

## ANALYSIS OF THE CALCULATION OF ACCIDENT COVERAGE VALUE AT PT. JASA RAHARJA IN BANDA ACEH ACCORDING TO THE CONCEPT OF *KAFALAH*

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### Abstract

The risks that often occur in accidents tend to vary from the mildest accidents to those that take lives. In this case, PT Jasa Raharja has entered into an agreement with the participants about the type of risk and the premium level that will be given when the risk occurs. However, in some cases, there tends to be a difference in the form of claims made by the participants to the coverage provided by PT. Jasa Raharja so that it can harm the participants who have paid the premium. This thesis is focused on answering three important things, 1) How to assess the condition of the object of coverage for the submission of insurance claims at PT Jasa Raharja, 2) How is the calculation and determination of the accident insurance value determined by the management of PT Jasa Raharja Banda Aceh on the risks experienced by participants, 3) What is the perspective of the concept of *kafalah* on the calculation of the accident insurance value at PT Jasa Raharja. This research is a qualitative research that is descriptive analysis with a sociological normative approach, where the data obtained is sourced from the results of observations and interviews. The results of the study show that, first, the assessment of the condition of the insured object is categorised into three main groups, namely: treatment (injuries), permanent disability, and death. Second, the value of coverage provided by PT Raharja services varies according to the risk experienced by participants when an accident occurs. Third, the coverage carried out by PT Raharja's services to traffic accident victims are in accordance with the concept of *kafalah* that has been explained by the jurists in the *fiqh* of *muamalah* regarding the coverage carried out by third parties against risks that occur based on the agreement of the first, second and third parties. However, in the concept of *kafalah*, there is no maximum of the amount of insurance costs that must be borne by the *kafil* for *makful*'ahu.

**Keywords:** Akad *Kafalah*, Insurance, Islamic Law, and PT Jasa Raharja.

## INTRODUCTION

*Kafalah* is a type of contract that promises health and safety in accordance with the agreement in the *kafalah* to provide benefits. when someone enters into a *kafalah* contract and to understand how the conditions of the contract are determined to be valid or not valid. In addition, *kafalah* stipulates that the contract must be executed in accordance with certain terms and conditions before it can be considered valid and proper.<sup>1</sup>

The implementation of *kafalah* is one of them in PT Jasa Raharja's liability insurance which prioritises the implementation of a social insurance programme, where PT Jasa Raharja acts as an insurer (*kafil*) and members as the party covered (*makful lahu*). The basic purpose of insurance is to transfer the risk caused by unexpected events, to people who are willing to take the risk by compensating for the losses suffered. The accident insurance programme used by PT Jasa Raharja relies on the possibility that while driving one will encounter unforeseen hazards on land, sea and air.

Despite following all traffic signs and using safety equipment (head protection/safety belts), as well as routinely checking the vehicle's qualifications, accidents often occur. due to the need for social insurance coverage for traffic accidents whose implementation prioritises social services, provides certainty, and is sustainable, especially in terms of the liquidity of funds needed to pay premiums.

PT Jasa Raharja was established inseparable from Government Regulation Number 8 of 1965 concerning the Establishment of a General Company of Loss Insurance "Jasa Raharja". The *kafalah* agreement used by PT Jasa Raharja is an agreement where PT Jasa Raharja is the insurer of the party in need, the party who needs insurance is all people who own motorised vehicles. In the practice of accident insurance of PT Jasa Raharja based on the authority given by the government to the coverage by PT Jasa Raharja to victims who have an accident is included in the *kafalah* agreement contract, because accident insurance is a form of health coverage.

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<sup>1</sup> Yusnedi Achmad, *Legal Aspects in Economics* (Yogyakarta: Deepublish, 2015).

