Liability Of Expedition Companies As A Loss Of Load Items Using Ship (Study At PT. Yun Cargo Indonesia)

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Abstract
Cases of loss of goods often occur, this makes the sender feel aggrieved, any loss suffered by the owner of the goods is a legal problem, especially the responsibility of the shipping company to the owner of the goods. With the loss of the sender of goods, this resulted in the sender of the goods demanding responsibility for the shipping company that uses the ship. The main issue discussed by the author is, how is the liability of shipping companies due to the loss of cargo goods using ships, whether the compensation provided meets the provisions of the Commercial Law, and what legal remedies can be taken by the sender of the injured goods for the loss goods by shipping companies that use when the sea. The research method that I use is Yuridis Normative, research based on the data source in the form of laws - laws that apply, journals or articles and theories - theories and concepts of law and the views of leading legal scholars, with a note in order to find the answers by analyzing or compare one another. Analysis of the form of the claim for compensation claim in the letter of delivery of the item itself as well as the Commercial Law Code which is then presented by the author’s thought power. The results of this study can be seen through the legal consequences received by the sender of the goods due to the existence of a claim for compensation claim contained in the letter of delivery of the goods as well as legal remedies for the sender of the goods carried out by the expedition in providing compensation.

Keywords: Change Loss, Company Responsibility, Lost Goods

I. Introduction

Transportation is the agreement between the recipient of the carrier and the sender, the faith of the carrier to transfer the self to carry out the transportation of the person / person or the person from the issue of one place to the place, the specific destination with the name, while the person to transfer the identity to the payment.\(^1\) One part of this transportation is the shipment of goods through shipping companies.

In carrying out its activities, the shipping company can transport goods by land, air and sea. Transportation by sea is relatively cheap. Sea transportation also transports passengers and goods by ship. In reality, the phenomenon of ocean freight is more dominated by cargo of goods originating from shipping companies via ships. Regarding

\(^1\)H.M.N. Purwosutjipto, Basic Understanding of Indonesian Commercial Law Book 3, Djambatan, Jakarta, 2003, P. 2
this phenomenon, Tuti Triyanti Gondhokusumo explained that sending goods by ship would provide benefits: 2

1. The cost of transportation is cheaper than other means of transportation
2. Able to transport goods weighing hundreds or thousands of tons at a time

In carrying out its activities, it turns out that the company of the expedition was not released from various forms of the problem, such as the destruction of the goods that were sent, the delay in delivery, the disappearance of the items that were sent, or whether they were the object of the shipment, so that the things that were sent were in the address.

Cases of loss of goods often occur, this makes the sender feel aggrieved. With the loss of the sender of goods, this resulted in the sender of the goods demanding responsibility for the shipping company that uses the ship. An example of the case of the loss of cargo by an expedition company using a ship, a shipper of goods sent his goods in the form of several boxes containing tobacco cigarettes through PT. Yun Cargo Indonesia to be sent to the destination address in Makassar. Before loading and unloading at the warehouse, one of the employees of PT. Yun Cargo Indonesia was contacted by an unknown person and claimed to be the sender of tobacco cigarettes, the person told PT. Yun Cargo Indonesia that shipments in the form of cardboard boxes containing tobacco cigarettes are exchanged with other goods and will exchange the tobacco cigarettes for goods that should be sent.

During the exchange process of the shipment, PT. Yun Cargo Indonesia does not ask for any evidence in the form of delivery documents or KTP of the person who exchanged the goods. After that, the goods are immediately loaded into trucks and immediately sent to Makassar by ship. After arriving at the destination address in Makassar, the recipient of the goods contact PT. Yun Cargo Indonesia and complaints that the goods received did not contain tobacco cigarettes but rather empty bottles of aqua. The sender then requests compensation from the expedition or PT. Yun Cargo Indonesia. Based on this description, the author is interested in reviewing and conducting research in scientific studies on how compensation is carried out by the expedition and in the book of

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2 Tuti Triyanti Gondhokusumo, *Transportation by Sea, Faculty of Law*, Diponegoro University, Semarang, 1982, p. 1
commercial law, whether it is appropriate or not. The author also conducts research on legal remedies that can be carried out by senders who feel aggrieved by the loss of goods.

II. Method

The research used in this study is normative juridical research. Normative research will definitely use the statutory approach because what will be examined are various legal rules that are the focus of research. The approach to the statutory regulations allows research to conduct evaluations on the principles of the law by talking about evaluating the terms of conformity between the one and the principle of the law with the principle of the law. The data used in this study are secondary data in the form of legislation with data collection techniques that the authors do is by using field studies and literature studies. The location chosen as the research location is PT. Yun Cargo Indonesia.

