

# The Ship Entrepreneur's Responsibility for the Collision of the MT Samudera Biru 168 with the MV Rokan Permai Based on Law Number 17 of 2008 Concerning Shipping (Case Study: Decision of the Surabaya District Court Number 315/Pdt.G/2019/PN.Sby)

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## ABSTRACT

The seaworthiness of the ship is very much needed because of the many great dangers that will fall the ship with all its contents. Ships that are already in the middle of the ocean, then the ship can be threatened by the dangers caused by rolling waves that cause ship accidents. The problem faced is how is the responsibility of the MV Rokan Permai ship owner for the fire of the MT Samudera Biru 168 Ship due to the collision between the MV Rokan Permai Ship and the MT Samudera Biru 168 ship based on Law Number 17 of 2008 concerning Shipping and how to compensate the victims who suffer losses in the collision of the ship. The research method used is a normative juridical research method. The results show that in the case of a ship collision/collision, the carrier is responsible for the destruction, loss or damage of the goods being transported since the goods are as regulated in Article 40 of Law Number 17 of 2008 Shipping. The settlement of compensation for victims who suffered losses in the ship accident refers to Article 100 paragraph (3) of Law 17 of 2008 concerning Shipping. Regarding the party responsible for the collision accident resulting in a fire, of course there are parties who are responsible. Relevant parties must be responsible in accordance with the authority and responsibility, not only the captain who applies when piloting the ship, but also the carrier company.

**Keywords:** Responsibility, Ship Entrepreneur, Ship Collision

## 1. INTRODUCTION

Sea transportation is one of the transportations that is in great demand by the people of Indonesia, which is unique with a vast expanse of ocean. It has proved the breadth of the territorial waters of Indonesia. This sea transportation can be a link between the islands in Indonesia. This sea transportation activity has a legal umbrella that is able to provide legal protection for stakeholders in the field of sea transportation, namely Law Number 17 of 2008 concerning Shipping.

There are various types of ships in Indonesia, each of these ships operates according to its function. One of the ships operating is a freighter. Freight ship is a large ship that is used for the distribution of goods in bulk. There are parties with an interest in the activities of transporting goods, namely the carrier and the shipper. Between the carrier and the shipper are legal relations. Legal relationship is a relationship regulated by legal subjects that can give birth

to legal relations, namely rights and obligations for legal subjects. [1]

From the existence of a legal relationship between the carrier and the sender of the goods, a carriage agreement is born. The carriage agreement according to one expert, namely Siti Utari is a reciprocal agreement, in which the carrier binds himself to carry out the transportation of goods and/or people to a certain destination, while the other party, namely the sender-receiver, sender or receiver, the passenger must pay certain fees. [2]

In the carriage agreement it is not required to be in writing, just verbally, as long as there is a conformity of will or consensus from each party, so that without the transport document/letter the agreement remains valid, because the transport document/letter is only a proof of the carriage agreement [3] After the parties have entered into a carriage agreement, the ship can sail from the port to the destination port. However, before the ship set sail, there are several requirements that must be met by the ship. The main requirement of the ship that will sail is that the ship must be *seaworthy* or *seaworties*. [4] Of course there is a

supervisory control over the safety aspects of the ship when sailing or when leaning on the dock. [5]

Shipworthiness according to Article 1 number 23 of Law Number 17 of 2008 concerning Shipping is the condition of the ship that meets the requirements of ship safety, prevention of water pollution from ships, manning of loading lines, loading, welfare of ship crew and passenger health, legal status of ships, management safety, and prevention of water pollution from ships, as well as the management of ship security to sail in certain waters.”

Based on this understanding, the elements of a ship's seaworthiness can be seen, namely: [6]

1. Ship operators must carry out regular ship maintenance;
2. The ship that will sail all the ship's equipment must be available in full on the ship;
3. The crew of the ship, hereinafter referred to as ABK, must be complete.

In addition to the ship's entrepreneur, there are other parties who must pay attention to the seaworthiness of the ship before leaving the port, that party is the captain. Based on the opinion of experts, namely Herman Budi Sasono, H. Sugiharto, and Rosadiro Cahyono, before the ship starts the voyage, the captain must ensure that the ship is in a seaworthy condition, including regarding:

1. Equipment and condition of the ship's engine;
2. The crew of the ship is sufficient and in accordance with the requirements to sail;
3. Sufficient stability of the ship to carry out the voyage;
4. Have received sufficient information on matters relating to shipping routes, navigational abnormalities, and weather conditions.

