

Legal Review of the Right to Religious Holiday Allowance (THR) for Online Motorcycle Taxi Partners

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Abstract

Online motorcycle taxi drivers are categorized as partners in a partnership relationship with the application company, meaning they do not receive employment rights as regular workers do, including the Religious Holiday Allowance (THR). However, in practice, they work under a system that closely resembles an employment relationship, such as the presence of binding rules, sanctions, and specific targets. This disparity creates legal issues and highlights the need for a study on the protection of their rights. Therefore, this research is conducted to provide online motorcycle taxi drivers with an understanding of their rights and the legal actions they can take. The research method used in this study is normative juridical, which analyzes law as a norm or rule that applies in society. This study aims to examine the legal status of online motorcycle taxi partners in the context of labor law in Indonesia and encourage regulatory reform to make it fairer and more adaptable to the dynamics of work in the digital era.

KEYWORDS

Partnership, Rights, Online Motorcycle Taxi, Religious Holiday Allowance



Introduction

The growth of the digital economy in Indonesia has led to the emergence of various application-based service platforms, one of which is online transportation services.¹ Online motorcycle taxi drivers (ojol) have become an important part of supporting urban mobility. However, their legal status, classified as partners rather than formal employees, has raised several issues, especially concerning employment rights, such as the Religious Holiday Allowance (THR).²

In the formal labor system in Indonesia, THR is a normative right that must be given by companies to workers or employees as a form of appreciation for their contribution, particularly before religious holidays.³ This provision is regulated in the Minister of Manpower Regulation (Permenaker) No. 6 of 2016 concerning Religious Holiday Allowance for Workers/Employees in Companies. According to this regulation, companies are required to provide THR to workers who have worked continuously for at least one month. Workers who have been employed for 12 months or more are entitled to receive one month's wage, while those who have worked for less than one year will receive a proportionate THR according to their length of employment. This regulation reflects the government's commitment to protecting the welfare of workers.⁴

However, the application of these rights becomes problematic when faced with the context of online motorcycle taxi drivers' work. Application

¹ Sinungan, Muchdarsyah. *Manajemen Sumber Daya Manusia*. Jakarta: Bumi Aksara, 2017.

² Aloysius, Uwiyono, "Membedah Status Kemitraan dan Polemik THR bagi Mitra Pengemudi di Indonesia." *Hukumonline*, 2025. <https://www.hukumonline.com/berita/a/membedah-status-kemitraan-dan-polemik-thr-bagi-mitra-pengemudi-di-indonesia-lt67c56168c5985/>, diakses pada 10 Maret 2025 21.21 WIB.

³ Hani Febriani, "THR 2025 Cair? Driver Ojol Dapat Sebulan Gaji, Ini Syaratnya." *Pikiranrakyat*, 2025. <https://www.pikiran-rakyat.com/news/amp/pr-019138233/thr-2025-cair-driver-ojol-dapat-sebulan-gaji-ini-syaratnya?page=all>, diakses pada 11 Maret 2025 19.00 WIB.

⁴ Siregar, F. "Hubungan Kerja antara Mitra Ojek Online dan Perusahaan Aplikasi dalam Perspektif Hukum Perburuhan." *Jurnal Ilmu Hukum*, Vol. 12 No. 1 (2021): 98-115.

companies like Gojek, Grab, and Maxim use a partnership scheme, where the relationship between the company and the driver is considered a business relationship, not an employment relationship as regulated in Law No. 13 of 2003 concerning Employment or Law No. 6 of 2024 concerning the Ratification of the Omnibus Law on Job Creation.⁵ As a result, drivers are not recognized as workers, and companies have no legal obligation to provide employment rights, including the Religious Holiday Allowance (THR).⁶