Ilham as the head of the compensation administration sub-section of PT Jasa Raharja Aceh Branch stated that the type of accident insured by PT Jasa Raharja is a collision between two motorised vehicles which in the scope of coverage is regulated in two laws, namely Law Number 33 of 1964 concerning the compulsory passenger accident insurance fund and Law Number 34 of 1964 concerning the public road traffic accident fund.<sup>2</sup>

In law, the compulsory accident insurance fund for passengers is regulated by Law 33 of 1964. Every legal passenger of a public vehicle, train, aircraft, national aviation company, or ship owned by a national shipping/vessel company is obliged to pay contributions through the relevant employer or owner to cover the financial consequences of a passenger accident while travelling. Law No. 34 of 1964 which regulates the public road traffic accident fund discusses that every victim who is hit by a motor vehicle is covered by PT Jasa Raharja unless the victim has a single accident then it is outside the responsibility of PT Jasa Raharja.<sup>3</sup>

The basis of PT Jasa Raharja's compensation must be a verbal report from the police, in this case the basis of PT Jasa Raharja's coverage is the accident report issued by the competent authority. In the scope of traffic, the party authorised to issue the minutes of the accident is the police, on the train the party authorised to issue the minutes of the accident is KHII, if the accident occurs at sea then the competent party is the maritime authority, and if there is an aircraft accident then the competent party is the airport authority.<sup>4</sup>

There are three types of compensation provided by PT Jasa Raharja, namely compensation due to accidents where the victim dies, compensation due to accidents where the victim is injured, compensation due to accidents where the victim is permanently disabled. The coverage mechanism provided by PT Jasa Raharja starts with a notification from the police, then PT Jasa Raharja immediately visits the victim's domicile to meet the heirs to ask for the required equipment, if the requirements have been met then the coverage is immediately processed for the provision of compensation. The deadline set by the management for the

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<sup>2</sup> Interview with Ilham, Head of Subdivision of Compensation Administration of PT Jasa Raharja Aceh Branch, on 29 June 2022 in Banda Aceh.

<sup>3</sup> *Ibid*,

<sup>4</sup> *Ibid*,

delivery of compensation for death is a maximum of three days after registration.<sup>5</sup>

The maximum cost of compensation for injuries borne by PT Jasa Raharja for victims is IDR 20 million, for the provision of this compensation PT Jasa Raharja Aceh Branch has collaborated with 68 hospitals throughout Aceh. The initial step to claim compensation for injuries is for the family to report the incident to the police, then the PT Jasa Raharja officer will work to complete the requirements and issue a guarantee letter to the hospital where the victim is treated, the victim will be treated according to the compensation facility and the cost of treatment will be billed by the hospital to PT Jasa Raharja. Regarding technical premium offerings, there are mandatory contributions and mandatory donations to PT Jasa Raharja. In purchasing transport fares or tickets, each operator (manager) of the means of transport collects a compulsory contribution from each passenger who wants to use public transport.<sup>6</sup> This contribution includes mandatory fees as well as dispatch fees. Donations can only be made with SW payments made at the Samsat office at the time of registration or annual STNK renewal.<sup>7</sup>

PT Jasa Raharja Banda Aceh provides the largest amount of remuneration considering the Guidelines of the Minister of Finance of the Republic of Indonesia No. 15 and 16 / PMK.10/2017, dated 13 February 2017, the amount of compensation for victims of land, sea and air traffic accidents, namely; First, compensation for death by land, sea and air transport of Rp. 50,000,000 (fifty million rupiah), Second, compensation for permanent disability by land, sea and air transport of Rp. 50,000,000 (fifty million rupiah), Third, compensation for maintenance for land and sea transport of Rp. 20,000,000 (twenty million rupiah) and air transport of Rp. 25,000,000 (twenty million rupiah). 20,000,000 (twenty million rupiah) and air transport of Rp. 25,000,000 (twenty-five million rupiah), Fourth, reimbursement of burial costs (no heirs) land, sea and air transport of Rp. 4,000,000 (four million rupiah),

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<sup>5</sup> *Ibid*,

<sup>6</sup> Chairul Fahmi et al., 'The Role of Local Government in Maintaining Coffee Prices Volatility in Gayo Highland of Indonesia', *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah (PJKIHdS)* 8 (2023): 40, <https://heinonline.org/HOL/Page?handle=hein.journals/petita8&id=48&div=&collection=>

<sup>7</sup> *Ibid*,

Fifth, additional benefits reimbursement of ambulance car costs for land, sea and air transport of Rp. 500,000 (five hundred thousand rupiah).<sup>8</sup>

