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## *Legal Protection for Foreign Tourists who Have Traffic Accidents in Denpasar*

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**Riko Laurensius Nainggolan<sup>1\*</sup>, I Wayan Wesna Astara<sup>2</sup>, Ni Komang Arini Styawati<sup>3</sup>**

Universitas Warmadewa Denpasar, Indonesia

Email: ricol Lauren335@gmail.com, wesnaastara58@gmail.com, arinistyawati@gmail.com

### **ABSTRACT**

Social insurance is important in maintaining social welfare and stability by providing basic protection against the risk of accidents. PT Jasa Raharja is responsible for organizing passenger accident insurance and third party liability insurance in accordance with UU No. 33 Tahun 1964 and UU No. 34 Tahun 1964, including for foreign tourists. This study aims to analyze legal protection for foreign tourists who experience traffic accidents in Denpasar and identify the obstacles faced by PT Jasa Raharja in resolving compensation. This type of research is empirical law with a statutory, conceptual, sociological, and legal sociological approach. Primary data were collected through observation and interviews, while secondary data were obtained from primary and secondary legal materials. This research was conducted at PT Jasa Raharja Bali, specifically focusing on the Denpasar area. The analysis technique used qualitative with legal arguments.

The results of this study indicate that PT Jasa Raharja has implemented legal protection in accordance with applicable regulations, including providing compensation to foreign tourists who experience traffic accidents in Denpasar. The total compensation that has been distributed from 2020 to 2024 reached Rp 361,858,728 for 26 cases recorded in Denpasar. The amount of compensation has been given in accordance with PMK No. 15 Tahun 2017 and PMK No. 16 Tahun 2017 which stipulates the value of compensation for victims who died, injured, and buried for victims who did not have heirs. There are obstacles in completing compensation, including difficulties in coordinating with Embassies and Consulates, differences in regulations between countries, and technical obstacles in transferring funds. Efforts made by PT Jasa Raharja include improving coordination with related agencies, aligning regulations, and optimizing the international payment system. This study emphasizes the importance of synergy between institutions to increase the effectiveness of legal protection for foreign tourists in Indonesia.

**Keywords:** social insurance, PT Jasa Raharja, foreign tourists, traffic accidents, legal protection

### **INTRODUCTION**

Social insurance is an important mechanism in the government's social protection system that helps maintain people's welfare in the face of various life risks. The main objective of social insurance is to ensure that every individual has basic protection against such risks, so as to maintain social welfare and stability. One type of social insurance in Indonesia is traffic accident insurance which can be managed by government agencies or bodies appointed by the government with oversight to ensure that insurance funds are used efficiently and on target. Based on Article 5 of

Law Number 34 of 1964 concerning the Compulsory Insurance Fund for Road Traffic Accidents (DPWKLLJ), the organizer of this insurance is the government which is delegated to a State-Owned Enterprise (BUMN), namely PT Jasa Raharja.

Increased international mobility has led to an increase in the number of foreign tourists visiting Indonesia for tourism, business, education and other purposes. As one of the main tourist destinations in Indonesia, Bali Province attracts millions of tourists from all over the world every year. Data from the Central Statistics Agency (BPS) in 2024 shows that foreign tourist visits to Bali Province in 2022 were 2.15 million and increased by 58.6% to 5.20 million people in 2023. In addition to being a favorite tourist destination, Bali also attracts foreign investors to invest, especially in the tourism and property sectors. The rapid development of the tourism industry encourages increased business activities, including the construction of new facilities and the provision of more intensive transportation services.

The high level of visitation and mobility in Bali as described earlier increases the use of transportation modes, thus increasing the risk of traffic accidents. This risk is not only limited to foreign tourists, but also to investors and business people who are active in Bali. The Bali Regional Police (Polda Bali) noted an increasing trend of traffic accident cases in Bali in 2023 with 7,224 compared to 3,620 in 2022. The Bali Police Chief explained that the increase in cases was due to the recovery of the post-Covid-19 tourism sector and the large number of foreign tourists driving on motorbikes in an unruly manner.

This phenomenon causes the protection of foreign tourists who experience traffic accidents to become an important and relevant issue to be raised. PT Jasa Raharja as a State-Owned Enterprise (BUMN) in charge of providing social security to victims of traffic accidents in Indonesia has the responsibility of providing protection not only to Indonesian citizens but also to foreign tourists who have accidents in the jurisdiction of Indonesia. The implementation of PT Jasa Raharja's responsibility in providing legal protection to foreign tourists in Bali Province, especially in Denpasar City, still faces various challenges and obstacles.