The seaworthiness ship is also one of the requirements that must be met in the issuance of the Letter of Approval Sailing. [7] This is set out in Article 2 of Regulation of the Minister of Communications of the Republic of Indonesia Number 82 Year 2014 concerning PM Procedure for the Issuance Approval of Sailing, namely:

Paragraph (1): Every ship will sail shall have a sail Approval Letter issued by the harbormaster;

Paragraph (2): To obtain the Sailing Approval Letter as referred to in paragraph (1), every ship must meet the ship's seaworthiness requirements and other obligations.

The seaworthiness of the ship is very necessary because of the many great dangers that will befall the ship with all its contents. Ships that are already in the middle of the ocean, then the ship can be threatened by the dangers caused by rolling waves that cause ship accidents. [8] Ship accidents with the highest risk are ship aground, human accidents, ship collisions with docks when the ship is sailing or docking. [9] The impact of these accidents generally results in very large losses. [10]

In a ship accident, of course, there are parties who are responsible, both from the captain, ship owners and third

parties. It depends on the inspection point of view to find out aspects of negligence, ship unfitness and other factors that incidentally trigger ship collisions. [11]

One of the examples of an accident aboard a result of the ship is not eligible to the sea is at the Surabaya Court Decision No. 315/Pdt.G/2019/PN.Sby which case the ship collision caused a fire between MV Rokan Permai Boat 168 MT Blue Ocean by Law N Law Number 17 of 2008 concerning Shipping .

The incident of the collision of the MT Samudera Biru 168 ship was a gross negligence and mistake, which caused great losses for the entrepreneur of the MT Samudera Biru 168 ship. Therefore, the MV Rokan Permai ship entrepreneur must be held civilly responsible for losses resulting from negligence and the error. As regulated in Article 1365 of the Civil Code, that is, every unlawful act committed by a person by bringing harm to another person, is required to compensate for the loss. Based on the reasons stated in the background, the problem can be formulated as follows: How is the responsibility of employers MV Permai Rokan on fire Blue Ocean Ships MT 168 as a result of a collision between MV Rokan Permai Boat 168 MT Blue Ocean by Law No. 17 Year 2008 on the voyage? And how is the settlement of compensation for the victims who suffered losses in the ship collision accident?

## 2. METHOD

The research method that the author uses is normative legal research methods or library research methods. The reason the author chooses this method in order to find the truth of coherence is to get something that axiologically is a value or determination/rule as a reference to be studied. "[12] The nature of the research used by the author in this study is descriptive. For research in the science that are descriptive data required to prove the truth of the hypothesis. After the data is obtained, the data will be analyzed. Data analysis was carried out qualitatively.

Type of data that is used by the author is the secondary data. The secondary data has a very broad scope, including official documents, books, research results in the form of reports, diaries, and so on. In the legal research, secondary data include the Constitution of the Republic of Indonesia Year 1945, the Book Law Act Civil Code, Law No. 17 Year 2008 on the voyage, Government Regulation No. 20 of 2010 on Transport in the waters, Government Regulation Indonesia Number 51 of 2002 concerning Shipping, Regulation of the Minister of Transportation of the Republic of Indonesia Number 82 of 2014 concerning Procedures for Issuing Sailing Approval Letters.

Data collection techniques in the form of collecting the material by doing a literature study that is gathering material by reading and studying reference literature and conduct interviews with expert legal, data analysis technique using approaches in order to be able to answer any subject matter, namely by approach to law (*statue approach*). The statutory approach is an approach that is carried out by using legislation and regulations.

### 3. DISCUSSION

#### ***3.1. Responsibility of the MV Rokan Permai Vessel Entrepreneur for the Fire of the MT Samudera Biru 168 Due to the Collision between the MV Rokan Permai Ship and the MT Samudera Biru Ship 168 Based on Law Number 17 of 2008 concerning Shipping***

The incident the collision of the tanker MT Samudera Biru 168 with KM Rokan Permai in the waters around Sumber Harapan, Wajok, Pontianak, West Kalimantan occurred on Friday 7 April 2017. The tanker, which was commanded by Izaak Jitipeuw and 18 crew members, was carrying fuel oil. The types of fuel transported in the form of Peralite 2,952,053 kilo liters (KL) and Pertamina as much as 404,323 KL.