III. Main Heading of the Analysis or Results

A. Forms of Indemnification Due to the Loss of Goods in the Expedition Agreement and the Code of Commercial Law

In the implementation in accordance with the agreement made by the PT. Yun Cargo Indonesia, in compensating losses due to errors or negligence as high as the price of goods shipped, PT. Yun Cargo Indonesia provides compensation in the form of money but does not pay compensation for the price of the goods sent. The compensation provided is very limited to no more than 1,000,000, but most senders of goods can accept the company’s policy but there are those who still claim that the compensation given is in accordance with the price of goods or the commercial value of an item. Based on the claim and compensation agreement PT. Yun Cargo claims can be made after the sender has paid shipping costs and the amount of the claim cannot be calculated with the amount of the invoice from PT. Yun Cargo Indonesia, in point 4 letter C, the author analyzes that the value of the claim can only be determined at the place where the goods were sent, the value of the claim cannot be linked or equated with the commercial value of the damaged or lost item.

Based on Pasal 473 Undang-Undang Hukum Dagang, if there is damage to an item, the amount to be replaced is the price of the item and as is the situation when the item should be given to the recipient, reduced by the price of the damaged item, and reduced again with other costs such as freight costs. In the implementation, PT. Yun Cargo Indonesia
provides compensation in accordance with the compensation claim regulations made and written on the mail.

Based on the claim and compensation agreement of PT. Yun Cargo claims can be made after the sender has paid the shipping cost and the amount of the claim cannot be calculated with the total billing costs from PT. Yun Cargo Indonesia, the authors analyze that the value of the claim can only be determined at the place where the goods were sent, the value of the claim cannot be linked or equated with the commercial value of the damaged or lost item, for example a lost item and the item is worth 30,000,000, the sender cannot ask for compensation claim as much as the price of the item. The expedition still provides in accordance with the agreement of claims and compensation at PT. Yun Cargo Indonesia. In point D, PT. Yun Cargo Indonesia can only be responsible for compensation if damage or loss of goods is a result of employee negligence. Whereas Analysis Based on the Commercial Law Book, Based on Pasal 468 Undang-Undang Hukum Dagang, the transportation agreement promises the carrier to maintain the safety of the goods which must be transported from the time the goods are received by the carrier until the goods are given to the recipient of the goods. The carrier must be responsible for the actions of the people he employs. The carrier is not obliged to be responsible for lost or damaged goods due to events that cannot be prevented and due to the sender’s error.

Based Pasal 473 Kitab Undang-Undang Hukum Dagang, if the carrier or in this case PT. Yun Cargo Indonesia and can deliver the shipment in whole or in part, then the loss must be calculated according to the price of the person and the type of dream and the condition that is the same as the place of delivery, the amount is then deducted by what is determined by the matter, the cost, and the Items. Based on Pasal 473 Kitab Undang-Undang Hukum Dagang, in the event of damage to goods, the amount that must be replaced is based on the price of the goods, the price and the value of such things as the condition of the situation when it is supposed to be surrendered, reduced by the price of the object which has been damaged, and reduced by the cost of the existing situation when it is supposed to be surrendered, reduced by the price of the object which has been damaged, and reduced by the cost others such as freight costs. Based on Pasal 477 Undang-Undang Hukum Dagang, the Carrier is also responsible for losses caused by the late delivery of the goods carried by the carrier, but the carrier can be free of some or all
of his responsibility by proving that the loss due to destruction, loss or damage to the goods is not the fault of the carrier

**B. Analysis of the Form of Indemnity based on the Expedition Agreement, the Commercial Code, and its Implementation**

Analysis Based on the Implementation (at PT. Yun Cargo Indonesia), In accordance with the rules written in Pasal 472 Undang-Undang Hukum Dagang above, that the PT. Yun Cargo Indonesia is not permitted to include an agreement regarding compensation to release its liability due to negligence that has occurred when shipping goods. In the implementation, PT. Yun Cargo Indonesia provides compensation in accordance with the compensation claim regulations made and written on the mail.

Provision of compensation given by PT. Yun Cargo Indonesia is considered very unfair. The fair form of loss is in accordance with the price of the goods sent which has been mentioned in Pasal 472 Undang-Undang Hukum Dagang. It has been stipulated in Pasal 473 Undang-Undang Hukum Dagang that: 'If there is damage to the goods, the compensation provided must be in accordance with the price of similar goods, prices and similar damaged items, and reduced shipping costs.' In this case, if there is damage to the goods, the expedition must compensate the price according to the price or value of the damaged goods, and in Pasal 477 Undang-Undang Hukum Dagang also states that: 'The sending party is responsible for providing compensation for the delivery of the goods to the recipient of the goods late, unless the sender of the goods can prove that the delay of the goods is due to an unavoidable and avoidable event. '

So the carrier is responsible if there is a loss caused due to the delay, except if the carrier can prove that the delay is a result of an event that cannot be prevented, here the expedition has carried out in accordance with the law.

PT. Yun Cargo Indonesia has tried to provide compensation for lost, damaged or destroyed goods, but still the form of compensation provided by PT. Yun Cargo Indonesia which is in accordance with the agreement on the shipping of goods contained in the letter of delivery of the goods made is not in accordance with the principle of justice (John Rawls). John Rawls's principles of justice are as follows:

The first principle states that every person or country in the country must get the same parties from the whole social system in getting the freedom offered by the faith of the
people. The freedom that is attached to each person is individual, such as the party to state the opinion, the party to negotiate, the party to participate in the active participation in the social and political ipolytic system, and for that matter to be the subject of all rights. This first principle is called the principle of the freedom of the ideals of the faith of the people which need to be obtained by the equivalent of every individual.