The problems described in the background show the importance of identifying and explaining the policies, procedures, and obstacles faced by PT Jasa Raharja as its responsibility in providing protection to foreign tourists who experience accidents in Bali Province. Specifically, this research focuses on the city of Denpasar, which is the capital of the province as well as the center of business, government, and tourism activities in Bali. Denpasar as an area with a high mobility center is not only the main destination for foreign tourists, but also an important area for foreign investors who are active in Bali.

Some of the previous studies presented focused on the responsibilities of Jasa Raharja in providing insurance protection to victims of traffic accidents, highlighting the procedures for claims submitted by the public to Jasa Raharja, as well as the obstacles experienced by Jasa Raharja in providing traffic accident insurance compensation. Although some of the previous studies highlighted the responsibility of Jasa Raharja in providing protection to victims of traffic accidents, the objects only involved victims of Indonesian citizens (WNI).

This research aims to develop the field of insurance law, especially in terms of protection of foreign tourists who experience traffic accidents in Indonesia. In addition, the results of this study can serve as a reference for future studies that will raise relevant topics or themes. This research is also useful to increase public legal awareness including foreign tourists about rights and responsibilities in terms of traffic accidents in Indonesia. This awareness can help reduce conflicts and legal disputes that may arise in handling accident cases involving foreign tourists.

## **RESEARCH METHODS**

This research uses empirical legal research, which is a method used to solve research problems by examining secondary data first and then continuing by conducting research on primary data in the field. Empirical research can also be interpreted as research that emphasizes data collection based on direct experience, concrete facts, and observation

This research was conducted at PT Jasa Raharja Bali Branch which is located at Jalan Hayam Wuruk No. 202, East Denpasar, Bali Province. PT Jasa Raharja Bali Branch has a working area that covers the entire Bali Province. This research specifically focuses on the Denpasar City area, which consists of four sub-districts, namely: East Denpasar District, West Denpasar District, South Denpasar District, North Denpasar District.

The data that has been collected from primary and secondary data is then processed and arranged systematically and analyzed using legal argumentation. Qualitative analysis is used to understand, organize, and describe data in a systematic and detailed manner. This technique assists researchers in providing a comprehensive overview of research findings in a narrative manner. Qualitative analysis techniques relate to the ideas, perceptions, opinions, or beliefs of the person under study, all of which cannot be measured by numbers.

## **RESULTS AND DISCUSSION**

### **Forms of Legal Protection for Foreign Tourists Who Experience Traffic Accidents**

Legal protection related to traffic accidents experienced by foreign tourists aims to ensure safety and welfare and provide legal certainty regarding their rights in the process of settling claims or compensation. As Jan Michiel Otto defines legal certainty as a condition in which there are clear, consistent, and easily accessible rules issued by a legitimate authority. Legal certainty also includes the consistent application of rules by government agencies, the adjustment of public behavior to these rules, and the fair application of rules by independent judges. In addition, judicial decisions must be effectively implemented. Based on Law No. 22 of 2009 concerning Road Traffic and Transportation, the forms of legal protection provided to victims of traffic accidents can be divided into two, namely preventive and repressive legal protection.

### **Legal Basis for Protection of Foreign Travelers in Traffic Accidents**

Clear and structured legal protection for foreign tourists who experience traffic accidents in Indonesia is reviewed from various legal bases that regulate the rights and obligations of related parties. These legal bases include Law No. 33 of 1964 on Compulsory Insurance Fund for

Passenger Accidents, Law No. 34 of 1964 on Road Traffic Accident Fund, Law No. 22 of 2009 on Road Traffic and Transportation, Law No. 6 of 2011 on Immigration, Law No. 10 of 2009 on Tourism, Government Regulation (PP) No. 17 of 1965 on Provisions for the Implementation of the Compulsory Insurance Fund for Road Traffic Accidents. 17 of 1965 concerning Provisions for the Implementation of the Passenger Accident Compulsory Insurance Fund, Government Regulation No. 18 of 1965 concerning Provisions for the Implementation of the Road Traffic Accident Fund, Minister of Finance Regulation (PMK) No. 15 of 2017 concerning the Amount of Compensation and Compulsory Contribution of the Passenger Accident Compulsory Insurance Fund, and Minister of Finance Regulation (PMK) No. 16 of 2017 concerning the Amount of Compensation and Compulsory Contribution of the Road Traffic Accident Fund.