The ship departed from the port of Merak on Friday (31/3/2017) with the aim of the Port of Pontianak. The tanker is in the waters of Sumber Harapan, Wajok. In the same position there is KM Rokan which will exit the OB (outter bar) so that it collides with the Samudera Biru ship which resulted in the right hull of the stern above the load line tearing about 10 meters and causing a fire in the engine room.

Based on the case of the collision, according to the Rules for the Prevention of Collisions at Sea (P2TL) Rule 15 concerning the Situation of Cuts, it is stated as follows: When two power ships are sailing with their bows intersecting each other in such a way as to cause a collision hazard, the ship that finds the other ship on its starboard side must avoid, and if circumstances permit, must avoid cutting in front of the other ship.

Refer to the Rental Agreement based on MT time. Blue Ocean 168 where the ship MT. Samudra Biru 168 is owned by PT. Bahtera Arung Samudra (Plaintiff) was leased by PT. Pertamina (Persero) contains fuel oil. News regarding the collision of Defendant I's Ship (MV. Rokan Permai) with Plaintiff's Ship (MT. Samudra Biru 168) where Defendant II is the captain of MV. Defendant I's Rokan Permai hit the MT ship. Samudra Biru 168 belongs to the Plaintiff.

The legal consideration is where is the MT Ship. Samudra Biru 168 is owned by PT. Bahtera Arung Samudra and Defendant I and Defendant II acknowledge and do not deny that the Ship of Defendant I (MV Rokan Permai) which was in the captain's direction of Defendant II hit the ship belonging to the Plaintiff (MT. Samudra Biru 168).

In this perception, of course there is a question about whether Defendant I and Defendant II in this case committed an unlawful act because they hit the Plaintiff's Ship (MT. Samudra Biru 168). Considering the legal basis for this theory of responsibility is Article 1365. Where the elements of an unlawful act are:

1. There is an act of the Defendant which is contrary to the law;

2. There is a loss caused to the Defendant;
3. There was an error or omission on the part of the Defendant;
4. There is a causal or causal relationship between the loss of the Plaintiff and the error or act committed by the Defendant.

Based on the above legal considerations, it did happen, where the Plaintiff's ship was hit by the Defendant I's ship which was the captain of the Defendant II. And referring to the Decision of the Shipping Court Number HK.210/5/11/MP.18 regarding the Collision Ship Accident between KM Rokan Permai and MT. Ocean Blue 168 in the area of Water Resources Hope Wajok Bodies Pontianak.

Based on Article 253 of Law No. 17 of 2008, on the voyage and Article 17 of Government Regulation No. 1 of 1998, concerning the Audit Accidents Ships, as amended by Government Regulation No. 8 of 2004, and Article 373 point (a) of the Act In the Commercial Law (KUHD), the Shipping Court has conducted Research and Advanced Examination of Ship Accidents to find out the causes of the ship collision accident between KM Rokan Permai and MT. Samudra Biru 168 in the Waters of Sumber Harapan Wajok, Pontianak Waters, where in the Decision of the Shipping Court it was ruled that:

1. Stating that the collision between KM. Rokan Permai with MT. Samudera Biru 168 on April 7 2017, at 00.30 WIB, in Sumber Harapan Wajok Waters, Kapuas River Flow, Pontianak, due to KM. Rdkan Permai, who was sailing too far to the left, resulted in friction between the keel of the ship and the walls of the groove, as a result of the friction there was an action force that pulled the ship's bow to the left and a reaction force that pulled the ship's bow to the right, when the friction on the keel is released, the action force becomes is lost and the reaction force continues to act which results in the KM direction. Rokan Permai looked to the right and because of the tidal current from the front, the direction of KM. Rokan Permai is getting stronger looking to the right towards MT. Blue Ocean 168 which is moving in the opposite direction across the channel. Both ships enter the shipping lane area which is prohibited from passing each other and when the two ships are caught in a situation of crossing each other, the two ships do not have the opportunity to avoid each other, resulting in a collision.
2. Stating that as a result of the collision there has been a fire in the MT accommodation. Ocean Blue 168, but based on examination of the Preliminary Investigation Report (BAPP) made by the Office Kesyahbandaran and Class II Pontianak Port Authority or by examination of Stuck Helmsman and the Witness over MT. Ocean Blue 168, of the three elements of the fire triangle as a condition for a fire to occur, it cannot be proven, there is an element of incandescent fire and an element of oxygen, while the elements of flammable goods are not sufficient evidence, so that the cause of the fire is not fulfilled or not found.