The concept of *kafalah* that has been explained by *fuqaha* in *muamalah fiqh* is coverage carried out by a third party against risks that occur based on the agreement of the first party, the second party and the third party. In this case, PT Jasa Raharja is a third party that provides coverage based on the premiums given by the first and second parties. Based on empirical facts that occur, some of the risks that often occur in accidents tend to vary from the lightest accidents to those that claim lives. In this case, PT Jasa Raharja has entered into an agreement with the participants regarding the type of risk and the level of premium that will be given when the risk occurs. However, based on preliminary data that the author has done, some cases tend to occur differences in the form of claims made by participants who are assessed differently by PT. Jasa Raharja so that this can harm participants who have paid premiums.<sup>9</sup>

From the background described above, the author is interested in further research related to this problem so that the author formats this research with the title "Analysis of the Calculation of Accident Insurance Value at PT Jasa Raharja in Banda Aceh According to the *Kafalah* Concept". This research was conducted by the author to obtain scientific information with the aim of knowing the assessment of the condition of the object of coverage for filing insurance claims at PT Jasa Raharja. To examine the calculation and determination of the value of accident coverage determined by the management of PT Jasa Raharja Banda Aceh against the risks experienced by participants and to analyse the perspective of the concept of *kafalah* on the calculation of the value of accident coverage at PT Jasa Raharja.

## RESEARCH METHODS

The research method of this article uses a qualitative research type, with a juridical-empirical approach focusing on combining the juridical approach (law as a system, legal theory, legal interpretation) with the empirical approach (collection and analysis of factual data from

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<sup>8</sup> *Ibid*,

<sup>9</sup> Chairul Fahmi, 'Revitalising the Implementation of Sharia Law in Aceh (A Study of Law No.11/2006)', *TSAQAFAH* 8, no. 2 (30 November 2012): 295-310, <https://doi.org/10.21111/tsaqafah.v8i2.27>.

the real world). This could mean examining how the law is actually applied on the ground, how legal decisions affect individuals or society, or how the law influences certain behaviours or circumstances. This juridical-empirical research is conducted to generate a deeper understanding of how the law works in practice in the real world.<sup>10</sup>

Primary data in this study through interviews obtained directly from employees at PT Jasa Raharja Aceh Branch. Secondary data used in this research are books, articles, journals, theses and other documentation materials related to this research. The data will be analysed descriptively qualitatively, which is a method used to dissect a field phenomenon, both in the form of primary data and secondary data which will be arranged systematically after all the processed data has been collected.

## RESULTS AND DISCUSSION

### A. Assessment of the Condition of the Insured Object for Filing Insurance Claims at PT Jasa Raharja

PT Jasa Raharja's object of coverage is human beings, and this coverage includes misfortunes caused by accidents. Misfortunes arising from accidents can be in the form of death, temporary incapacity, very long incapacity, medical expenses and medical care. The amount of compensation provided by PT Jasa Raharja (Persero) to car accident victims depends on the Regulation of the Minister of Finance of the Republic of Indonesia Number: 37/PMK.010/2008 concerning Salary Size and Mandatory Commitment of Traffic Accident Protection Assets for Land, Sea and Air Travel Public Transport Equipment.<sup>11</sup>

PT Jasa Raharja in Banda Aceh in providing the scope of coverage based on the provisions stipulated in the Law. The existence of restrictions on the insured party in the fulfilment of coverage in the form of compensation is also very concerned by PT Jasa Raharja which is based on Law Number 33 of 1964 jo. Government Regulation Number 17 of 1965, the parties who can receive compensation for public transport accidents are as follows:

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<sup>10</sup> Muhammad Siddiq-Armiya, *Determining Legal Research Methods and Approaches*, ed. Chairul Fahmi (Indonesia: Lembaga Kajian Konstitusi Indonesia (LKKI), 2022).

