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Juridical Review of the Carrier's Responsibility for the Loss of Goods Sent Through Road Transportation Based on Law Number 22 of 2009 Concerning Traffic and Road Transportation

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Abstract: This study addresses the legal responsibility of carriers for the loss or damage of goods during road transportation, as stipulated in Law Number 22 of 2009 concerning Traffic and Road Transportation (UU LLAJ). Article 193 of UU LLAJ obliges carriers to provide compensation for any loss incurred during transportation, except in cases of force majeure or third-party negligence. The study also explores the application of breach of contract (wanprestasi) and strict liability principles as the legal foundation for carrier accountability. However, the practical implementation of these regulations often faces challenges, including unclear contractual clauses on liability, difficulties in proving carrier negligence, and slow or inefficient dispute resolution mechanisms. To address these issues, the study proposes strategic measures such as regulatory revisions to clarify carrier liability boundaries, the establishment of standardized transportation contracts, enhanced legal education for stakeholders, strengthened non-litigation mechanisms like mediation and the Consumer Dispute Resolution Agency (BPSK), and the optimization of insurance to mitigate risks. These recommendations aim to foster a more efficient, reliable, and legally protective transportation system for all stakeholders involved.

Keyword: carrier liability, goods loss, UU LLAJ, breach of contract, strict liability, dispute resolution, compensation

INTRODUCTION

Road transportation plays an important role in the logistics system in Indonesia because of its ability to reach various areas, including remote areas that are difficult to reach by other modes of transportation. As an archipelagic country with a large population, Indonesia relies heavily on road transportation to support economic activity and wide distribution of goods. However, as the volume of goods transported increases, new challenges emerge, one of which is the risk of losing goods during the transport process.

The problem of lost goods in road transportation is a serious problem that not only results in financial losses for service users, but can also disrupt the smooth production and distribution process of goods as a whole. The main factors that often cause loss of goods include the carrier's negligence, accidents, theft, and non-compliance with transportation procedures. As a result, the impact is not only felt by the sender, but also affects confidence in the national logistics system, which ultimately has implications for the economy at large.

Juridically, the carrier's responsibility for loss or damage to goods is regulated in Law Number 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ). Article 193 of the LLAJ Law confirms that the carrier is responsible for losses experienced by service users due to loss or damage to goods, unless the loss occurs as a result of force majeure or the fault of a third party. Article 188 of the LLAJ Law requires carriers to maintain the safety of goods from the initial process to the final destination, while Article 192 provides provisions that prohibit all forms of violations in the transportation of goods. Apart from that, Law Number 8 of 1999 concerning Consumer Protection also provides a legal basis that strengthens the rights of service users if there is a violation of responsibility by the carrier.

However, the implementation of these legal provisions in the field often faces obstacles. Various challenges include lack of clarity in the carrier's liability clause, difficulties in proving negligence on the part of the carrier, and dispute resolution mechanisms that are still less effective. Article 193 paragraph 1 of the LLAJ Law, which regulates carriers' obligations to provide compensation, often cannot be implemented optimally due to technical and procedural obstacles in the field. This condition results in legal uncertainty for service users who wish to claim their rights for the losses they have experienced.

Therefore, this research was conducted to examine in more depth the legal responsibility of carriers for the loss of goods based on the LLAJ Law, as well as evaluate the legal remedies that can be taken by service users. With this study, it is hoped that solutions can be found to increase legal certainty, strengthen protection for service users, and improve the goods transportation system in Indonesia.

METHOD

This research uses a normative juridical approach which aims to analyze the carrier's legal responsibility for the loss of goods during transportation based on Law Number 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ). The scope of the research includes carrier responsibilities in accordance with Article 193 of the LLAJ Law, applicable principles of civil liability, dispute resolution mechanisms through litigation and non-litigation channels such as BPSK, as well as obstacles to implementing the law in practice.

This research is descriptive analytical in nature, describing the applicable legal provisions and analyzing their application. Data sources consist of primary legal materials, such as the LLAJ Law, Civil Code, and Consumer Protection Law; secondary legal materials in the form of literature and scientific articles; as well as tertiary legal materials, such as legal dictionaries and encyclopedias. Data collection techniques were carried out through literature studies and documentation of relevant legal documents and court decisions.