In practice, however, online motorcycle taxi drivers exhibit characteristics similar to formal workers: they work full-time, are subject to tariff regulations and order systems determined by the company's algorithms, and are bound by a system of incentives and sanctions.⁷ They have no control over the service price and may experience performance declines or unilateral termination of their partnership if they violate company rules.⁸ This situation indicates significant control by the company, raising the question of whether they are truly independent partners or "hidden workers" who should be entitled to labor protection.⁹

This issue becomes more prominent every time religious holidays approach. Some companies offer "voluntary THR" or Religious Holiday Bonus (BHR) in the form of incentives. However, because these are not

⁵ Mardianto, Sebastian Edward, dan Gunardi Lie. "Hubungan Hukum Kemitraan Antara Driver Gojek dan PT. Gojek Indonesia Berdasarkan Peraturan Perundang-Undangan di Indonesia." *JERUMI: Journal of Education Religion Humanities and Multidisciplinary*, Vol. 1 No.2 (2023) : 671-675, <https://rayyanjournal.com/index.php/jerumi/article/viewFile/1469/pdf>, diakses pada 9 Maret 2025 15.20 WIB.

⁶ Dinda Ayu, Puspita, "Analisis Hukum Terhadap Polemik THR Ojek Online : Imbauan atau Kewajiban Bagi Perusahaan Aplikator." *Logikahukum*, 2024. <https://logikahukum.com/analisis-hukum-terhadap-polemik-thr-ojek-online-imbauan-atau-kewajiban-bagi-perusahaan-aplikator/>, diakses pada 10 Maret 2025 23.01 WIB.

⁷ Lestari, Yulia Catur, et al. "Perlindungan Hukum Driver Ojek Online Terhadap Mitra Kerja Transportasi Online." *Jurnal Ilmu Hukum Wijaya Putra*, Vol. 1 No.2 (2023): 249 - 255, <https://jurnal.uwp.ac.id/fh/index.php/jurnalilmuhukum/article/download/148/45> diakses pada 9 Maret 2025 14.15 WIB.

⁸ Muljanto, Muljanto. "Perlindungan Hukum Hak dan Kewajiban Driver Ojek Online dengan Dasar Perjanjian Kemitraan Ditinjau dari Hukum Positif Indonesia." *Thesis: Universitas Kristen Indonesia, Magister Ilmu Hukum*, 2023.

⁹ *Ibid.*

legally regulated and are not mandatory, the amount and distribution vary significantly. Some drivers receive large incentives, while others receive only a small amount or none at all. This uncertainty leads to inequality and highlights the need for more equitable and fair policies.¹⁰

In response to this situation, the government, through the Ministry of Manpower, issued Circular Letter No. M/3/HK.04/III/2025 concerning the provision of Religious Holiday Bonuses (BHR) for drivers and couriers of application-based services.¹¹ This policy is a preliminary step toward recognizing and improving the welfare of digital economy workers, although it does not carry the same legal force as THR for formal workers.¹²

This phenomenon is not unique to Indonesia. In other countries such as the United Kingdom and Spain, courts have recognized online transportation drivers as workers, not just partners.¹³ In the UK, the Supreme Court in the Uber vs. Aslam case ruled that Uber drivers are entitled to minimum wage and benefits. Spain has even mandated that application companies treat drivers as permanent employees. In the United States, several states, such as California, have passed laws establishing specific criteria for digital platform partners to be recognized as formal workers.¹⁴

In light of these global trends, Indonesia has an opportunity to reconsider its labor regulations, particularly in the context of the gig economy. The country needs to determine the right legal approach to avoid prolonged injustice for online motorcycle taxi drivers who have made this work their primary source of income. The ambiguity of their legal status can

¹⁰ Dealls. "THR Ojol 2025: Cara Hitung & Besarannya untuk Driver Gojek, Grab, & Maxim", *Dealls Pengembangan Karir*, 2025. <https://dealls.com/pengembangan-karir/thr-ojol>, diakses pada Kamis, 1 Mei 2025 12.12 WIB.

