



MARINE ACCIDENT INSURANCE AGREEMENT FOR SHIP PASSENGERS

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ABSTRACT

Legal regulation of accident insurance agreement at sea for ship passengers Article 3 of Law No. 2 of 1992 on insurance business. Implementing the accident insurance agreement at sea for passengers of ships is the implementation of the rights and obligations of the parties to the insurance agreement. Factors that become obstacles to the examination of the accident insurance agreement at sea for passengers on ships are late or inappropriate premium payments, reporting claims that exceed the period due to events that are not guaranteed in the policy, the insured cannot complete the required claim supporting documents, the insured does not file a claim 12 months after the incident, and the insured demands more than specified in the policy. An accident insurance agreement at sea for passengers of ships is the implementation of the rights and obligations of the parties to the insurance agreement. The primary obligation of the insurer in the insurance agreement, especially personal accident insurance, is to compensate losses in the form of compensation, which is the insured's right. However, the obligation to compensate is a conditional obligation for the occurrence or non-occurrence of an agreed event resulting in a loss due to an accident. More stringent legal arrangements are needed in the accident insurance agreement at sea for ship passengers to pay more attention to the principles of the Criminal Procedure Code, which is a simple, fast, and light cost to immediately implement the next stage of the judicial process.

Keywords: *Agreement, Accident, Insurance*

INTRODUCTION

Transportation for the Indonesian people is essential in supporting people's lives, which is closely related to the economy of the people and the Indonesian nation. The development of transportation in Indonesia remains the same as mobility and the community's interests. It starts from economic interests, as well as socio-cultural interests. Three types of Transportation are known in Indonesia: Land Transportation, Air Transportation, and sea transportation. That is because Indonesia has land, air, and sea areas.¹

To achieve the National Development Goals as the practice of Pancasila, Transportation, has a significant and strategic position in the development of the environmentally sound nation, and this should be reflected in the mobility needs of all sectors and regions.² Indonesia has a sea area of 3,257.483 km², or 2/3 of the entire territory of Indonesia. The region has caused marine transportation (ships) to become one of the primary forms of transportation in this era of globalization. Per Article 219 of Law No. 17 of 2008, to carry out shipping activities, every sea

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transport (ship) requires a sailing/Berthing approval letter (SPB) issued by the Port Authority to sail or dock. Considering the natural reality of Indonesia's position, efforts are needed to utilize Indonesian waters, a significant national capital, to support the achievement of Archipelago insight. The Indonesian nation must utilize the sea to maintain its survival and develop the country's life. Therefore, the Indonesian nation must have the power of the sea, which is the power that is seen as the ability of a country to put all the resources and opportunities provided by the sea in order to meet the interests of the people and make use of it.³

In marine transportation, one of the most important factors is the ship. Because the transport of goods or passengers by sea transportation requires a ship as support. In addition to being able to load a large enough load, the ship also has adequate equipment and fittings. As for what is meant by a ship is a water vehicle of a specific shape and type, which is driven by wind power, mechanical power, or other energy, towed or delayed, including vehicles with dynamic carrying capacity, vehicles below the surface of the water, as well as floating devices and floating buildings that do not move.⁴

As evidence of an agreement between the two parties, namely the existence of tickets held by passengers, the agreement gives rise to the rules on which the agreement is based, where the agreement is unilateral. From the agreement made by the carrier and the passenger, a law arises that is mutually binding between the parties to the agreement. Moreover, the law is the law, and the law is the law, and the law is the law, and the law is the law. In this case, the emphasis is on the discussion of responsibility concerning the carrier for the goods transported.⁵

Risk in insurance is generally used in the sense of the possibility of suffering a loss caused by an event that, when the insurance is closed, is unknown whether or when it will happen. Non-mandatory events can be in the form of force majeure (events that occur outside of human power, such as earthquakes, tsunamis, and others), own fault, or the actions of others.⁶ Starting from the description above, the author is interested in conducting research and a more profound discussion of the accident insurance agreement at sea for passengers aboard..

Based on the background of these thoughts, the problem can be formulated as follows :

1. What is the legal arrangement of accident insurance agreements at sea for passengers on ships?
2. What factors are the obstacles/constraints and solutions of the Accident Insurance Claim Agreement at sea for ship passengers?

RESEARCH METHODS

The research method describes the entire series of activities that will be carried out in order to answer the main problems to prove the assumptions put forward. The research method used in this study combines normative and empirical research with a juridical approach..

