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Airline Responsibility to Consumers for Damage to Luggage (Case study of PT. Lion Mentari Air)

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Abstract: Passenger losses for damaged luggage on air transportation are the responsibility of the airline because it has a legal relationship between the airline as a business actor and passengers as consumers. Baggage damage is a common problem in the Indonesian aviation industry. This is one of the risks of flying that is related to the maintenance of the airline's ground handling. Airplanes provide many facilities, one of which is baggage for storing passenger goods. Airplane baggage is divided into two categories: checked baggage and cabin baggage. Checked baggage, where passenger goods are handed over to the airline, and become the responsibility of the airline because consumers have given trust to the airline. Cabin baggage, on the other hand, is where the passenger's belongings are checked in with the passenger, carried directly by the airline passenger and is the responsibility of the passenger themselves. The airline's responsibility for lost baggage, especially checked baggage belonging to passengers, must be based on applicable laws to determine the responsible party, things that can be accounted for, the form of liability, the amount of loss, and other matters. Minister of Transportation Regulation No. 77 of 2011 concerning the Responsibility of Air Transport Carriers is a national law that regulates the responsibility of air transport carriers to passengers.

Keyword: Responsibility, Airline, Damage, Luggage.

INTRODUCTION

The public's need for air transportation is increasing and has an impact on all levels of society. To travel, people need air transportation because it is faster and more efficient. It is not surprising that planes have become the most common way to travel long distances, such as from one country to another or from island to island as well as from city to city.

The transfer of goods and people from a place of origin to a destination is known as transportation. Four important elements in transportation activities: (a) availability of the cargo being transported, (b) availability of vehicles as a means of transportation, (c) availability of traversable roads, and (d) availability of terminals. A transportation process is defined as a movement that starts at the starting point of transportation and ends at the

ending point. ¹Transportation itself is divided into 3, namely, land, sea and air transportation. Air transportation is transportation that requires a lot of money to use. Apart from having more sophisticated technology, air transportation is the fastest means of transportation compared to other means of transportation and has a relatively lower accident rate than land and water transportation.

Air transportation is any activity using aircraft to transport passengers, cargo and post for one or more trips from one airport to another airport or several airports.² Air transportation is transportation that requires a lot of money to use. Apart from having more sophisticated technology, air transportation is the fastest means of transportation compared to other means of transportation and has a relatively lower accident rate than land and water transportation.

An airline is a company that rents or owns aircraft to transport passengers or goods. Airline companies can cooperate or collaborate with other airlines for mutual benefit. The term "airline" comes from the word "maatschappij", which means "company" in Dutch.³ One of the airlines operating in Indonesia is Lion Air.

Lion Mentari Airlines, which operates as Lion Air, is the largest private airline in Indonesia. This airline is headquartered in Jakarta, Indonesia. With transport links in Indonesia, the Philippines, Malaysia, Thailand, Australia, India, Saudi Arabia and Japan, as well as charter routes to Hong Kong, South Korea and Macau from China. Lion Air operates more than 100 Boeing 737-800/900ER aircraft. As a result of deregulation of the Indonesian aviation industry in 1999 and 2000, the airline experienced rapid expansion.⁴

Airplanes provide many facilities, one of which is a trunk for storing passengers' belongings. Airplane baggage is divided into two categories: checked baggage and cabin baggage. For passenger comfort and safety, some airlines limit the number of items that can be carried in cabin baggage. Checked baggage is usually limited in kilograms per passenger who uses checked baggage services during an airplane trip. Checked baggage, where the passenger's belongings are handed over to the airline, is the responsibility of the airline because the consumer has placed their trust in the airline. Meanwhile, cabin baggage, where the passenger's belongings enter at the same time as the passenger, is carried directly by the airline passenger and is the responsibility of the passenger himself.⁵

Airplane baggage problems often occur, especially if the items inside are damaged. Baggage damage is a common problem in the Indonesian aviation industry. This is one of the risks when flying related to maintenance from the airline's ground handling, along with other reasons. Damage usually occurs to baggage checked in at check-in, but they also occur to baggage brought into the cabin. This is the responsibility of the airline as a business actor. So based on this, I am interested in conducting research with the title "Responsibility of Airlines towards Consumers for Baggage Damage (Case Study of PT. Lion Mentari Air) with the following problem formulation:

1. What is Lion Air's responsibility regarding damage to consumer baggage?
2. What are the legal remedies for damage to consumer baggage?

