

HEALTH LEGAL ANALYSIS OF THE CASE OF THE ABSENCE OF A VISUM ET REPERTUM IN THE PROTECTION OF WORKPLACE ACCIDENT INSURANCE IN THE CONTEXT OF INTERPRETATION OF THE APPEAL MECHANISM AS AN ALTERNATIVE FOR PROVING VIOLENCE

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Abstract. *This research is motivated by the legal problems in the disbursement of Work Accident Insurance (JKK) claims in cases of death without a body (missing body), as experienced by maritime workers, the late Anton and Kunedi. The absence of a body caused the doctor to refuse to issue a Visum et Repertum according to the Medical Code of Ethics, which resulted in the rejection of the administrative claim by BPJS Ketenagakerjaan because it was deemed not to meet the formal requirements. The purpose of this study is to analyze the legal consequences of the absence of a visum from a health law perspective and to examine the legal force of the appeal mechanism of Article 11A of the Minister of Manpower Regulation Number 1 of 2025 as an alternative solution for proof. The research method used is normative juridical with a statute approach and a case approach. The results of the study indicate that the doctor's refusal to issue a visum is medically valid (medical impossibility), but creates legal uncertainty for the rights of heirs. The appeal mechanism of Article 11A of Permenaker 1/2025 provides a legal breakthrough in which the Manpower Inspector's Determination Note can function as a substitute evidence that has perfect evidentiary power (volledig bewijskracht) to replace the visa, thus guaranteeing dignified justice for social security participants.*

Keywords: Work Accident Insurance, Visum et Repertum, Death Without a Corpse, Ministerial Regulation Number 1 of 2025, Dignified Justice.

I. INTRODUCTION

The maritime sector is one of the highest-risk occupations for fatalities, with workplace accidents often resulting in workers disappearing at sea without leaving a physical trace or body. This phenomenon creates legal complexities that transcend conventional employment, particularly when confronted with a social security system that requires rigid material proof. In the national legal system, protection against the risk of workplace accidents is guaranteed through the BPJS Ketenagakerjaan (Employment Social Security Agency) as a manifestation of citizens' constitutional

right to social security. However, the implementation of this protection is often hampered by procedural administrative requirements, particularly the obligation to submit a Visum et Repertum (Visum et Repertum) or post-mortem examination certificate as a prerequisite for disbursement of Work Accident Insurance (JKK) claims in cases of death.

Legal problems arise when there is a conflict of norms between social security law and health law in cases of death without a body. On the one hand, social security regulations require medical evidence to validate the causality of death. On the other hand, the principles of medical ethics and health law stipulate that doctors cannot and are prohibited from issuing a post-mortem examination without directly examining the body, or corpus delicti (Idries, 1997). This dilemma creates a legal vacuum in claims management, where the absence of a medical examination results in failure to fulfill administrative requirements, ultimately harming the rights of the worker's heirs.

The reality of this legal uncertainty is clearly reflected in the case of the late Anton and the late Kunedi, two fishermen who were declared missing in the waters of Karimunjawa due to a violent crime on board the Vizz Jaya 2. Although the deaths of the two victims have been legally determined through the Indramayu District Court Decision Number 61/Pdt.P/2025/PN Idm and Number 49/Pdt.P/2025/PN Idm, the heirs' compensation claims are still being administratively rejected by BPJS Ketenagakerjaan due to the absence of a Visum et Repertum (Indramayu District Court, 2025). This rejection shows a disparity between the legal truth (judicial truth) decided by the court and the administrative truth adopted by the social security administering body. This condition violates the principle of dignified justice, where citizens' rights are neglected by technical procedures that are impossible to fulfill (impossibility of performance).

Amid this legal impasse, the Government issued Minister of Manpower Regulation (Permenaker) Number 1 of 2025 concerning Amendments to Minister of Manpower Regulation Number 5 of 2021 concerning Procedures for Implementing the Work Accident Insurance, Death Insurance, and Old Age Insurance Programs. This regulation introduced Article 11A, which governs the mechanism for determining workplace accidents through the Labor Inspectorate under certain conditions. The presence of this article opens up opportunities for new legal interpretations regarding the shift in the paradigm of evidence from a purely medical basis to administrative evidence with executorial power (Republic of Indonesia, 2025).

This research has a high urgency to dissect how Article 11A of the Minister of Manpower Regulation Number 1 of 2025 can be constructed as a legitimate legal solution to substitute the lack of a post-mortem examination. Through an analysis of health law and evidentiary theory, this study aims to outline the legal implications of doctors' refusal to issue a post-mortem examination without a body and validate the position of the Labor Inspector's Determination Note as an equivalent substitute for evidence. This is crucial to ensure that the principles of the welfare state and legal protection for vulnerable workers remain upheld amidst limited medical evidence.

II. RESEARCH METHOD

This research is normative legal research, focusing on the study of the rules or norms in applicable positive law. The primary focus of the research is the analysis of the vertical and horizontal synchronization of laws and regulations related to employment social security and health law, particularly regarding medical evidence in workplace accident claims.