3. Stating that based on the provisions of Article 199 Paragraph (3), Article 249 of the Law of the Republic of Indonesia Number 17 of 2008 concerning Shipping and based on the provisions of the mandate of Article 27 Letter c of the Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 57 of 2015 concerning Ship Guiding and Towing, Junto Article 6 Paragraph (1) Letter c Decree of the Head of the Office of Harbormaster and Class II Port Authority of Pontianak Number: PP-308/1/3/KSOP.PTK-2016 concerning the Vessel Guiding System and Procedures in the Waters Mandatory Scouting Class II Pontianak Port, then to the event that occurred collision for snagged skipper KM. Rokan Permai, Johanis Viany Raming, was proven innocent.
4. Stating that based on the provisions of Article 199 Paragraph (3), Article 249 of the Law of the Republic of Indonesia Number 17 of 2008 concerning Shipping and based on the provisions of the mandate of Article 27 Letter c of the Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 57 of 2015 concerning Ship Guiding and Towing, Junto Article 6 Paragraph (1) Letter c Decree of the Head of the Port Authority Office and Class II Pontianak) 1 Number: PP-308/1/3/KSOP.PTK-2016 concerning Ship Guiding Systems and Procedures in Waters Mandatory Scouting Class II Pontianak Port, then against the event of a collision for the Involved skipper MT. Samudera Biru 168 Izaak Hitipeuw's brother was proven innocent.
5. Freeing snagged skipper KM. Rokan Permai named Johanis Viany Raming, born August 09, 1965, has a Certificate of Expertise in Management ANT III Seafarers, number 6201039545M30316, issued in Jakarta, July 11, 2016, by the Director of Shipping and Maritime Affairs, Ditjenhubla.
6. Freeing Stuck Helmsman MT. Samudera Biru 168 named Izaak Hitipeuw, born on March 25, 1957, has an ANT II Seaman Expert Certificate, number 6200018410N20214, issued in Jakarta, September 11, 2014, by the Director of Shipping and Maritime Affairs, Ditjenhubla.
7. This decision shall come into force since the Minutes of Execution of the Decision of the Shipping Court is executed by the Director General of Sea Transportation in accordance with the laws and regulations.

Based on the Court decision voyage, the ship owned by the Plaintiff (MT. Ocean Blue 168) and ships belonging to the Defendant I were in skippered the second defendant was where the two ships entered the area shipping lanes that are prohibited to pass by each other and when both ships are trapped in a situation of mutual intersecting then the two ships do not have the opportunity to avoid each other so that a collision occurs. The incident occurred when the captain of the Rokan Permai ship (Defendant II) and the captain of the MT ship collided. Samudra Biru 168 is not guilty, meaning that the ship owned by Defendant I (Rokan Permai) which was in the captain of Defendant II crashed

into the ship belonging to the Plaintiff (MT. Samudra Biru 168) that cannot be blamed because the two ships entered the shipping lane area which was prohibited from passing each other and when the two ships entered the shipping lane which was prohibited from passing each other. If the ship is caught in an intersecting situation, the two ships do not have the opportunity to avoid each other, resulting in a collision. The actions of Defendant I and Defendant II as stated in the Decision of the Shipping Court Number HK.210/5/11/MP.18 there is no action of Defendant I and Defendant II which is contrary to the law (the first element of an unlawful act is not proven), therefore the petition number 3 (three) the Plaintiff's claim must be rejected.

Because petition number 3 (three) of the Plaintiff's claim is rejected, petition number 4 (four); 5 (five); 6 (six); 7 (seven); 8 (eight); 9 (nine); 10 (ten); 11 (eleven); 12 (twelve); 13 (thirteen); 14 (fourteen) and 15 (fifteen) must also be rejected. The Plaintiff's claim stating that the confiscation of collateral placed is valid and valuable, because in this case no confiscation of collateral has been placed, the petition number 2 (two) of the Plaintiff's claim must also be rejected. Because the Plaintiff's claim is completely rejected, therefore petition number 16 (sixteen) of the Plaintiff's claim must also be rejected.