The second principle states that the social inequality and the economic idioms are such that they give the greatest fortune as the opportunities that are not the most fortunate in society.

The principle of justice gives everyone the same basic rights or the most basic freedoms, as wide as the same freedom for all people. Based on the explanation above, the author can conclude that the sentence of the compensation agreement contained in the cover letter is not in harmony with the Commercial Law Book even though PT. Yun Cargo has carried out in accordance with Pasal 468 and Pasal 477 Undang-Undang Hukum Dagang. The sender of the goods can be said to be harmed because the replacement of this item is not affected by the price of the goods sent, even if the item sent is very expensive, the compensation given is only 10 times the shipping cost, and the expedition will not compensate the price of the goods sent.

C. Legal Effort That Can Be Received By The Delivery Of Goods Which Is Damaged For Loss Of Goods By Expedition Companies Using Ship

In the case of the loss of this item, legal remedies that can be carried out by the sender of the goods are resolving disputes with lines of illegal investigation, which means resolving legal issues outside the court. This line of investigation is known as the i-alternative dispute resolution.

Based on research at PT. Yun Cargo Indonesia, the dispute resolution related to the loss of goods can be resolved by both parties through non-litigation because according to the leadership of PT. Yun Cargo Indonesia, dispute resolution through non-litigation is done by solving problems with cooperation between the parties in good faith by both parties. Regarding the dispute resolution between PT. Yun Cargo Indonesia with the sender of the goods who have lost the goods in dispute resolution or legal efforts carried out
through non-litigation. This can be seen in disputes arising at PT. Yun Cargo Indonesia has not sent any senders to settle their dispute through litigation.

Problems that occur at PT. Yun Cargo Indonesia regarding the loss of goods on claims submitted by the sender of goods, the first realized settlement must be settled by way of negotiation in advance to determine the amount of compensation that will be given to the sender of the injured goods. In accordance with the transportation cooperation agreement between PT. Yun Cargo Indonesia and the Sending Party, stated that: "If there is a dispute between the first party and the second party regarding the implementation of this agreement, as far as possible carried out by deliberation or by negotiation. If it cannot be resolved by deliberation or negotiation, both parties agree to settle the case at the District Court." This Negotiation Process is carried out after the claim submission is submitted by the goods sender. The process and terms of claim for compensation until the award of compensation in accordance with the results of interviews with the leadership of PT. Yun Cargo Indonesia is as follows:

1. Make a claim letter
2. The sending party goes to the expedition and submits a statement of loss or damage to the goods to the expedition employee, the contents of which are the goods sent, the value of the goods sent, the origin and destination of the goods, other details such as photos of goods, if the goods are damaged then it is obligatory to provide photos of goods before they are sent and when goods are received in a damaged condition and other details that can be submitted to the expedition
3. Submit a photocopy of your identity card (KTP or SIM)
4. Submit proof of delivery in the form of travel documents / delivery letters
5. Waiting for the expedition's confirmation
6. The expedition checks the files
7. The expedition contacts the sender of the goods making the claim
8. The expedition negotiates with the sender of goods
9. Claims are processed and compensated
The process of dispute resolution by negotiation at PT. Yun Cargo Indonesia is given a grace period of a maximum of 14 days, and the settlement must be done in the form of a direct meeting between the sender and PT. Yun Cargo Indonesia. The negotiation process was carried out directly by the leadership of PT. Yun Cargo Indonesia. From the results of these negotiations, it will be decided the amount of compensation that will be given by PT. Yun Cargo Indonesia to the sender of the injured goods.

IV. Conclusion

PT. Yun Cargo Indonesia has the responsibility for the cargo of goods transported or sent. If the process of sending goods results in losses for the sender or recipient of goods then basically the person responsible is PT. Yun Cargo Indonesia unless the loss is not due to negligence of PT. Yun Cargo Indonesia. The compensation obtained here according to the claim for compensation is only 10 times the shipping cost or no more than 1,000,000. Provision of compensation given by PT. Yun Cargo Indonesia is considered to be very unfair and is considered to have no legal certainty regarding the exact amount of compensation to be provided by PT. Yun Cargo Indonesia for shipper of damaged or lost goods. The fair form of loss is in accordance with the price of the goods sent which has been stated in Pasal 472 Undang-Undang Hukum Dagang that the compensation to be paid is calculated according to the value of the goods. Then it can be mentioned that the compensation provided is not in accordance with the Undang-Undang Hukum Dagang.

In accordance with the Consumer Protection Act, legal remedies that can be carried out by the sender due to loss by the expedition due to loss of goods can be done through non-litigation in the form of negotiations regarding compensation claims submitted by the sender of the goods. Form of legal remedies for goods senders who suffered losses due to lost goods at PT. Yun Cargo according to PT. Yun Cargo Indonesia can be done by negotiating first.

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