The research approach used includes a statute approach and a case approach. The statutory approach is carried out by examining Law Number 40 of 2004 concerning the National Social Security System (SJSN), Law Number 24 of 2011 concerning the Social Security Administering Body, and specifically the Minister of Manpower Regulation Number 1 of 2025. Meanwhile, the case approach is used to dissect the ratio decidendi in the Indramayu District Court Decision Number 61/Pdt.P/2025/PN Idm and Number 49/Pdt.P/2025/PN Idm, as well as the Manpower Supervisor's Decision Note regarding the case of the late Anton and Kunedi. This case is positioned as a legal fact to test the effectiveness of existing norms.

The legal materials used consist of primary and secondary legal materials. Primary legal materials include employment regulations, the Civil Code (KUHPerdara), the Criminal Procedure Code (KUHP) regarding post-mortem examinations, and legally binding court rulings. Secondary legal materials are sourced from health law literature, scientific journals, and legal doctrines relevant to the principles of evidence and social security.

The legal data collection technique was conducted through library research and document study. All collected legal materials were then inventoried, classified, and systematized for qualitative analysis. Data analysis used deductive syllogism logic, starting from the major premise in the form of positive legal rules (post-mortem requirements and supervisory authority), connected with the minor premise in the form of the fact of the absence of a body in a concrete case, to draw legal conclusions regarding the validity of substitute evidence in the settlement of Work Accident Insurance claims.

III. RESULTS AND DISCUSSION

A. Legal Implications of the Absence of a Visum et Repertum in Proving Work Accident Claims in Missing Body Cases

The basic principle of implementing social security for workers is to provide basic protection for workers to ensure the welfare and survival of their heirs in the event of social risks, including death due to a work-related accident. However, the realization of this principle often runs into rigid evidentiary procedures. In the legal framework for proving Work Accident Insurance (JKK) claims, medical documents in the form of a Doctor's Certificate or Visum et Repertum occupy a central position as primary evidence to prove the causal link between a work-related incident and a worker's death.

Legal problems arise significantly when regulations are unable to cover atypical events, such as cases of missing bodies due to crimes at sea. This is reflected in the case of the late Anton and late Kunedi, workers on the KM Vizz Jaya 2 ship who were victims of physical violence that led to their deaths and their bodies being thrown into the sea. Materially, the deaths of the two victims due to occupational risks have been confirmed through the police investigation process and strengthened by the Indramayu District Court's decision, which determined their deaths as civil law on July 4, 2025.

Even though the death status has been legally valid, the JKK claim process for heirs has experienced a deadlock due to the enactment of Article 7 paragraph (6) of the Minister of Manpower

Regulation Number 1 of 2025. This article regulates the mechanism of proof for cases of violence in the workplace in a cumulative-imperative manner:

"Proof of physical violence and/or rape as referred to in paragraph (2) letter g must be accompanied by a police report regarding the incident of physical violence and/or rape and a post-mortem examination for victims of physical violence and/or rape."

The phrase "and" in the article indicates that the Police Certificate and the Post-mortem Examination (Visum et Repertum) are a single, inseparable piece of evidence. This provision creates a legal anomaly when applied to missing body cases. From the perspective of health law and forensic medicine, a Post-mortem Examination (Visum et Repertum) is defined as a written statement prepared by a doctor at the request of an investigator regarding the results of a medical examination of a human being, whether living or dead. An absolute requirement for issuing a post-mortem examination is the presence of the body object (corpus delicti) being examined.

In the cases of the late Anton and Kunedi, the absence of bodies created a condition of "medical impossibility." Forensic physicians are bound by the Indonesian Code of Medical Ethics (KODEKI) and professional standards, which prohibit the issuance of a medical death certificate or post-mortem examination without conducting a direct physical examination of the body. If a physician is forced to issue a post-mortem based solely on assumptions or witness testimony in the absence of a body, such action could be classified as a serious ethical violation and even a criminal act of falsifying a medical certificate. Therefore, the medical profession's refusal to issue a post-mortem in this case is a legitimate action and in accordance with the principle of medical prudence.

The consequences of this medical compliance, ironically, have a fatal impact on the administrative rights of heirs. The BPJS Ketenagakerjaan claims verification system, which operates based on the principle of procedural compliance, makes the lack of a medical examination the basis for a formal claim defect. Consequently, the heirs' substantive rights are neglected. The regulation, which should protect victims of violence (by recognizing it as a work-related accident in Article 7 paragraph 2 letter g), has instead become a major barrier to entry because it sets a standard of proof that is impossible to meet in force majeure situations.

This situation demonstrates a disconnect between the material truth recognized by the court (the fact of violent death) and the formal truth demanded by the social security administration (the availability of a post-mortem report). This clash of norms undermines the sense of dignified justice, where the law should be present to humanize people, not to restrict citizens' rights with rigid technical procedures. The absence of a post-mortem report in a missing body case should not invalidate the right to compensation, but rather should serve as a trigger for state officials to seek substitute evidentiary instruments of equal evidentiary value.