Based on the legal considerations above, the author's analysis is more emphasis on the aspect of unlawful acts as regulated in Article 1365 of the Civil Code (civil lawsuits related to compensation), while Article 1367 of the Civil Code is a sanction for *crew* or ship crew. The crew referred to here are people who work or are employed on board by the ship's owner, or operator to perform tasks on board the ship in accordance with the position listed in the certificate book (Sailing Law).

In conducting the settlement against the decision of the collision case No. HK.210 / 5/11 / MP.18 on Boat Accident Collision between KM Rokan Permai with MT. Blue Ocean 168 in the Waters of Sumber Harapan Wajok, Pontianak Waters. The Maritime Court is only authorized to settle the case up to administrative sanctions, as is known in Article 253 of Law Number 17 of 2008 concerning Shipping which states as follows:

- (1) In carrying out the follow-up examination of the ship accident as referred to in Article 251, the Shipping Court is in charge of:
  - a. Researching the causes of ship accidents and determining whether or not there are errors or omissions in the application of marine professional standards carried out by the captain and/or ship's officers for the occurrence of ship accidents; and
  - b. Recommend to the Minister regarding the imposition of administrative sanctions for errors or omissions committed by the skipper and/or ship's officers.
- (2) The administrative sanctions as referred to in paragraph (1) letter b, are in the form of:
  - a. Warning; or
  - b. Temporary revocation of the Certificate of Expertise of the Seafarer.

Based on the contents of Article 253 of the Book of Law Number 17 of 2008 concerning Shipping, which explains the duties of the Shipping Court in relation to the ship collision case between KM Rokan Permai and MT. Samudra Biru 168 has complied with what is regulated in the Legislation so that it does not deviate from the provisions, duties and authorities of the Shipping Court in resolving ship collision cases.

Based on the data settlement made by the Court Sailing above, that the case of a collision the ship occurred due to indecision in the act and not firm in driving ship, so that the two ships together to take action to avoid being the collision without any previous communication.

The principles of responsibility of the carrier company as regulated in the Shipping Law contained in Article 40 and Article 41 state that the transport company uses the principle of absolute responsibility of the carrier and the principle of presumption of guilt. If these principles are related to the description above, then in this case it adheres to the principle of responsibility based on the *rebuttable presumption of liability principle* that the carrier is considered always responsible in accordance with the provisions of Article 41 paragraph (2) of Law No. 17 of 2008. In this principle, the carrier is considered to be always responsible for any losses arising from the transportation he carries out. However, if the carrier can prove that the loss incurred was not his fault, then the carrier can be released from the responsibility to pay part or all of the compensation.

The point is that transportation companies in the waters are responsible for the safety and security of passengers and/or goods transported. The company is responsible for the ship's cargo according to the type and amount stated in the cargo document and/or the agreed contract of carriage (Article 40 of Law Number 17 of 2008).

Legal responsibilities for the transportation of sea passengers, which are borne by the carrier, are: 1) Legal responsibilities to passengers are related to passenger accidents during the trip caused by transportation accidents that cause passenger victims, such as injuries, disabilities, death. 2) Liability according to law against third parties, namely those concerning third party accidents caused by the carrier concerned.

Provisions of Article 181 of Law Number 17 Year 2008 on the voyage that the responsibility vessel owner and / or operator of the vessel, namely in paragraph (1) The owner and / or operator of the ship is responsible for any damage to telecommunications cruise and the obstacles in the sea, rivers and lake caused by the operation of his ship. Paragraph (2) The responsibility of the ship owner and/or operator is to immediately repair or replace so that the facility can function again as before. Paragraph (3) Repairs and replacements are carried out within 60 (sixty) calendar days from the time the damage occurred. The responsibilities of ship owners and/or ship operators as regulated in Article 181 of Law Number 17 of 2008 concerning Shipping are as follows: (1) Ship owners and/or operators are responsible for any damage to shipping telecommunications and obstacles at sea, rivers and streams. lake caused by the operation of his ship. (2) The

responsibility of the ship owner and/or operator as referred to in paragraph (1) is in the form of an obligation to immediately repair or replace so that the facility can function again as before. (3) Repairs and replacements as referred to in paragraph (2) shall be carried out within a period of 60 (sixty) calendar days since the damage occurred.

