reduce the risk of work accidents. One must be aware of all one's surroundings and all possible work accidents. Besides that, it is also essential to be aware of the dangers of sophisticated technological tools and chemical hazards. All employee that use these tools need to have knowledge, skill, and agility so that work risks and accident can be prevented and controlled. Work accidents that affect the worker of PT. NT are because of the negligence of those workers. The accidents happen because the workers who use the equipment do so recklessly and do not obey the company's recommendations, for example by refusing to wear protective equipment.

The noncompliance and reluctance of workers to wear personal protective equipment are based on various reasons, such as the discomfort of wearing masks or nose and mouth coverings. The workers were reluctant because they felt uncomfortable and have difficulty breathing and speaking while doing work. Moreover, the workers had difficulty communicating with one another. PT. NT's try to prevent workplace accidents by providing personal protective equipment, in the form of nose and mouth coverings (masks), earplugs, and coveralls, and through counselling, coaching, and supervision of work-related activities. PT NT also makes other efforts; they are minimizing work accidents by providing guidance and counselling for all workers, which is conducted by the company prior to a worker commencing their employment.

According to PT. NT personnel, every worker or labourer gets a full wage break, including:

1. Weekly Rest of 1 (one) day for every 6 (six) business days in 1 (one) week, or 2 (two) days for every 5 (five) working days in 1 (one) week.
2. Annual leave of at least 12 (twelve) working days for every 12 (twelve) continuous months of work.
3. A long break of at least 2 (two) months, executed in the seventh and eighth years respectively. 1 (one) month for workers/labourers who have worked for 6 (six) years continuously. The employee/worker is not entitled to the rest of the annual break in 2 (two) years and in the future applies to each of the 6 (six) years of the working period.
4. Workers/laborers perform the worship required by their religion.
5. Rest for female workers/laborers of 1.5 (one-and-a-half) months before childbirth and 1.5 (one-and-a-half) months after childbirth, subject to the recommendations of obstetricians or midwives.
6. Rest for female workers/labourers who have miscarriage of 1.5 (one-and-a-half) months, or according to the certificate of an obstetrician or midwife.

However, for areas where the inhabitants require other holidays from those listed above, there can be other rules that are specific to the workers' area of interest, but in such cases, the number

of holidays for such areas may be no more than 15 (fifteen) days. In the company, the production process is sometimes manned for 24 hours continuously, and the entrepreneur can carry out the terms of all existing provisions contained in Law No. 13 of 2003 about employment of those who have not reached the working age. To handle the 24 hour workdays, the entrepreneur can implement “shifting” or a grouping of labour, comprising a group of workers who work early morning until noon, a group of workers who work day to evening, and group of workers who work night to dawn. A woman has a different psychological and physical condition than a man. Therefore, female labourers should get special protection and preferential treatment in all employment, and their essence, dignity, and natural properties should always be considered in their playing of this double role. Women's labour rights include:

1. menstrual leave, pregnancy, and fall content;
2. breaks for breastfeeding babies;
3. protection against discrimination in employment; and
4. prohibition from employment in mines and other places that endanger women's dignity.

Women's labour protections are carried out by expanding the coverage area to reach informal sectors, particularly production units and household industries. In relationships with increased community participation, women's labour protection efforts are conducted by encouraging women groups to play roles and by the dissemination of information about these protections. The information concerns the rights and obligations of women labour, the elimination of discrimination in employment, the protection of motherhood functions in work, and the time of musical work.

Moreover, family health and female night workers are also supported through the provision of transport vehicles, which are prepared by the company. To protect women labourers' nature and dignity, there are regulations on the prohibition of Termination of Employment (layoffs) for female workers because of marriage, pregnancy, or childbirth. This is governed by Article 153, paragraph (1) E, Act number 13 of the year 2003 concerning employment. Law No. 13 of 2003 prohibits the laying off of female workers due to pregnancy, childbirth, unborn children, or breastfeeding in either temporary or permanent working relationships. Entrepreneurs hiring women in business or their company should always consider these protections in the placement of their employees and the delivery of their assignments.