The data was analyzed qualitatively by grouping themes related to carrier responsibility, civil law principles, dispute mechanisms, and obstacles to implementing the LLAJ Law. Normative analysis is used to examine legal regulations, while the juridical-analytical approach evaluates the application of regulations in practice. It is hoped that the results of this research will provide a comprehensive understanding regarding regulations and the effectiveness of law in protecting the rights of users of goods transportation services.

RESULTS AND DISCUSSION

in this research, namely regarding the responsibility of the carrier for the loss of goods and the legal remedies that can be taken by service users in cases of loss of goods during the road transportation process based on Law Number 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ) confirms that the carrier is responsible for the loss of goods sent by road. It must compensate for losses suffered by the sender of goods due to his negligence in carrying out transportation services, unless the negligence is caused by an event that cannot be prevented or avoided or the sender's negligence.

Principles of Carrier Responsibility Based on Law no. 22 of 2009 and the Civil Code

The carrier's responsibilities in the context of road transportation are regulated in detail in Law Number 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ) as well as the principles of civil law contained in the Civil Code (KUHPerdata). The two main principles on which the carrier's responsibility is based are tort and absolute liability.

1. Default (Breach of Contract)

Default refers to the carrier's failure to fulfill the obligations agreed to in the contract with the service user. Article 1238 of the Civil Code explains that default can occur in several forms, including:

- a. Failure to fulfill obligations: The carrier fails to deliver the goods to the destination location as promised.
- b. Fulfilling obligations in an inappropriate manner: The goods sent are damaged or defective when they arrive at the recipient's location.
- c. Delay in fulfilling obligations: Goods arrive at the destination location beyond the time agreed in the agreement.

Default is the basis for service users to demand that the carrier provide compensation, which includes several forms of compensation. This compensation can take the form of:

a. Material Compensation

Value of Lost or Damaged Goods: Service users have the right to demand compensation for the value of goods that were not delivered or were damaged during the transportation process. This includes the cost of replacing lost or damaged items, as well as costs incurred to repair items that can be repaired.

b. Immaterial Compensation

Business Interruption: Losses experienced due to delays or damage to goods that disrupt the smooth operation of the service user's business. This can include lost income due to not being able to carry out normal business activities.

Reputation Losses: Losses arising from loss of trust from customers or business partners, which can have a negative impact on the image of the service user's company. This is often difficult to measure financially, but still has a significant impact on business sustainability.

Based on Article 1243 of the Civil Code, the injured party has the right to demand compensation for the breach of contract, which includes both material and immaterial losses. Thus, service users have a strong legal basis to claim compensation for losses experienced as a result of the carrier's default actions.

2. Absolute Responsibility (Strict Liability)

The principle of absolute responsibility places an obligation on the carrier to be responsible for losses that occur during the transportation process without requiring proof of error or negligence on the part of the carrier. This principle is regulated in Article 231 paragraph (2) of the LLAJ Law, which states that the carrier is responsible for loss or damage to goods during transportation, unless it is proven that the loss was caused by force majeure, the fault of the service user, or a third party.

Absolute responsibility provides stronger legal protection for service users, because:

- a. The burden of proof is lighter: Service users only need to show that the loss or damage occurred while the goods were in the carrier's custody.
- b. Guarantee of legal protection: Service users are still entitled to compensation even though the carrier has taken precautions according to operational standards.

This principle is also relevant in the context of high-value or sensitive goods, where the losses incurred could be significant if the goods do not arrive or are damaged. For example, damage to goods resulting from a traffic accident that occurs while the goods are under the carrier's control remains the carrier's responsibility, even though the accident occurred without their fault.

3. Relevance of the Two Principles in Road Transport

In the context of road transport, these two principles often complement each other. Default is used to assess whether the carrier has failed to fulfill contractual obligations, while absolute liability ensures that service users still receive compensation even if the cause of loss or damage to goods is difficult to prove. The LLAJ Law and the Civil Code together provide a strong legal basis to guarantee the rights of service users while strictly regulating the carrier's obligations.

However, the application of these two principles in the field often faces obstacles, such as a lack of clarity in transportation contracts and a lack of legal education for carriers and service users. Thus, increased regulation and contract standardization are needed to overcome this problem and provide better legal protection for all parties.