Carrier of corporate responsibility in the Commercial code, set forth in Article 321, Article 536, Article 537 and Article 538 KUHD governing liability. Meanwhile, Law Number 17 of 2008 concerning Shipping is regulated in Article 41, Article 54. Article 1365 of the Civil Code is the main article that regulates Unlawful Acts, determines the obligation of the perpetrators of Unlawful Acts to pay compensation, but there is no further regulation regarding the compensation is both in the KUHD and in the Shipping Law. In ship accidents, especially ship collisions, civil liability is more borne by the transport company where the captain works. This is regulated in Article 1367 of the Civil Code which states that a person is not only responsible for the losses caused by him but also responsible for the losses issued by the person he is dependent on, including compensation for the burned ship. On the other hand, there is also the responsibility of the company, namely that it must compensate for the impact caused by this incident (ie related to environmental pollution by oil).

In carrying out supervision of ship safety management, as well as carrying out supervision of shipping safety and security related to loading and unloading activities of dangerous goods, special goods, hazardous and toxic waste (B3), refueling, orderly embarkation and debarkation of passengers, construction of port facilities, dredging and reclamation, seaworthiness and maritime affairs, orderly ship traffic in port waters and shipping lanes, ship scouting and delays, and issuance of sailing approval letters, so that in the event of a ship accident, the harbormaster coordinates with the relevant parties at the port related to the implementation of supervision. and law enforcement in the field of shipping safety and security.

Related to the aspect of preventing ship collision accidents at sea and in ports carried out by the government or the captain/crew/ship owner. The author agrees with the opinion of Claudyo Paul Cresendo Tatiwakeng, as the 3rd officer (ship MT. Mitra Kemakmuran) which states that the following collision prevention actions must be taken:

- 1) Ensure that the navigation equipment can function properly before the ship starts the voyage.
- 2) Each deck crew must understand the P2TL (Collision Prevention Regulations at Sea) very well.
- 3) The port owner must ensure whether a ship is seaworthy or not, before issuing the SPB.
- 4) Each Deck officer must have proficiency in vernavigation.

Meanwhile, regarding aspects of legal protection for the safety of passengers and goods on the MT ship fire. Samudera Biru 168 due to the collision of the MV Rokai Permai Ship with the MT Samudera Biru 168 Ship, He argues that basically the protection goes to ship

insurance, while for the individual (ship crew) it is up to the company to provide safety insurance with the crew or not.

### **3.2. Settlement of Compensation for Victims Suffering Losses in the Ship Collision Accident?**

Compensation can take place "after a ship accident report is received, if the results of the preliminary inspection of the ship accident are carried out to seek information or preliminary evidence of the occurrence of a ship accident. If based on the results of the inspection of the ship, the Minister is of the opinion that there is an alleged error or negligence in applying the standard of the marine profession by the captain or leader of the ship or ship's officer for a ship accident, then at the latest within 1 day from the receipt of the results of the preliminary inspection of the ship, the Minister asks the Shipping Court. carry out a follow-up examination of the ship accident." Referring to this, actually ship accidents can be caused by lack of expertise of operators, navigational equipment and ship conditions. [13]

If it is proven that there is an error, the Shipping Court asks the transportation company to compensate the loss for the cost of compensation that will be adjusted to the value of the loss suffered, whether it is damaged or lost transportation goods. Compensation for losses can be submitted through civil channels, namely through a breach of contract, compensation must wait until a court decision regarding whether the loss was caused by the transportation company or not and how much compensation will be given will also be adjusted to the losses suffered.

The legal remedy for the replacement can be done if there is an agreement in a special document where the shipper asks for security or guarantee for the goods by paying for the voluntary insurance offered by the ship's carrier, if there is no such special agreement then the compensation cannot be carried out legally other than compensation for losses carried out by insurance from raharja services or insurance that has collaborated with the transportation party, because the compensation carried out by the transportation party has carried out its obligation, namely to compensate for the loss. The carrier is responsible for shipping accidents, so the carrier must pay compensation to passengers and non-passengers who suffer accidents, in the event of an accident that is impossible to avoid by the carrier, for example a ship having an accident or sinking caused by a hurricane or big waves then the carrier is free from responsibility to pay compensation to passengers who are victims of accidents.