These legal bases provide a basis for regulating the protection of accident victims including foreign tourists, both in terms of insurance compensation and access to justice.

- 1) Law No. 33/1964 on the Mandatory Passenger Accident Insurance Fund (DPWKP)
- 2) Law No. 34/1964 on the Road Traffic Accident Fund (DKLLJ)
- 3) Law No. 22 Year 2009 on Road Traffic and Transportation (LLDAJ)
- 4) Law No. 6 Year 2011 on Immigration
- 5) Law Number 10 of 2009 concerning Tourism
- 6) Government Regulation (PP) No. 17 of 1965 concerning Provisions for the Implementation of the Mandatory Passenger Accident Insurance Fund
- 7) Government Regulation (PP) No. 18 of 1965 concerning Provisions for the Implementation of the Road Traffic Accident Fund (DPWKLLJ)
- 8) Regulation of the Minister of Finance (PMK) No. 15/2017 on the Amount of Compensation and Compulsory Contribution of the Mandatory Passenger Accident Insurance Fund (DPWKP)
- 9) Minister of Finance Regulation (PMK) No. 16/2017 on the Amount of Compensation and Compulsory Contribution to the Road Traffic Accident Fund (DKLLJ)

### **Preventive Legal Protection for Foreign Tourists Who Experience Traffic Accidents**

Preventive legal protection according to Philipus M. Hadjon is protection provided by the government with the aim of preventing violations. Preventive legal protection is important in government actions based on freedom of action because with preventive legal protection the government is encouraged to be careful in making decisions based on discretion. In terms of protection for foreign tourists who experience traffic accidents, preventive legal protection is carried out through various policies and programs aimed at providing understanding and legal guarantees before incidents occur.

As an agency tasked with providing social security to victims of traffic accidents in Indonesia, PT Jasa Raharja has a monthly socialization program with foreign consulates as a form of preventive effort in providing protection to foreign tourists. PT Jasa Raharja also cooperates with immigration and foreign consulates to convey more in-depth information regarding the compensation rights of victims of traffic accidents involving foreign tourists. Cooperation with immigration and foreign consulates has an important role because they can be a direct and

accessible channel of information for foreign tourists in Indonesia. This step is part of preventive legal protection because it can prevent confusion of foreign tourists about their rights when they experience an accident.

This is based on information from the results of an interview with Mr. Andika Kusuma Jaya as Head of the Service Subdivision of the Bali Region Office of PT Jasa Raharja who said that:

"PT Jasa Raharja routinely holds monthly meetings with foreign consulates to provide socialization on compensation that can be received by foreign tourists if they experience traffic accidents in Indonesia. This socialization aims to make foreign tourists understand their rights and compensation claim procedures that have been regulated by the government. We also work closely with immigration and foreign consulates so that important information about procedures and rights when facing traffic accidents can be conveyed clearly and easily accessible. We hope to reduce traveler confusion and speed up the claim process."

In addition, PT Jasa Raharja is also active in conducting socialization through social media. The utilization of digital platforms is done so that information regarding claim procedures and the rights of foreign tourists in obtaining compensation can be more easily accessed by them before or during an accident. This step aims to speed up the claim process by ensuring that foreign tourists have understood the applicable mechanism. This is based on information from an interview with Mr. Andika Kusuma Jaya as Head of the Service Subdivision of PT Jasa Raharja Bali Region Office who said that:

"Jasa Raharja seeks to increase awareness of foreign tourists regarding safety and the right to receive compensation in various ways, one of which is through social media. In this way, foreign tourists can more easily obtain information about claim procedures and applicable mechanisms. We also install traffic safety banners and distribute brochures in locations visited by many foreign tourists. Hopefully, these steps can help reduce the number of accidents and ensure that tourists know their rights if they have a traffic accident in Indonesia."

Various preventive measures taken by PT Jasa Raharja such as socialization through social media, installation of traffic safety banners, and distribution of brochures in strategic locations aim to enable foreign tourists to have a better understanding of their rights and obligations in obtaining legal protection and compensation if they experience a traffic accident in Indonesia. This is in line with the principle of preventive legal protection that focuses on preventing legal uncertainty. Through these patrols and socialization activities, the police hope to minimize the risk of accidents and ensure that foreign tourists understand the applicable rules. This is based on information from an interview with AKP I Wayan Sudarsana as Kanit Gakum Sat Lantas Polresta Denpasar who said that:

"We from the Denpasar Police Traffic Unit routinely carry out night patrols on the highway, especially in areas that are heavily traveled by foreign tourists. We also actively socialize and provide appeals related to traffic order. We try to convey this information through various media including working with hotels, inns, and tour agents to ensure that tourists get enough education about traffic rules in Indonesia. One of the important points in this socialization is to remind

tourists to always carry and show their International Driving License (SIM) when driving in Bali. If during our patrols we find that foreign tourists do not have an International Driver's License, we will give a warning or take action in accordance with applicable regulations. We take these steps to create traffic security and order and provide legal protection for all road users, especially foreign tourists".