¹¹ Maksum Rangkuti, "Syarat dan Cara Dapatkan THR Ojol Tahun 2025", *Fakultas Hukum UMSU*, 2025, <https://fahum.umsu.ac.id/blog/syarat-dan-cara-dapatkan-thr-ojol-tahun-2025/>, diakses pada Kamis, 1 Mei 2025 12.21.

¹² *Ibid.*

¹³ Muljanto, Muljanto, *Op.cit.*

¹⁴ *Ibid.*

have negative impacts on the welfare and socio-economic stability of this sector.

Based on these issues, this study aims to analyze the legal status of online motorcycle taxi drivers as partners in employment relationships in Indonesia, examine the relevance of the regulation concerning the provision of THR to them, and offer policy recommendations based on principles of justice and legal protection. This research is not only relevant from a legal perspective but also from a social and economic standpoint, given the significant role drivers play in Indonesia's digital transportation ecosystem. With this study, it is hoped that it will encourage the creation of fairer and more inclusive policies for workers in the digital era. Based on the background outlined above, the research problem in this study is: What is the legal status of online motorcycle taxi partners in their employment relationship with application companies, and are online motorcycle taxi partners entitled to THR under the applicable laws and regulations?

Methods

This study uses a normative juridical method, which is an approach that examines law as a norm or rule that applies in society. Data is obtained through literature studies on laws, circulars, and relevant legal literature. This approach will be combined with a case study on the practice of providing the Religious Holiday Allowance (THR) to online motorcycle taxi partners in Indonesia. The methods used in this study include:

1. Legislative Approach

- Law No. 13 of 2003 concerning Employment.
- Law No. 6 of 2023 concerning the Ratification of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law.
- Minister of Manpower Regulation No. 6 of 2016 concerning Religious Holiday Allowances.

2. Conceptual Approach

- Examining the concept of partnership in civil law and labor law.
- Analyzing the concept of workers' rights from the perspective of human rights and social justice.

Result and Discussion

1. Legal Status of Online Motorcycle Taxi Partners

Online motorcycle taxi partners are categorized as independent workers or gig workers who establish a partnership relationship with application companies. They do not have a formal employment relationship as regulated in Law No. 13 of 2003 concerning Employment, which means they do not automatically receive the protections and rights granted to formal workers, including the Religious Holiday Allowance (THR).¹⁵

The legal status of online motorcycle taxi partners in their employment relationship with application companies remains a subject of debate and lacks clear legal certainty within Indonesia's labor law system.¹⁶ Formally, application companies like Gojek, Grab, and Maxim classify drivers as partners, not employees.¹⁷ This means that the relationship between drivers and the companies is governed by a partnership agreement, not an employment contract as defined in Law No. 13 of 2003 concerning Employment or Law No. 6 of 2023 concerning Job Creation. Therefore, under current positive law, online motorcycle taxi partners are not

¹⁵ Gunawan, R. "Perlindungan Hukum bagi Mitra Ojek Online dalam Perspektif Ketenagakerjaan." *Jurnal Hukum dan Pembangunan*, Vol. 50, No. 2 (2020): 245-262.

¹⁶ *Ibid.*

¹⁷ Oka Halilintarsyah, "Ojek Online, Pekerja atau Mitra?" *Jurnal Persaingan Usaha*, Vol. 02 (2021) : 64-70, <https://download.garuda.kemdikbud.go.id/article.php?article=2590813&val=24402&title=Ojek%20Online%20Pekerja%20atau%20Mitra>, diakses pada 9 Maret 15.45.

considered workers, and as such, they do not receive normative protections such as minimum wage, social security, leave, or THR.¹⁸

However, when viewed from the facts of the working relationship that occur in practice, many labor law experts argue that the relationship between drivers and application companies meets the elements of an employment relationship, namely:¹⁹

1. **Existence of work:** Drivers regularly engage in transportation activities that generate profit for the company.
2. **Existence of command:** Drivers are subject to the algorithm system, the tariffs set by the company, and the sanctions imposed by the company.
3. **Existence of wage:** Although profit-sharing in nature, the income of drivers is directly dependent on the policies of the application company.