Compensation is the right of the victim who has an accident from the party responsible for the accident. However, Article 41 paragraph (2) of the Shipping Law states that if the loss is not caused by the service provider and can be proven by the service provider but the loss is caused by the passenger himself, then the service provider can be released from part or all of the responsibility, if the loss is done by the service provider, the sea transportation company is obliged to insure the liability.

It should be explained here, that in the case of a ship collision accident that resulted in a fire between the MV Rokan Permai Ship and the MT Samudera Biru 168 ship, there were no casualties. However, as an illustration, if this accident results in a passenger's loss of life, then the passenger is entitled to compensation suffered due to the carrier's negligence during the transportation operation. For the rights of the passengers, the carrier is obliged to provide compensation. There are two reasons for the occurrence of compensation, namely compensation due to default and compensation due to unlawful acts. Compensation due to default is regulated in Book III of the Civil Code starting from Article 1246 to Article 1252 of the Civil Code, while compensation for unlawful acts is regulated in Article 1365 of the Civil Code.

The form of dispute resolution if there is a claim for a ship accident at PT. Jasa Raharja (Persero) by sea transportation passengers is by giving the victims parties to submit claims. Regarding the claim for compensation for compensation from PT. Jasa Raharja (Persero) must be submitted within a certain time (six months after the accident). Outside that time will result in the loss of the right to compensation or compensation for Jasa Raharja or it will expire or because of the absence of a legal relationship or not guaranteed by Law no. 33 and 34 of 1964 or PT. Jasa Raharja (Persero).

Compensation due to unlawful acts is a form of compensation charged to the person who has caused an error to the injured party. Losses resulting from this unlawful act are regulated in Article 1365 and Article 1366 of the Civil Code.

A passenger "if the losses due to accidents (*accident*), then he should receive compensation from the insurer, it must be given as a continuation of the responsibility of the shipper.[14] The provisions of Law Number 17 of 2008 concerning Shipping, the provision of compensation made by the carrier to passengers and shippers in sea transportation is not specifically regulated. However, the settings are merged together with the implementation of the responsibility of the carrier, or as contained in Article 41 paragraph (1) and 2 follows: Paragraph (1), responsibility as referred to in Article 40 can be caused by the operation of the vessel, either: a) death or injured passengers being transported, b) destroyed, lost, or damaged goods transported, c) delays in transportation of passengers and/or goods being transported, d) losses to third parties paragraph (2), if it is possible to prove that the loss as referred to in paragraph 1 letter b, c, and d is not caused by his fault, the transportation company in the waters can be partially or completely relieved of its responsibility. Paragraph (3), the transportation company in the waters is obliged to insure its responsibility for the safety and comfort of the passengers and/or goods it transports and carry out basic protection insurance for general passengers in accordance with the provisions of the legislation.

#### 4. CLOSING

Based on the descriptions of the previous chapters, the following conclusions can be drawn:

1. In the case of collision/crash the ship, the carrier responsible for lost, missing or damage to goods transported from the goods received by the carrier from the shipper/owner of the goods, is a consequence of the agreement of transport have been held between the transport of passengers or owner of the goods or shipper, as regulated in Article 40 of Law no. 17 of 2008. The responsibilities contained in Article 40 of Law no. 17 of 2008 is again clarified into Article 41 of Law no. 17 of 2008. On the other hand, civil liability is more borne by the transport company where the captain works. This is regulated in Article 1367 of the Civil Code which states that a person is not only responsible for the losses caused by him but also responsible for the losses issued by the person who is his dependents, including compensation for the burned ship. On the other hand, there is also the responsibility of the company, namely that it must compensate for the impacts caused by this incident (ie related to environmental pollution by oil spilled in the ocean).
2. Settlement of compensation for victims who suffer losses in the ship collision accident refers to Article 100 paragraph (3) of Law 17 of 2008 concerning Shipping which states that ship owners who fail to carry out their obligations within the time limit set by the Government as referred to in Article paragraph (1) so that it results in a shipping accident, must pay compensation to the party experiencing the accident." Associated with ship accidents/collisions, of course, this must be balanced with aspects of shipworthiness. The ship provided by the carrier must meet the safety requirements (seaworthy). Ship safety requirements are determined through ship classification to be able to determine the designation and route of certain ships, the number of passengers must be in accordance with the ship's cargo capacity, and ship crews who have met the requirements stipulated in the law, as well as the completeness of the ship that is in accordance with the law and applicable standard operating procedures.

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