Azharniyah (2019) highlights the importance of preventive legal protection efforts by PT Jasa Raharja in providing legal guarantees since before the occurrence of traffic accident incidents. This research shows that preventive measures can provide a sense of security to the public, especially in facing the risk of accidents.

### **Repressive Legal Protection for Foreign Tourists Who Have Traffic Accidents**

Repressive legal protection according to Philipus M. Hadjon is protection that has already occurred, including in a broad sense the handling of legal protection for the people carried out through public courts and administrative courts in Indonesia. The purpose of repressive legal protection is to resolve disputes handled by the General and Administrative Courts in Indonesia.

#### **1. Claim Procedure for Death Victims**

In the case of foreign travelers who die in traffic accidents, the submission of compensation claims must involve coordination with the Embassy or Consulate of the victim's home country.

#### **2. Claim Procedure for Injured Victims**

This procedure aims to ensure that foreign travelers who are victims of traffic accidents get their rights quickly and appropriately in accordance with applicable legal provisions. The involvement of Embassies and Consulates in the administrative process is also an important step in providing legal protection for victims and their heirs.

### **Implementation of Legal Protection by PT Jasa Raharja Against Foreign Tourists who Experience Traffic Accidents in Denpasar**

Tourism is a leading sector in Bali including Denpasar City, which is a tourist destination for tourists from various countries. Along with the increasing number of foreign tourist visits, the risk of traffic accidents also increases as more tourists use motorized vehicles, both as drivers and passengers. Legal protection for foreign tourists who experience traffic accidents is through the role of PT Jasa Raharja in ensuring that they receive the rights that have been regulated in regulations related to accident compensation. As a social insurance company appointed by the government to manage the Mandatory Passenger Accident Insurance Fund (DPWKP) and the Road Traffic Accident Fund (DPWKLLJ), PT Jasa Raharja has an obligation to provide compensation to accident victims including foreign tourists in accordance with the established mechanism.

### **The Responsibility of PT Jasa Raharja for Foreign Tourists who Have Accidents in Denpasar**

According to Hans Kelsen, legal responsibility is the normative consequence of a violation of established norms. When an action or event violates legal norms, there will be an obligation to provide remedies or sanctions in accordance with applicable provisions. Hans Kelsen distinguishes legal responsibility in civil and criminal aspects. Civil law focuses on compensation or recovery

for the injured party, while criminal law is more directed at imposing sanctions on the perpetrators of legal violations. The concept of responsibility relevant to PT Jasa Raharja relates to the compensation aspect, where the company has an obligation to provide compensation to victims of traffic accidents. The Indonesian legal system regulates the responsibility of PT Jasa Raharja based on the Social Insurance Principle which aims to provide protection for accident victims through compensation mechanisms from DPWKP and DPWKLLJ. This principle is in line with Kelsen's theory which sees law as a normative system that must be implemented by relevant institutions in order to provide legal certainty for the community, including foreign tourists who experience traffic accidents.

### **Distribution of Compensation by PT Jasa Raharja for Foreign Tourists who Have Accidents in Denpasar**

PT Jasa Raharja has the responsibility to ensure that every claim or compensation submitted meets the requirements set by the legislation. Certainty regarding the time and place of the accident is a determining factor in determining whether the victim is entitled to receive compensation. In other words, the validity of the claim depends on whether the accident occurred within the scope of protection determined by the government. For passengers who experience an accident, the time of occurrence is a crucial aspect in determining their right to submit a compensation claim to PT Jasa Raharja. Based on Government Regulation No. 17 of 1965 concerning Provisions for the Implementation of DPWKP, every public transportation passenger is required to pay an insurance contribution that has been incorporated into the transportation fare. This payment is made together with the purchase of tickets managed by public transport operators. Therefore, every passenger who has fulfilled obligation by purchasing a ticket automatically gets legal protection against the risk of accidents that may occur during the trip.