<sup>11</sup> Satrya Surya Pratama, Legal Analysis of the Compensation Claim Process for Traffic Accident Victims by Insurance Companies (Study at PT Jasa Raharja Persero), *Audi Et AP: Journal of Legal Research*, 01 (01), 2022: 78-93, pp. 81

1. Law No. 33 Year 1964, Article 3 Paragraph 1 (a). Every legitimate passenger of a public passenger transport who suffers a personal accident caused by the use of public transport equipment, as long as the passenger concerned is in the transport, is a victim who is entitled to compensation, as referred to in Article 10 paragraph 1 (a) of Government Regulation No. 17 of 1965, specifically for riding from the place of departure to the place of arrival.
2. Double protection for victims in the event of an accident involving a ferry bus: bus passengers who become victims receive double protection.
3. Law No. 33/1964 guarantees the safety of passengers travelling in black plate vehicles, such as rental cars, tourist vehicles, etc. that have been officially licensed as public passenger transport. Regulation No. 17 of 1965 from the government.
4. Settlement of compensation for victims whose bodies are not found or missing based on the decision of the District Court.

The parties who can receive compensation from traffic accident risk coverage based on Law Number 34 Year 1964 jo. Government Regulation Number 18 Year 1965 are as follows:

1. According to Government Regulation No. 18 of 1965 Article 10 Paragraph (1), the victim who is entitled to compensation is a third party, namely anyone who becomes a victim as a result of an accident caused by the use of road traffic transport equipment across the road who is outside the road traffic transport equipment that caused the accident. A pedestrian who is hit by a car, for example.
2. It is stipulated that the driver of the motor vehicle in which the passenger is travelling is not at fault for the accident, including passengers of private motor vehicles and motorbikes in this case. Compensation for PT Jasa Raharja does not cover the driver and passengers of the vehicle if the police investigation report states that the driver was the cause of the accident. Meanwhile, compensation will usually be settled at the time of the decision of the District Judge or Court if, at the end of the police investigation, it is not yet known which party was the cause of the accident or

whether the two drivers can be equated with the cause of the accident.

3. After a field examination of the incident, the victim of the hit-and-run accident received compensation.

With the existence of regulations related to restrictions and criteria for victims who become participants in coverage, it makes it easier for PT Jasa Raharja in Banda Aceh to distribute coverage to people who experience risks due to accidents. In assessing the object of coverage, PT Jasa Raharja in Banda Aceh, which is an extension of the government in providing coverage and protection to its people, is guided by the regulations that have become the basis for carrying out its corporate duties.<sup>12</sup>

Based on the results of the interview with Ilham as Head of Administration Subdivision of PT Jasa Raharja Banda Aceh, he explained that there are 3 (three) main criteria in assessing the coverage provided to victims of traffic accidents, namely: a) Treatment (injuries); b) Permanent Disability; c) Death. These three criteria can be assessed separately except for the coverage of death. As in the case of treatment (injuries), the amount of coverage provided is assessed based on the risk posed by each victim.

Based on the results of an interview with Nazla, one of the accident victims who participated in PT Jasa Raharja's coverage. The coverage provided by PT Jasa Raharja for the risk of injuries arising from accidents is assessed from the police report submitted to PT Jasa Raharja and the original receipt from the hospital where the victim was treated. PT. Jasa Raharja provides coverage in accordance with what is needed so that according to him can help the burden of costs in treatment.<sup>13</sup>

PT Jasa Raharja fulfils the basic rights of the community to get compensation for the risk of traffic accidents by providing coverage in the form of compensation for victims of traffic accidents. The ways to submit a PT Jasa Raharja insurance claim are as follows:

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<sup>12</sup> Interview with Ilham, Head of Administration, on 12 December 2022, at the Office of PT Jasa Raharja, Seutui, Banda Aceh city.

<sup>13</sup> Interview with Nazla, Participant of Injury Accident Insurance, on 13 December 2022, in Banda Aceh.



1. Request an accident certificate from the local Police Traffic Unit or authorised agency (e.g. PT KAI in relation to trains and Syah Bandar in relation to ships).
2. A health or death certificate from the local hospital.
3. Bring the personal identity of the accident victim (original and photocopy) in the form of:
  - a) Family Card (KK);
  - b) Identity Card (KTP);
  - c) Driving licence;
  - d) Vehicle Registration Certificate (STNK);
  - e) Marriage Certificate for those who are married.
4. Visiting a Jasa Raharja office and filling out a form, among other things:
  - a) Benefit application form;
  - b) Accident brief form;
  - c) Victim's health form;
  - d) Statement of heirs if the victim passed away.
5. Submit the form along with the attached documents that have been prepared.
6. For the injured who receive treatment must be equipped with:
  - a) Police report or other authorities' accident report including driving licence and vehicle registration;
  - b) Receipt of treatment costs and medicine costs legitimately issued by the hospital where the victim received treatment;
  - c) Photocopies of the victim's ID card and family card;
  - d) Power of attorney from the victim to the recipient of compensation (if authorised) accompanied by a photocopy of the victim's ID card;
  - e) Referral letter if the victim is transferred to another hospital.
7. Victims were injured to the point of permanent disability:
  - a) Police report or other authorities' accident report including driving licence and vehicle registration;
  - b) Permanent disability certificate from the victim's treating doctor;
  - c) Photocopies of the victim's ID card and family card;
  - d) Photo of the victim showing her permanent disability.
8. The injured victim later died:

- a) Police report or other authorities' accident report including driving licence and vehicle registration;
  - b) Death certificate from the hospital or from the urban village if the victim was not taken to the hospital;
  - c) Photocopy of the victim's ID card and family card that shows the truth of the victim's heirs;
  - d) Marriage certificate for married victims or birth certificate for unmarried victims;
  - e) Original receipts of treatment costs and medicine costs;
  - f) Referral letter if the victim is transferred to another hospital.
9. The victim died at the scene:
- a) Police report or other authorities' accident report including driving licence and vehicle registration;
  - b) Death certificate from the hospital or from the urban village if the victim was not taken to the hospital;
  - c) Photocopy of ID card of the victim and heirs;
  - d) Copy of family card;
  - e) Marriage certificate for married victims or birth certificate for unmarried victims.

PT Jasa Raharja determines the expiration or the right to compensation becomes void if:

1. Requests are made more than 6 months after the accident;
2. No collection is made within 3 months after the matter is approved by Jasa Raharja.

PT Jasa Raharja explained that all requirements are completed by PT Jasa Raharja, the victim or heirs only assist in providing the required files as a complete requirement in the application procedure. PT Jasa Raharja in Banda Aceh provides accident coverage in the form of compensation in accordance with the assessment of the information contained in the police report and the costs required in accordance with the information of the hospital where the victim was treated.<sup>14</sup>

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<sup>14</sup> Chairul Fahmi, 'The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia', *Jurnal Ilmiah Peuradeun* 11, no. 2 (30 May 2023): 667-86, <https://doi.org/10.26811/peuradeun.v11i2.923>.

## B. Calculation and Determination of Accident Insurance Value Against the Risks Experienced by Participants

The determination of the compensation value for accident risk coverage is a determination of the amount of compensation costs provided by PT Jasa Raharja to accident victims. In the Minister of Finance Regulation No. 15/PMK.10/2017 and 16/PMK.10/2017 dated 13 February 2017, the amount of compensation provided for victims of land/sea/air traffic accidents is as follows:

**Table 3.1** Amount of Accident Insurance Benefit Costs

Compensation Type	Type of Transport	
	Land, Sea (Rp.)	Air (Rp.)
Died	IDR 50,000,000,-	IDR 50,000,000,-
Permanent Disability (Maximum)	IDR 50,000,000,-	IDR 50,000,000,-
Maintenance (Maximum)	IDR 20,000,000,-	IDR 25,000,000,-
Reimbursement of Burial Costs (No heirs)	Rp. 4.000.000,-	Rp. 4.000.000,-
Additional Benefits First Aid Reimbursement (Maximum)	Rp. 1,000,000,-	Rp. 1,000,000,-
Additional Benefits Ambulance Fee Reimbursement (Maximum)	IDR 500,000,-	IDR 500,000,-

Data Source: PT Jasa Raharja Documentation Data

Ilham as the Head of Administration sub-section of PT Jasa Raharja Banda Aceh on the sidelines of the interview stated that the amount of fees and compensation paid to accident victims is in accordance with the Regulations issued by the Minister of Finance of the Republic of Indonesia No. 15/PMK.10/2017 and 16/PMK.10/2017 dated 13 February 2017. In the interview, Ilham also stated that the amount of compensation provided by PT Jasa Raharja in Banda Aceh to victims or heirs of victims for the 2020 period was IDR 62 billion. There was a decrease in value of 16.31% compared to the previous year, because in