Based on the principles of subordination, economic dependency, and direct supervision, some argue that this relationship is essentially like a formal employment relationship (de facto employment), even though it is not legally recognized as such (de jure). This aligns with several precedents in other countries such as the United Kingdom (Uber vs. Aslam case), Spain, and California (USA), where application drivers are recognized as workers and entitled to labor protection.

Therefore, the legal status of online motorcycle taxi partners in Indonesia is currently classified as informal workers or independent workers under the law. However, this status has the potential to be reassessed in order to grant them the same protections as formal workers if it is proven that their relationship with application companies meets the substantive elements of an employment relationship.

¹⁸ Nurhasan Ismail, *Ojek Online: Problematika dan Peluang Pengaturannya di Indonesia*. Jakarta: PT RajaGrafindo Persada, 2023.

¹⁹ Bintang Pamungkas, "Cara Hitung THR Ojol 2025 Sesuai Aturan Terbaru dan Simulasinya", *Tirto.id*, 2025, <https://tirto.id/cara-hitung-thr-ojol-2025-sesuai-aturan-terbaru-g9lE>, diakses pada Kamis, 1 Mei 2025 14.41 WIB.

2. Rights to Religious Holiday Allowance (THR)

Although not explicitly regulated in the law, the government acknowledges the importance of recognizing the contributions of online motorcycle taxi partners. Through the Minister of Manpower Circular Letter No. M/3/HK.04/III/2025, application companies are urged to provide a Religious Holiday Bonus (BHR) to driver and courier partners. This bonus is given as a form of appreciation for their contributions.²⁰

Implementation of the Religious Holiday Allowance (THR) for Online Motorcycle Taxi Partners, Based on Circular Letter No. M/3/HK.04/III/2025, the provisions for granting the BHR to online motorcycle taxi partners are as follows:²¹

1. **BHR Amount:** 20% of the average monthly net income over the last 12 months.
2. **Timing of Payment:** No later than 7 days before Eid al-Fitr.
3. **Eligibility Criteria:** Partners who are active, productive, and have good performance.
4. **Form of Payment:** Cash, and it must be paid in full; installment payments are not allowed.²²

Application companies such as Gojek and Grab have expressed their commitment to follow the government's guidance and have established specific criteria for partners eligible to receive the BHR.²³

²⁰ Dealls, *Op.cit.*

²¹ Erwina Rachmi Puspapertiwi dan Inten Esti Pratiwi, "Syarat Mitra Ojol Gojek Dapat THR 2025, Apaa Saja?", *Kompas*, 2025, <https://www.kompas.com/tren/read/2025/03/14/104500765/syarat-mitra-ojol-gojek-dapat-thr-2025-apa-saja-?page=all>, diakses pada Kamis, 1 Mei 2025 13.30 WIB.

²² Bintang Pamungkas, *Op.cit.*

²³ M. Hilal Eka Saputra Harahap, "THR Driver Ojol cair H-7 Lebaran 2025, cek syarat dan ketentuannya!", *Antara Kantor Berita Indonesia*, 2025, <https://www.antaraneews.com/berita/4712413/thr-driver-ojol-cair-h-7-lebaran-2025-cek-syarat-dan-ketentuannya>, diakses pada Kamis, 1 Mei 2025 15.02 WIB.

Conclusion

Although online motorcycle taxi partners do not have the status of formal employees, their role in Indonesia's digital economy is recognized. The government, through the Minister of Manpower Circular Letter No. M/3/HK.04/III/2025, encourages application companies to provide a Religious Holiday Bonus (BHR) to driver and courier partners as a form of appreciation for their contributions. The implementation of this policy represents a positive step toward providing protection and recognition to workers in the informal sector.

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