As a concrete form of implementation of legal protection for foreign tourists who experience traffic accidents in Denpasar, PT Jasa Raharja distributes compensation to victims or their heirs. The distribution of compensation by PT Jasa Raharja for foreign tourists who have accidents in Denpasar in 2020-2024 is as follows.

**Table 1. Distribution of Compensation by PT Jasa Raharja for Foreign Tourists who Experienced Traffic Accidents in Denpasar in 2020-2024**

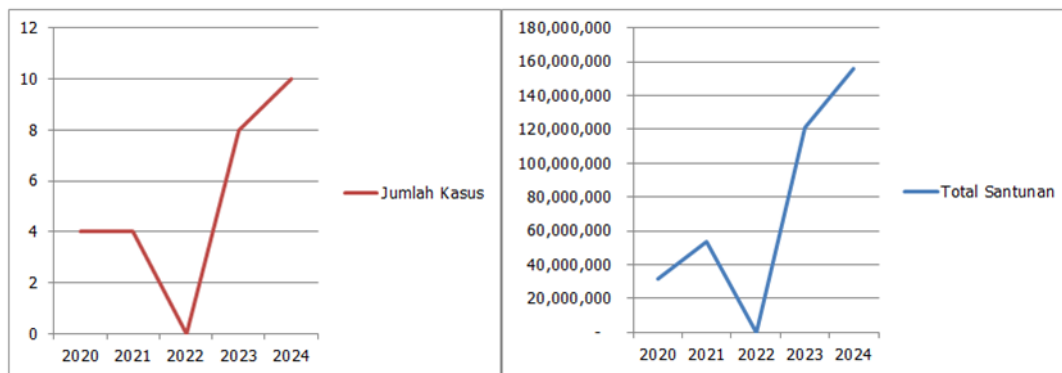
No.	Date of Accident	Victim Injury	Country of Origin	Traffic Accident Location	Compensation (Rp)
1	January 20, 2020	Injuries	China	Jl. By Pass Ngurah Rai, Sanur, Denpasar	1.923.140
2	February 6, 2020	Injuries	China	Jl. Kargo Permai Denpasar	20.000.000
3	May 14, 2020	Burial	Russia	Jl. Mahendradata Denpasar	4.000.000
4	July 17, 2020	Injuries	Usa	Jl. By Pass I Gusti Ngurah Rai, Sanur Denpasar	5.550.825
5	April 13, 2021	Injuries	America	Jl. Tirtanadi South Denpasar	20.000.000
6	April 1, 2021	Injuries	Germany	Jl Sulatri Selatan East Denpasar	20.000.000

7	March 18, 2021	Injuries	United States of America	Jl. Prof. Dr. Ib Mantra East Denpasar	8.263.989
8	October 7, 2021	Injuries	Italy	Jl. Mertanadi West Denpasar	5.203.341
9	June 04, 2023	Passed Away	Russia	Jl. Pelabuhan Benoa Denpasar	50.000.000
10	June 24, 2023	Injuries	Egypt	Jl. Imam Bonjol Denpasar	10.838.900
11	August 16, 2023	Injuries	Moldova	Jl. By Pass Nurah Rai Sanur	521.977
12	November 7, 2023	Injuries	Australia	Sanur Harbor	2.053.394
13	December 7, 2023	Injuries	Russia	Jl. Ahmad Yani, Peguyangan North Denpasar	6.934.586
14	December 19, 2023	Passed Away	Netherlands	Jl. Bay Pass Ngurah Rai Griya Anyar-Pemogan Denpasar	50.000.000
15	December 7, 2023	Injuries	Russia	Jl. Ahmad Yani, Peguyangan North Denpasar	153.520
16	December 22, 2023	Injuries	Australia	Jln. Simpang Empat Dewi Madri Denpasar	840.000
17	February 6, 2024	Injuries	Francis	Jl. Wr. Supratman Denpasar	627.088
18	February 24, 2024	Passed Away	Canada	Jln. Danau Buyan Sanur Denpasar	50.000.000
19	May 14, 2024	Injuries	Germany	Jl. Gunung Agung Denpasar	1.163.780
20	May 14, 2024	Injuries	Germany	Jl. Gunung Agung Denpasar	2.304.207
21	June 9, 2024	Injuries	Japan	Jl. Raya Sesetan-Gurita Pegok, Denpasar	10.036.600
22	July 16, 2024	Injuries	Vietnam	Jalan By Pass Ngurah Rai, Tohpati Kertalangu Denpasar	282.000
23	July 24, 2024	Injuries	Brazil	Jalan Raya Tegalalang, Gianyar Regency	20.000.000
24	July 16, 2024	Injuries	Vietnam	Jalan Raya By Pass Ngurah Rai, Tohpati Denpasar	1.161.381
25	July 18, 2024	Passed Away	Russia	Bali Mandara Toll Road Benoa South Denpasar	50.000.000
26	September 25, 2024	Injuries	Morocco	Jln Buana Kubu Km.9 West Denpasar	20.000.000
<b>Total Compensation</b>					<b>361.858.728</b>