2019 PT Jasa Raharja in Banda Aceh handed over compensation of Rp. 75 billion and was dominated by the Millennial generation.<sup>15</sup>

To find out the value of coverage for victims, the author also conducted an interview with Siti Nazla, 21 years old, one of the accident coverage participants with the risk of injury. From the results of the interview, the victim explained that all administration was under the responsibility of PT Jasa Raharja Banda Aceh, only that the victim completed the required personal data. Regarding the coverage, the victim received the value of compensation for the victim's treatment costs to Meuraxa Hospital with confirmation via SMS sent by PT Jasa Raharja to the victim of Rp. 8,360,500 on 18 May 2022 and the remaining Jasa Raharja ceiling of Rp. 11,639,500 can be used by the victim for further outpatient costs.<sup>16</sup>

In addition, the author also conducted an interview with the heir who is the biological son of the accident victim, Hamdani Usman aged 54 years who received a death insurance claim of Rp. 50 million. In accordance with the Regulation of the Minister of Finance of the Republic of Indonesia No. 15/PMK.10/2017 and 16/PMK.10/2017 dated 13 February 2017 that the cost of coverage to victims of death is IDR 50 million with full claim assessment funds.<sup>17</sup>

PT Jasa Raharja also provided evidence of insurance coverage letters to the hospital where the victim was treated, one of which was a guarantee letter on behalf of Partijah's sister with an accident scene in Lhok Seudu, Leupung, Aceh Besar District. The victim lives in Mujahirin Hamlet, Ujong Patihah, Kuala, Nagan Raya Regency. The victim received treatment at Zainoel Abidin Hospital, Banda Aceh city with the author's guarantee letter attached.<sup>18</sup>

According to the elucidation of Article 11, the Minister shall determine the maximum reimbursement of doctor's fees and treatment, reimbursement of funeral expenses, and the amount of compensation for

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<sup>15</sup> Interview with Mr Ilham, Head of Subdivision of Jasa Raharja in Banda Aceh, on 12 December 2022, at the office of Jasa Raharja, Seutui, Banda Aceh city.

<sup>16</sup> Interview with Siti Nazla, an insured participant of PT Jasa Raharja in Banda Aceh, on 13 December 2022, in Banda Aceh.

<sup>17</sup> Interview with Misa Tahrizia, beneficiary of PT Jasa Raharja coverage in Banda Aceh, on 14 December 2022, in Lamdom, Banda Aceh City.

<sup>18</sup> Chairul Fahmi, 'THE DUTCH COLONIAL ECONOMIC POLICY ON NATIVES LAND PROPERTY OF INDONESIA', *PETITA: JOURNAL OF LAW AND SYARIAH SCIENCE* 5, no. 2 (1 November 2020): 105–20, <https://doi.org/10.22373/petita.v5i2.99>.

coverage in the event of death or permanent disability. Paragraph (1) The legal widow or widower of the deceased is the person entitled to compensation under Article 12; in the absence of a legal widow or widower, his legal children; without a legal widow or widower and legal children; to his legal parents Paragraph (2) in the event that the victim does not die, the victim shall receive compensation. (3) The right to receive compensation caused by Law No.33 of 1964 Concerning Compulsory Accident Insurance Fund for Passengers Jo. This Government Regulation cannot be given to another person, pledged, used as collateral for a loan, or taken in the event of bankruptcy.<sup>19</sup>

The results of the interview with Ilham also stated that the calculation of costs to be borne by accident victims was initially seen from the Traffic Police report which contained: a) The day, date and time of the traffic accident; b) The place where the traffic accident occurred; c) Between what and what; d) The identity of the driver who had a collision (name, age, gender, religion, occupation and address); e) The physical and spiritual condition of the driver concerned. f. The weather, road and so on; g) Position. Weather, road and other conditions; g) Position.