RESEARCH RESULTS AND DISCUSSION

1. Legal arrangements for Accident insurance agreements at sea for ship passengers

Article 246 of the Commercial Law, insurance or insurance is an agreement in which an insurer, by enjoying a premium, binds itself to the insured to relieve him of losses due to loss, damage, or absence of expected profits, which he will suffer due to uncertain events. Article 1 Number 1 of Law No. 2 of 1992 states that insurance or coverage is an agreement between two or more parties, with which the insurer binds itself to the insured by receiving insurance premiums to provide reimbursement to the insured because of losses, damage or loss of expected profits, or legal liability to third parties that may be suffered by the insured, arising, or to provide a payment based on the death or life of an insured person.⁷

Based on the above formulation, both contained in Article 246 of the Commercial Law and Article 1 Number 1 of Law No. 2 of 1992, there is a difference in the definition of insurance, where Article 246 of the commercial law only covers the definition of loss insurance, while the definition of insurance listed in Article 1 of Law No. 2 of 1992, includes the definition of life insurance and loss insurance including life insurance and liability insurance. The understanding given in Article 1 of Law No. 2 of 1992 is broader; it can follow developments. Article 1 Number 2 of Law Number 2 of 1992 determines that the object of insurance can be objects and services, life, body, human health, legal responsibility, as well as all other interests that can be lost, damaged, and or reduced in value.⁸ According to Elisa Kartika Sari and Edvendi Simangunsong, the benefits provided by insurance for the insured or insured include:

- a. Provides a sense of security and protection.
- b. Serve as savings and other sources of income.
- c. It is a means of spreading risk if an unspecified event occurs.
- d. As a fairer distribution of costs and benefits

Definition Suparman Sastrawidjaja, quoted by Emmy Pangaribuan Simanjuntak in his book Sri Rejeki Hartono, says insurance or coverage agreement has the following properties insurance or coverage Agreement: a loss reimbursement agreement. The insurer is bound to replace the loss because the insured party suffered losses, and the reimbursement is balanced

with the losses suffered (indemnities principle). An insurance or coverage agreement is a conditional agreement. The obligation to indemnify the insurer is only carried out if an unspecified event on which the coverage is held occurs.

An insurance or coverage agreement is a reciprocal agreement. The obligation of the insurer to compensate is expected with the obligation of the insured to pay the premium. Losses suffered result from events that are not certain over which the coverage is held.⁹

According to Sri Rejeki Hartono, quoting from his book P. L. Weij entitled *Hoofzaken van Hetverzekeringsrecht*, states that the three main properties of the insurance agreement are insurance is a contract or indemnity agreement or contract identity of one party (insurer) considering himself against the other party (the insurer or the insured) to compensate for losses that he may suffer.

- a. Insurance is a conditional agreement, in that the insurer indemnifies the insured party is determined or insured if it can not be ascertained first.
- b. Insurance is a reciprocal agreement, and the insurer has a conditional bond with the insured to pay compensation. However, on the other hand, there is an unconditional bond to pay the premium from the dependent side.

Marine insurance law is a part of Commercial Law and is contained in the Book of Laws of Commercial Law Book II, title 9. Initially, there was coverage because of the dangers at sea. In today's connection with transport at sea, coverage is increasingly perceived as an essential matter in the interests of the owner and the safety of the goods being transported. Moreover, with the increasing frequency of transportation of goods within and from/to abroad, the coverage of the transported goods is an increasing requirement.¹⁰

In sea transportation, the owner of the goods always faces the risk that the goods transported are likely to arrive at their destination and the value of the goods will be reduced, either because they are lost, due to damage during transportation, because they are destroyed, or for other reasons. He knew this before he knew it. The possibility that the reduced value of the goods is not what the owner is aware of, but the reduced value is due to something that is not normally expected to occur. Against all losses that may occur, the owner of the goods that suffered a loss can reduce or alleviate the loss, even if the loss can be borne by others as long as it was previously agreed. The agreement between those who have goods for fear of experiencing losses due to the implementation of transportation due to the threat of danger at sea and those who want to bear the loss is called the insurance agreement (sea).

Holding the insurance agreement resulted in the transfer of risk because there may be a danger that will threaten the goods transported and normally not expected to happen to others who take over the risk to compensate for losses. In practice, a realtor executes the insurance agreement on the exchange. The broker regulation is contained in Book II of the Commercial Law Code, title 9; the sixth part includes articles 681-685, the contents of which regulate the terms or provisions relating to the decree of the Minister of Finance No. Kep. 457/MK/IV/5 / 1975 dated May 2, 1875, on Business Licensing of job loss insurance. Minister of Finance No. Kep. 595 / MK / IV/8 / 1969, on the registration of all intermediary businesses in the field of insurance jo decree of the Minister of Finance No. Kep. 932 / MK / IV/ 12/ 1971, dated December 2, 1971, on acceptance of business adjusters in the field of loss insurance.¹¹