*Source: PT Jasa Raharja Bali Branch Data (2024)*

Table 1. shows that the total distribution of compensation by PT Jasa Raharja Bali Branch to victims or heirs of foreign tourists who had accidents in Denpasar from 2020 to 2024 was IDR 361,858,728 from 26 cases recorded during that period. The amount of compensation given to each victim of a traffic accident is given based on the type of case, namely injuries, death, and burial.





**Figure 1.** Trends in the Number of Cases and Total Compensation for Foreign Tourist Traffic Accidents in Denpasar 2020-2024

Figure 1 shows the trend in the number of traffic accident cases experienced by foreign tourists in Denpasar and the total compensation distributed by PT Jasa Raharja from 2020 to 2024. In the graph of the number of cases, the trend looks stable at the beginning of the period then experiences a significant decline before increasing sharply in the following years.

The type of case that most often experiences problems and obstacles in the settlement of compensation is the case of death. These obstacles include the absence or delay in identifying heirs, especially when foreign tourists are not accompanied by family while on vacation, complex administrative processes because the submission of claims must involve the Embassy or Consulate of the victim's home country, as well as cross-country coordination that takes time, especially when there are differences in legal systems or bureaucracy between countries.

#### **Obstacles Faced by PT Jasa Raharja in the Compensation Settlement Process**

In the process of settling compensation for foreign tourists who have suffered traffic accidents in Denpasar, PT Jasa Raharja Bali Branch faces various obstacles stemming from differences in regulations, administrative bureaucracy, and technical obstacles in the payment system. These obstacles can be categorized as follows:

1. Constraints in Coordination with Embassies and Consulates
2. Differences in Legal Regulations between Countries
3. Obstacles in the Identification of Heirs
4. Technical Barriers in the Payment Process
5. Implications and Impact of Obstacles in Settlement of Compensation

#### **Efforts to Overcome Obstacles in the Settlement of Compensation**

PT Jasa Raharja has implemented various strategic measures to overcome obstacles in settling compensation for foreign tourists who have suffered traffic accidents. The main focus of these efforts includes improving coordination with Embassies/Consulates, adjusting to differences in legal regulations between countries, accelerating the process of identifying heirs, and resolving technical obstacles in compensation payments.

1. Improved Coordination with Embassies and Consulates

2. Adjustment to Differences in Legal Regulations between Countries
3. Accelerating the Heir Identification Process
4. Resolution of Technical Obstacles in the Payment Process

Through a humanist approach, PT Jasa Raharja not only focuses on the speed and accuracy of the claim process, but also pays attention to the psychological and cultural conditions of the community. These efforts demonstrate PT Jasa Raharja's commitment in carrying out its legal responsibilities and providing optimal legal protection to victims of traffic accidents in accordance with Law No. 33 of 1964 on DPWKP, Law No. 34 of 1964 on DPWKLLJ, Law No. 22 of 2009 on LLDAJ, Government Regulation No. 17 of 1965 on Provisions for the Implementation of DPWKP, and Government Regulation No. 18 of 1965 on Provisions for the Implementation of DPWKLLJ.

## CONCLUSION

The conclusion of this study shows that legal protection for foreign tourists who experience traffic accidents in Denpasar has been pursued preventively and repressively by PT Jasa Raharja in accordance with applicable laws and regulations. These efforts include the provision of compensation through cross-agency cooperation, despite facing various administrative and technical obstacles, especially in terms of document verification and transfer of funds abroad. To overcome this, increased coordination with foreign embassies and consulates, as well as agencies such as the police, hospitals, and immigration is needed. The Tourism Office is also expected to actively provide education on tourists' rights and legal procedures, while the Denpasar Police Traffic Accident Unit needs to strengthen preventive measures through regular patrols, socialization, and raids. On the other hand, foreign tourists are advised to always obey traffic regulations, use safety equipment, and choose standard modes of transportation in order to minimize the risk of accidents.

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