Obstacles to Implementing Carrier Responsibilities

Even though the principle of carrier responsibility is strictly regulated in Law Number 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ) as well as the Civil Code (KUHPperdata), its implementation in practice still faces various obstacles. These obstacles affect the effectiveness of implementing legal rules and protecting the rights of service users. The following are some of the main obstacles in implementing carrier responsibilities:

1. Unclear Clauses in the Carriage Contract

Many transportation contracts made between carriers and service users do not include explicit liability clauses. This lack of clarity often leads to confusion regarding the extent to which the carrier is responsible for loss or damage to goods.

a. Problems Faced

Contracts of carriage are often general in nature and do not specify the carrier's rights and obligations in detail, including compensation procedures in the event of loss.

b. Impact

This uncertainty can be detrimental to service users, especially when they seek compensation for lost goods.

2. Difficulty in Proving Error or Negligence

Service users often face difficulties in proving that loss or damage to goods was caused by the carrier's error or negligence. In these cases, the carrier usually has a stronger position because they control the transportation process.

a. Burden of Proof

Service users must provide evidence that shows a cause-and-effect relationship between the carrier's negligence and the losses experienced.

b. Technical Factors

Loss or damage to goods during transport can be caused by many factors, such as poor road conditions, extreme weather or negligence in packaging, making it difficult to determine who is responsible.

3. Dispute Resolution is Complicated and Time-Consuming

The complicated dispute resolution process is a big obstacle for service users in demanding carrier responsibility. Litigation through the courts often requires a lot of time and costs.

a. Cost and Time Issues

Court proceedings, especially if they involve lawsuits for breach of contract or unlawful acts, can take a long time and require quite a lot of resources.

b. Limited Non-Litigation Alternatives

Although options such as mediation or the Consumer Dispute Resolution Body (BPSK) exist, their effectiveness is often limited due to service users' lack of trust in these mechanisms or their poor understanding of the process.

4. Lack of Legal Knowledge Among Service Users and Transporters

Both service users and transporters often do not understand their rights and obligations under the LLAJ Law.

a. Service Users

Many service users do not know that they can claim compensation through legal channels or alternative dispute resolution mechanisms.

b. Carrier

Some carriers do not understand that they are obliged to provide compensation to service users, even in certain situations that do not involve direct fault (principle of absolute liability).

5. Inconsistent Law Enforcement

Inconsistent law enforcement is also an obstacle in implementing carrier responsibilities. Some carriers can avoid responsibility due to the absence of strict sanctions or supervision over the implementation of their obligations.

a. Lack of Supervision

Regulations regarding carrier responsibilities are often not effectively monitored by the competent authorities.

b. Legal Loopholes

Carriers can take advantage of legal ambiguity to avoid their obligations.

6. Lack of understanding of regulations

Lack of understanding of the regulations governing transport is also a significant problem. Many service users and carriers do not fully understand their rights and obligations under applicable law.

a. Problems Faced

A lack of understanding of regulations can result in service users not being aware of their rights to claim compensation or the procedures that must be followed in submitting a claim.

b. Impact

This lack of understanding can result in service users not taking full advantage of their rights, so they may not submit claims that they should receive.

7. Limitations of Legal Protection

The obstacles above cause legal protection for service users to be less than optimal.

As a result:

a. Losses for Service Users

Service users are often disadvantaged because they cannot claim the compensation they should receive.

b. Decreased Trust

Trust in road transport systems and freight services is declining, which could impact the logistics sector as a whole.

8. Poor Service Quality

Poor service quality from carriers can make the situation worse. If there is no clarity in contracts and regulations, service users may experience inadequate service.

a. Impact on Service Users

Service users may feel dissatisfied with the services provided, which may result in further losses.

b. External Factors

Additionally, external factors such as weather conditions, poor road infrastructure, and other factors beyond the carrier's control can also affect service quality.