The marine insurance agreement considers the causal relationship between the loss suffered by the insured goods and the achievements that the insurer must carry out. So if a loss results from an event incurred in the policy, the insurer must compensate. This means that the insured cannot say simply that because of the onset of an event then, the insurer is required to compensate for losses by conducting a prior investigation or examination jointly between the owner of the goods with the carrier and witnessed by the insurer as the insurer about the cause of the existence of certain losses. It is necessary to know whether the insurer must compensate for losses incurred. From what is described above, the Marine Insurance or Marine Insurance Act is an insurance that is held to bear the dangers during transportation and includes the dangers associated with transportation at sea. Marine or Ocean Marine Insurance is a type of coverage that is very old compared to other types of coverage. This means that the dangers that arise or may arise during the implementation of transportation at sea at that time have been tried not to be borne alone by the owner of the goods, but as far as possible, the risk is diverted to others.¹²

2. Factors That Become Obstacles Or Obstacles And The Solution Of The Accident Insurance Claim Agreement At Sea For Ship Passengers

Article 246 of the Commercial Law Code states that insurance is an agreement between two or more parties in which the insurer binds itself to the insured by receiving insurance premiums to provide reimbursement to the insured for loss, damage, or loss of expected profits or legal liability to third parties that may be suffered by the insured arising from an uncertain event or to provide payment based on the death or life of a person responsible. This is by the definition of loss insurance companies contained in Article 1 Number 5 of Law No. 2 of 1992 concerning insurance business which states that insurance that provides

services in overcoming the risk of loss, loss of benefits, and legal liability to third parties, arising from uncertain events.¹³

In General, Accident Insurance is handled by life insurance companies as an extension of the guarantees provided by life insurance companies to the insured. A person who covers life insurance can extend the guarantee with accident insurance by paying a premium. The policy used is a life insurance policy mentioning accident insurance, then attached to the terms of the accident on the policy, which is an integral part of the policy. However, accidents in transportation (land, sea, and air) and road traffic should only be handled by PT Jasa Raharja as compulsory insurance. In practice, insurance companies engaged in loss insurance also have accident insurance programs, and in this insurance, there is also an expansion of guarantees, such as motorcycle riding clauses, pregnancy clauses, and health clauses.¹⁴ Role in the implementation of personal accident insurance, especially in the claims settlement process, sometimes some things hinder the process so that the rights and obligations of the parties can only be carried out after the specified time. These obstacles can come from the insured or the insurer. Obstacles that come from the insured, among others, are:¹⁵

1. Premium payments are not by the provisions, so often, when a claim occurs, premium payments have yet to be made on the policy. This results in claims that cannot be processed further or no claim because, in insurance, there is a principle of no premium, no claim.
2. In reporting, an insured claim is often delayed. The delay in reporting this period varies. If the reporting period is less than seven days, the insurer will ask why it happened. From some experiences that occurred, the reason for the delay in reporting is as follows the insured's family no one knows if the insured has insurance when reporting the insured has finished treatment; the accident coincided with an extended holiday, so after the effective working day it was reported to the insurer; not knowing the insurer's phone number, sometimes insurance coverage is done through an agent so that in case of loss the insured contacts his agent first, and then the agent reports it to the insurer. These reasons do not relieve the insured from his responsibility, so the insurer must still make payments on the claim. However, if the reporting period exceeds seven days and there is no supporting reason, the insurer immediately rejects the claim in writing to the insured.
3. Because the incident is not guaranteed the condition of the policy. All personal accident insurance claims reported to PT Asuransi Jasa Indonesia (Persero) Batam City Branch

Office are all events that are guaranteed policy conditions so that there is no rejection of the claim because the incident is not guaranteed policy.

4. The insured needs help to complete the supporting documents of the claim requested by the insurer. In some cases, the document that the insured cannot fulfill is a traffic accident letter from the police. However, this does not exempt the insurer from its responsibility to compensate the insured.
5. The insured does not file a claim for 12 months after the occurrence of the claim, or the insured cannot fulfill the supporting documents for the claim for 12 months. In the event of such a case, the insurer will immediately send a rejection letter to the insured because, according to the policy provisions, if there are no demands from the insured after 12 months, the claim will not be processed further.

CONCLUSION

1. Legal regulation of accident insurance agreement at sea for ship passengers Article 3 of Law No. 2 of 1992 on insurance business is divided into 3 (three) types, namely
 - a. Loss insurance business provides services in risk management for loss, loss of benefits, and legal liability to third parties arising from uncertain events.
 - b. Life insurance business, which provides services in overcoming risks associated with the life or death of someone insured.
 - c. Reinsurance business, which provides services in reinsurance against risks faced by loss insurance companies and or Life Insurance Companies.
2. Factors that become obstacles to the examination of the accident insurance agreement at sea for passengers on ships are late or inappropriate premium payments, reporting claims that exceed the period due to events that are not guaranteed in the policy; the insured cannot complete the required claim supporting documents, the insured does not file a claim 12 months after the incident, and the insured demands more than specified in the policy.

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