In a company, Labour is a party that has an important role. Therefore, the workforce needs to be given their rights and obligations. Meanwhile, as a form of Occupational Health and Safety implementation for the protection of human resources in PT NT, the company provides a variety of welfare facilities, which, among others, consist of:

Provision of self-protection equipment to ensure the safety of its workforce in carrying out the work. PT. NT provides self-protection equipment, which includes:

1. Face and respiratory protective equipment, i.e. a mask.
2. Foot protective equipment, i.e. working shoes.
3. Fire extinguishers.

Fire is a work accident that can destroy property and the human psyche, and it can also threaten the company's survival. In this case, PT NT provides fire extinguisher equipment, which includes:

1. Fixed or permanent fire hydrants, which are fixed-mounted fire extinguisher.
2. Portable fire hydrants.

In line with the development of industry and technology, Occupational Health and Safety is one of the essential factors in the smooth realisation of a construction project. PT.NT protects the occupational safety of its workforce, with the aim of:

1. Protecting the workforce in the workplace so that Occupational Health and Safety is always assured and production and productivity of work are optimised.
2. Protecting materials and production equipment to ensure safety and efficiency.
3. Preventing and reducing work accidents, fires, explosions, and occupational diseases.
4. Creating a safe, comfortable, and healthy workplace and workplace environment.

For the safety and protection of PT. NT employees, the company guarantees the provisions stipulated in law No. 1 of 1970, which are the legal basis of occupational safety and protection. Various welfare programs and facilities are provided to ensure occupational safety and improve the conditions of employment, including wages or salaries, social security, and working condition guarantees, such as a healthy and safe work environment. PT. NT has exercised the terms of occupational safety as set out in article 3 of Law No. 1 of 1970.

#### 1. Prevent and reduce accidents

To prevent and reduce the prevalence of work accidents, PT. NT provides safety equipment for each workforce that is directly involved in the production process. The safety equipment comprises self-protection equipment and fire extinguishers. PT. NT also conducts training and briefings on Occupational Health and Safety (K3).

#### 2. Provide relief in accidents

PT. NT provides first aid tools to each section of the factory for use in the case of a work accident. Clinics are also provided by the company for the treatment labourers who experience an accident.

### 3. Provide self-protection equipment to the workforce

To ensure the safety of every worker, PT. NT provides self-protection tools. These tools are made to protect labourers' body parts against injury.

PT. NT provides training on Occupational Safety and Health (K3) to new employees. Safety training is essential, since most accidents occur in a new workforce that is not accustomed to working carefully. Work safety training begins by introducing a new employee to the work environment and explaining to them the dangers they may face, as well as ways to avoid accident through ethical work that complies with occupational safety provisions. The new employees are educated on the safety provisions that apply to the company, such as those concerning corporate traffic, households, the use of transport equipment, the use of electrical equipment, and the moving of heavy loads. To fulfill the provisions of article 9 of Law No. 1 year 1970 concerning construction, PT.NT appoints managers who are obligated to coach its workers. PT NT's implementation of work guarantees and protection efforts for its workforce are evident by its daily practices:

#### 1. Work Protection Tools

The provision of self-protection equipment is the obligation of the company, as stipulated in article 14 sub-c of the Occupational Safety Act.

Regarding the procurement of facilities or means of personal protection, PT. NT has fulfilled its obligations by providing personal protection equipment that suits the needs of its workers. Personal protection equipment that has been made available in the workplace includes, among others:

- a. Head Protection Devices (safety caps).
- b. Ordinary hats to protect the head and hair from dirt or other objects.
- c. Caps to protect the head and hair from dirt, engines, and so on.

#### 1. Workplace

Maintaining and cleaning the work environment is a contributing factor to occupational protection at PT. NT

#### 2. Working hours and rest hours

To avoid the labourer fatigue and boredom, which can lead to accidents, PT NT stipulates work hours and rest hours. Workers should not work more than 7 hours a day or 40 hours a week, and should take half an hour of rest for every 7 hours of work.

#### 3. Work equipment or machinery



Regarding working equipment, PT. NT has shown excellent care for the requirements of occupational safety.

### **Conclusion**

Based on the study, it can be concluded that the implementation of occupational safety and health for workers has not been good enough. Work training for every worker, special supervision in the event of work accidents, a system or mechanism of right or comfortable, precise application of health and safety, and comprehensive health insurance are all absent and/or lacking.



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