After PT Jasa Raharja receives the police report, the assessment will be seen from the receipt of the victim's treatment costs at the hospital, for the injured and permanently disabled categories, the coverage will be provided according to the original receipt from the hospital where the victim was treated. The remaining ceiling costs can be claimed at a later date if needed for further treatment. For victims who die, the claim assessment will be seen from the hospital treatment costs and funeral costs. If the victim dies at the scene, the accident insurance claim can be made entirely by the heirs.<sup>20</sup>

### **C. Perspective of the *Kafalah* Concept on the Calculation of Accident Insurance Value at PT Jasa Raharja**

PT Jasa Raharja is a state-owned enterprise whose shares are wholly owned by the state. The Company prioritises coverage services to the community, especially for those who are victims of traffic accidents and passengers of public transport on land, sea and air. The purpose of

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<sup>19</sup> Chairul Fahmi, *INDONESIAN TRADE LAW* (Banda Aceh: Bandar Publishing, 2023), <https://bandarpublishing.com/hukum-dagang-indonesia/>.

<sup>20</sup> Interview with Mr Ilham, Head of Subdivision of Jasa Raharja in Banda Aceh, on 12 December 2022, at the office of Jasa Raharja, Seutui, Banda Aceh city.

PT Jasa Raharja is to provide protection based on Laws No. 33 and 34 of 1964 concerning the Road Traffic Accident Fund. PT Jasa Raharja in Banda Aceh is responsible for the delivery of coverage to the people of Aceh who experience the risk of traffic accidents in the form of compensation for social insurance as one of the efforts to improve the welfare of the people of Aceh in particular.<sup>21</sup>

*Kafalah* is an Islamic term for insurance coverage. The coverage agreement signed by the insurer (kafil) to a third party to fulfil the obligations of the insured or the second party is the concept of *kafalah*. "Transferring the responsibility of someone who is guaranteed by relying on the responsibility of another person as an insurer, whose contract object can be in the form of life, property, debt, and work," is another definition of *kafalah*.<sup>22</sup>

The transfer of responsibility to provide traffic accident risk coverage when the insurer is PT Jasa Raharja is the *kafalah* referred to in this study. Traffic accident risk coverage is provided by PT Jasa Raharja in Banda Aceh to cover the losses of people injured in a traffic accident, whether on land, sea or air. The object of the obligation is the guarantee of compensation payment.<sup>23</sup>

The basic principle of *kafalah* is very noble, with mutual help between fellow believers will provide convenience in all conditions in accordance with the command in the Qur'an surah Al-Maidah verse 2 about helping each other in terms of goodness. This principle is in accordance with the risk coverage applied at PT Jasa Raharja, where PT Jasa Raharja in Banda Aceh provides responsibility to bear the risks of the people of Aceh, especially if they experience traffic accidents that threaten the safety of victims. Thus, the coverage and transfer of the risk of traffic accidents adheres to the values of Islamic teachings in accordance with the principle of the *kafalah* contract, which is to bear one another for the calamities that occur to Muslim brothers in order to create a harmonious, harmonious and peaceful society.<sup>24</sup>

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<sup>21</sup> Fahmi, 'THE DUTCH COLONIAL ECONOMIC'S POLICY ON NATIVES LAND PROPERTY OF INDONESIA'.

<sup>22</sup> Hendi Subendi, *Fiqh Mu'amalah*, (Jakarta: Rajawali Pers, 2011), p. 191. 191.

<sup>23</sup> Chairul Fahmi, 'TRANSFORMASI FILSAFAT DALAM PENERAPAN SYARIAT ISLAM (Analisis Kritis Terhadap Penerapan Syariat Islam Di Aceh)', *Al-Manahij: Jurnal Kajian Hukum Islam* 6, no. 2 (2012): 167-76.

<sup>24</sup> Chairul Fahmi, *Aceh After MoU Helsinki: Discourses on TRC, Security Reform, and Legal Reform* (Banda Aceh: The Aceh Institute Press, 2011).

The reasonableness of using the *kafalah* contract in traffic accident risk coverage can be seen based on the order of the pillars stipulated by the *fuqaha*, namely:

- a) *kafil* or the person who bears is PT Jasa Raharja Banda Aceh who bears the risks arising from traffic accidents.
- b) *Makful'anhu* is the person who is covered, in this case all accident victims are the party given coverage by PT Jasa Raharja due to traffic accidents.
- c) *Makful bihi*, the *fuqaha* require that the object of the *kafalah* contract must be known by the insurer.