B. Administrative Appeal Mechanism of Article 11A of Minister of Manpower Regulation 1/2025 as an Alternative for Proving Violence in the Workplace

Facing the procedural impasse resulting from the absence of a Visum et Repertum, a progressive legal approach is needed to ensure workers' rights are fulfilled. This legal breakthrough comes through the provisions of Article 11A of the Minister of Manpower Regulation Number 1 of 2025. This article regulates the attributive authority of the Labor Inspectorate to determine work accident cases in disputes or where the status is unclear. This provision reads:

"In the event of a difference of opinion regarding the status of a Work Accident or Occupational Disease... the determination of the status of a Work Accident or Occupational Disease is carried out by the Labor Inspector."

Although this article explicitly regulates the resolution of "differences of opinion," an extensive interpretation suggests that this mechanism can be applied to cases of claim rejection due to incomplete medical requirements, such as in the case of a missing body. The Labor Inspectorate's determination process relies not only on medical evidence but also through a series of comprehensive investigations that include field inspections, witness statements, and analysis of other relevant legal documents, including police reports and court rulings.

In the case of the late Anton and Kunedi, the Manpower Inspector's (Wasnaker) Determination Note serves a vital role as substitute evidence. When a doctor declares medical inability to issue a post-mortem due to the absence of a body, the Manpower Inspector can take over the role of verifying causality. With its investigative authority, the Inspector can validate that the victim's death was indeed due to work-related violence on board, even without physical evidence of a body. This validation is based on legal facts that have been tested by police investigators and court judges.

In the theory of state administrative evidence, the Manpower Supervisor's Determination Note is qualified as an authentic deed issued by an authorized public official. This document has perfect evidentiary force (*volledig bewijskracht*) and is binding on all relevant parties, including the BPJS Ketenagakerjaan. Therefore, the legal standing of this Determination Note is equal, and in certain contexts, can even replace the administrative function of the *Visum et Repertum*. While a *visum* proves biological death, the Determination Note proves legal-administrative death within the framework of social security.

Table 1.
Comparison of Evidence Characteristics between *Visum et Repertum* and Supervisory Determination Note

Comparative Dimensions	<i>Visum et Repertum</i> (VeR)	Supervisory Determination Note (Nota Wasnik)
Publisher	Doctor (Medical Expert)	Labor Inspector (State Official)
Object of Examination	Human Body (Biological Body)	Events & Documents (Fact & Event)
Proof Output Document	Biological (Medical) Causes of Death Expert Statement (Article 187 of the Criminal Procedure Code)	Work Accident Status (Legal) State Administrative Decision (KTUN)
Properties	Absolutely depends on the presence/absence of a corpse	Flexible, can be based on field investigations

The implementation of Article 11A is a manifestation of the Welfare State doctrine, where the state must not allow its citizens to lose basic rights simply because of technical regulatory gaps. Through this mechanism, the obstacle of Article 7 paragraph (6) which requires a cumulative post-mortem can be legally broken through. The Labor Inspector uses its legal discretion to determine that the incident is a Work Accident eligible for compensation, with the consideration that the post-mortem requirement becomes irrelevant or is set aside by law due to the force majeure circumstances of the disappearance of the body.

Thus, the legal framework of Article 11A of Ministerial Regulation No. 1 of 2025 provides a win-win solution. For BPJS Ketenagakerjaan, the Supervisory Determination Note provides a strong legal basis for disbursing claims without fear of violating audit procedures, as verification responsibility has been transferred to the state (the Supervisory Agency). For heirs, this mechanism provides access to justice that restores their previously withheld rights. This confirms that social security law in Indonesia is dynamic and able to adapt to the complexities of modern occupational risks, including the risk of fatalities without remains in the maritime sector.

IV. CONCLUSION

Based on the analysis and discussion that has been conducted, two main conclusions can be drawn. First, the cumulative implementation of the Visum et Repertum requirement as regulated in Article 7 paragraph (6) of the Minister of Manpower Regulation Number 1 of 2025 has legal implications in the form of a lack of legal protection for victims of work accidents whose bodies are missing. In the case of the late Anton and Kunedi, the absence of bodies caused the forensic doctor to experience medical impossibility to issue a visum. As a result, the Work Accident Insurance (JKK) claim was rejected administratively, which reflects a conflict between procedural certainty and substantive justice.

Second, the determination mechanism by the Labor Inspectorate through Article 11A of Ministerial Regulation Number 1 of 2025 is a valid and effective legal instrument to overcome the deadlock in medical evidence. The Work Accident Determination Note issued by the Labor Inspectorate has perfect evidentiary force (*volledig bewijskracht*) as a substitute for a medical examination. Through a comprehensive approach that integrates other legal evidence (Police Reports and Court Decisions), this Determination Note provides legal legitimacy for BPJS Ketenagakerjaan to disburse compensation, so that the constitutional rights of heirs can be fulfilled without violating the medical code of ethics.

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