To ensure the carrier fulfills its responsibilities there are several actions that can be taken including:

1. enforcement of regulations
2. preparation of a clear contract
3. shipping insurance
4. training and certification
5. effective complaint system
6. transparency of information
7. upholding the principle of absolute responsibility

Legal measures that can be taken by service users

Service users have the right to demand responsibility from the carrier if goods are lost or damaged during the transportation process. This right is protected by Law Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ Law), the Civil Code (KUHPdata), as well as Law Number 8 of 1999 concerning Consumer Protection (Consumer Protection Law). Legal efforts that can be taken by service users are divided into non-litigation and litigation, with the aim of obtaining fair compensation for the losses experienced.

1. Non-Litigation Route

Non-litigation is dispute resolution outside of court which is more efficient in terms of time and costs. This route involves a mediation, negotiation or settlement process through a consumer dispute resolution institution

a. Negotiation

- a) Process: Service users can directly submit claims to the carrier to resolve problems amicably.
- b) Advantages: Faster and more flexible because it does not require a third party.
- c) Disadvantage: Results depend on the good faith of the carrier.

b. Mediation

- a) Process: Settlement involves a neutral third party as a mediator. In accordance with Article 38 of Law no. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, mediation aims to reach a mutual agreement without involving the court.
- b) Advantages: Provides the opportunity for direct dialogue between the two parties, which can speed up dispute resolution.

c. Settlement via BPSK

- a) Legal basis: Law no. 8 of 1999 concerning Consumer Protection gives authority to the Consumer Dispute Resolution Agency (BPSK) to handle consumer complaints regarding violations committed by carriers.
- b) Process: Service users can report their cases to BPSK, which will then hold a hearing to determine a decision.

c) Advantages: This process is free and the results are binding.

2. Litigation Route

The litigation route is taken if non-litigation resolution is unsuccessful. This process involves a court to decide the dispute based on the law.

a. Default Lawsuit

a) Legal basis: Article 1238 of the Civil Code regulates that service users can sue carriers who fail to fulfill their obligations in accordance with the transportation contract.

b) Process: The service user must prove that the carrier is in default, for example by not delivering the goods on time or the goods received in a damaged condition.

b. Lawsuit for Unlawful Actions (PMH)

a) Legal basis: Article 1365 of the Civil Code gives service users the right to sue the carrier for losses caused by their negligence or error.

b) Process: Service users must prove that the carrier's actions are contrary to the law and harm them.

c. Lawsuit Based on the LLAJ Law

a) Legal basis: Article 231 paragraph (2) of the LLAJ Law regulates that the carrier is obliged to provide compensation for loss or damage to goods, unless there is force majeure or another party's fault.

b) Process: Service users can file civil lawsuits by referring to the provisions on carrier responsibility regulated in this Law.

d. Lawsuit Through Commercial Court

Context: If the case is related to a large company that is subject to trade regulations, the service user can file a lawsuit in the commercial court, especially if the dispute involves a contract of a commercial nature.

3. Obstacles in Dispute Resolution

Even though various legal channels are available, service users often face obstacles in resolving disputes, such as:

a. Lack of legal understanding: Many service users do not know their rights or the procedures to be followed.

b. Complicated litigation process: The court process takes a long time and costs a lot of money, so it is often the last resort.

c. Limitations of non-litigation mechanisms: The effectiveness of mediation and BPSK often depends on the cooperation of carriers.

4. Recommendations for More Effective Dispute Resolution

a. Legal Education: Increased legal awareness for service users and transporters through socialization of regulations related to transport responsibilities.

b. Optimizing BPSK: Expanding service users' access to BPSK and increasing the institution's capacity to handle disputes quickly and fairly.

c. Revision of Regulations: Develop clearer implementing regulations regarding dispute resolution procedures in the context of road transportation.

Solutions and Recommendations to Improve Legal Implementation

To overcome various challenges in implementing carrier responsibility for loss of goods during transportation, several strategic steps are needed. The aim of these measures is to strengthen legal clarity, increase efficiency in dispute resolution, and provide better protection for service users and transporters.

1. Revision of Regulations for Legal Clarity

Regulations regarding carrier responsibility in Law no. 22 of 2009 needs to be improved by adding more detailed implementing regulations to address ambiguities in the implementation of the law in the field.