Based on DSN-MUI Fatwa Number 11/DSN-MUI/2000 concerning *kafalah* which explains that in a *kafalah* contract, the coverage provided by the insurer to a third party to fulfil the obligations of the second party or the one being covered, if the party who is covered cannot guarantee the loss and safety of accident victims, the insurer will guarantee it. In this case, PT Jasa Raharja in Banda Aceh provides coverage for the loss and safety of victims of traffic accidents.

*Maqashid al-syariah*, especially economic activities orientated towards *dharuriyyat*, *hajiyyat*, and *tashniyyat*, must be followed when *kafalah* contracts are implemented. The position of *hajiyyat* is held by the insurer in terms of benefits. *Hajiyyat* is everything that is needed and done by the community to avoid problems (*masyaaqqah*). When the coverage between the third party and the second party (the insured party) results in benefits for the second party for which the third party is responsible in the event of an accident. By providing something useful, this benefit aims to make the life of the second party happier. The coverage provided by PT Jasa Raharja is very much in line with the idea of *kafalah* contract coverage in *fiqh mu'amalah* for traffic accident victims who face risks.<sup>25</sup>

The calculation of the maximum amount of value to be borne by PT Jasa Raharja for victims of traffic accidents in the concept of *kafalah* there is no regulation on the amount to be borne. However, the *kafil* has the right to fully bear the person who is insured. The difference in

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<sup>25</sup> Chairul Fahmi (Acehnese), 'The Application of International Cultural Rights in Protecting Indigenous Peoples' Land Property in Indonesia', *AlterNative: An International Journal of Indigenous Peoples* 20, no. 1 (1 March 2024): 157–66, <https://doi.org/10.1177/11771801241235261>.

implementation in this case cannot be declared wrong. PT Jasa Raharja, which carries out the government's mandate in terms of traffic accident insurance, has carried out in accordance with applicable positive legal regulations.<sup>26</sup>

The continuation of the implementation of the *kafalah* contract in traffic accident risk coverage carried out by PT Jasa Raharja has a good impact on the benefit of citizens. State regulation of the maximum amount of costs to be borne is one of the things worth considering because there are victims who do not get complete risk coverage due to limited coverage. It is possible for the state to regulate the maximum cost to be borne in order to evenly distribute coverage to victims who experience risks in traffic accidents.

## CONCLUSIONS

The identification carried out by PT Jasa Raharja in Banda Aceh on the condition of the object of traffic accidents for filing insurance claims has three categories, namely: First, victims with injuries. Second, victims with permanent disability. Third, victims with the condition of death. The three categories of risks that occur in traffic accidents will be covered by PT Jasa Raharja, except for victims of single accidents, which are not included in the coverage of PT Jasa Raharja.

The coverage of accident victims is fully borne by PT Jasa Raharja when submitting an insurance claim. The determination of the maximum coverage value is stated in the Minister of Finance Regulation number 15/PMK.10/2017 and 16/PMK.10/2017. The determination of coverage takes into account elements that include the risk of the event. Police reports related to the chronology and facts that contain the incident are one of the elements assessed. In addition, for participants who receive treatment at the hospital, insurance claims are given in accordance with the amount of treatment costs provided by the hospital to PT Jasa Raharja. The remaining ceiling can be claimed again if there is further treatment.

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<sup>26</sup> Jarmanisa et al., 'ANALYSIS OF RISK COVERAGE AGREEMENT BETWEEN PT. J&T AND AN INSURANCE COMPANY FOR DELIVERY OF CONSUMER GOODS IN THE CONTEXT OF KAFALAH CONTRACT', *JURISTA: Jurnal Hukum Dan Keadilan* 5, no. 2 (1 October 2021): 1–20, <https://jurista-journal.org/index.php/jurista/article/view/11>.



The risk coverage provided by PT Jasa Raharja to accident victims is in accordance with the concept of coverage in the *kafalah* contract. in *fiqh muamalah kafalah* is coverage carried out by a third party against risks that occur based on the agreement of the first, second and third parties. PT Jasa Raharja represents the second party in providing coverage to accident victims in accordance with the principle of mutual assistance and mutual responsibility in helping the risks faced by victims. But the maximum value set by PT Jasa Raharja in each coverage is not in accordance with the concept of *kafalah*, in the concept of *kafalah* there is no limitation on the value of coverage provided by kafil to *makful'ahu*, but the *kafil* must fully bear the person who is insured.

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