- a. The need for clear determination of liability limits: Further regulations regarding carrier liability limits and more structured claims procedures are needed.
- b. Development of technical guidelines: The government or authorized institutions should develop clear operational standard guidelines, including risk management related to loss of goods.
- c. Increased regulatory supervision: The role of the Ministry of Transportation is very important in ensuring supervision of the implementation of these regulations as well as providing strict sanctions against carriers who violate them.

2. Standardization of Freight Contracts

Unclear contracts of carriage often lead to issues regarding liability. Solutions that can be taken are:

- a. Implementation of contracts that include clear liability clauses: New regulations may require the use of standard contracts that clearly state the rights and obligations of carriers and service users.
- b. Standardized compensation arrangements: Contracts must also contain clauses that provide for automatic compensation in the event of loss or damage to goods, without the need for a lengthy negotiation process.

3. Increasing Legal Education and Literacy

Both carriers and service users need to gain a better understanding of their rights and obligations under Law no. 22 of 2009 and the Civil Code. Therefore, legal education measures need to be strengthened.

- a. Training for carriers: Carriers need to be trained to better understand their obligations and the legal consequences that could arise if they fail to carry out their duties.
- b. Socialization for service users: Service users need to be given an understanding of the procedures for claiming compensation and how to submit a claim correctly.
- c. Collaboration between government and related organizations: The Ministry of Transportation, transportation associations and consumer protection institutions can work together to increase legal literacy among transporters and service users.

4. Strengthening Non-Litigation Dispute Resolution

Dispute resolution through non-litigation channels such as mediation and the Consumer Dispute Resolution Agency (BPSK) needs to be encouraged so that it can be a faster and cheaper alternative.

- a. Increasing BPSK capacity: BPSK must be equipped with adequate resources to handle disputes more efficiently and be accessible to the wider community.
- b. Increasing transparency: To improve trust, the results of dispute resolution must be more open and accountable.
- c. Utilization of digital technology: Using online platforms for mediation can speed up the dispute resolution process and reduce costs.

5. Incentives for Carrier Compliance

To encourage transporters to comply more with regulations, the government can provide certain incentives.

- a. Tax reduction: Carriers who demonstrate compliance with the rules and provide insurance for the goods transported can get tax incentives.
- b. Certification for well-performing carriers: Certificates for carriers that meet operational standards and provide good service can enhance their reputation and attract more clients.

6. The Role of Insurance in Transportation

Insurance is an effective way to protect goods from loss.

- a. Insurance obligations for carriers: Carriers should be required to insure the goods transported to reduce the risk of loss.
- b. Inclusion of insurance costs in the contract: In a transportation agreement, insurance costs can be included as part of the transportation tariff that must be paid by the service user.

7. Strengthening Law Enforcement

Stricter enforcement of the law is urgently needed to ensure that carriers fulfill their legal obligations.

Regular supervision: Monitoring of transport companies must be carried out regularly to ensure they comply with existing regulations.

Application of stricter sanctions: Carriers who do not fulfill their obligations must be given strict sanctions, either in the form of administrative or criminal sanctions in accordance with applicable regulations.

CONCLUSION

In this study, it can be concluded that Law Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ Law), together with the Civil Code (KUHPerdata), provides a clear legal basis regarding the carrier's responsibility for the loss of goods during transportation process. However, in practice, the implementation of laws regarding carrier responsibility still faces several obstacles, such as unclear clauses in transport contracts, difficulties in proving carrier negligence, and dispute resolution processes that take time and money.

To increase the effectiveness of implementing this law, several solutions that can be implemented include revising and sharpening more detailed regulations regarding carrier responsibilities, standardizing transportation contracts, and increasing legal education for both carriers and service users. In addition, strengthening non-litigation dispute resolution mechanisms, such as mediation and the role of the Consumer Dispute Resolution Agency (BPSK), can speed up the dispute resolution process more efficiently and effectively.

On the other hand, the role of insurance in the transportation of goods is also very important as a mitigation measure against the risk of loss or damage to goods, which in the end can provide better protection for service users. In addition, stricter law enforcement, including stricter supervision of the implementation of carrier obligations and providing sanctions for those who violate, needs to be improved.

By implementing these steps, it is hoped that a more transparent, efficient and reliable goods transportation system will be created, which not only protects the rights of service users but also encourages improvements in the quality of services from carriers.

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