METHOD

The type of research used is normative juridical and empirical juridical. Normative juridical research is a type of research carried out using title data and statutory regulations

¹ Hanly Fendy Djohar Siwu, 'Demand and Supply of Transportation Services', *Journal of Economic Development and Regional Finance*, 19.2 (2021), 114–22.

² Law No. 1 of 2009 concerning Aviation

³ Wikipedia, Airlines, <https://id.wikipedia.org/wiki/Airlines>, accessed on 25 February 2024.

⁴ Wikipedia, Lion Air, https://id.wikipedia.org/wiki/Lion_Air, accessed 25 February 2024.

⁵ FAAST Indonesian Aviation, Getting to Know the Provisions of Airplane Baggage Regulations That You Need to Know, <https://schoolpenerbangan.co.id/peraturan-bagasi-pesawat/>, accessed on February 25 2024.

relating to the responsibilities of air transport carriers. Empirical juridical research was used in this research by conducting interviews with air transportation consumers who experienced baggage damage and also with one of the PT staff. Lion Mentari Air Medan City regarding the airline's responsibility regarding damage to baggage.

The primary data received was by conducting research or going directly to the community, through interviews with passengers who experienced problems with damaged luggage and also with Mr. Fandi as staff at PT. Lion Mentari. Secondary data is through library research and statutory regulations. Primary and secondary data are collected and then processed and analyzed.

This research is descriptive analytical in nature which aims to explain the situation in terms of social phenomena, practices and habits that exist in society. In this case, the author will systematically outline a review regarding the protection of transported goods. This is regulated in Aviation Law Number 1 of 2009 and clarified in Minister of Transportation Regulation Number 92 of 2011 concerning Amendments to Ministerial Regulation Number 77 of 2011 concerning Responsibilities of Air Transport Carriers.

RESULTS AND DISCUSSION

Responsibility of Lion Air Airlines Regarding Damage to Consumer Baggage

1 Legal Arrangements Regarding Airline Responsibility Regarding Baggage Damage

In Law of the Republic of Indonesia Number 1 of 2009 concerning Aviation, which explains that losses incurred by air carriers, such as loss and damage to baggage, must be replaced by the air carrier as long as the passenger can prove that the damage was indeed caused by the actions of the carrier or the person it employs, This is based on Article 143 and Article 144 and is clarified more specifically in the Minister of Relations Regulation Number: PM 77 of 2011 concerning the Responsibilities of Air Transport Carriers, which discusses further what responsibilities airlines must bear if they cause harm to passengers.

Based on Minister of Transportation Regulation Number 77 of 2011 concerning Responsibilities of Air Transport Carriers. For loss, damage or destruction of luggage and baggage after 14 calendar days, the airline must provide compensation of IDR 200,000 (Two hundred thousand rupiah) per kg and a maximum of IDR 4 million. During the waiting period, passengers receive waiting money of IDR 200,000 (Two hundred thousand rupiah) per day for a maximum of three days in accordance with Article 5, namely:

- a. The amount of compensation for passengers who experience loss, destruction or damage to checked baggage as intended in Article 2 letter c is determined as follows:
 - 1) loss of checked baggage or the contents of checked baggage or destroyed checked baggage will be given compensation of IDR. 200,000.00 (Two hundred thousand rupiah) per kg and a maximum of Rp. 4,000,000.00 (Four million rupiah) per passenger; And
 - 2) damage to checked baggage, compensation is given according to the type, shape, size and brand of checked baggage.
- b. Checked baggage is considered lost as intended in paragraph (1), if it is not found within 14 (fourteen) calendar days from the date and time of the passenger's arrival at the destination airport. The carrier is obliged to give waiting money to passengers for checked baggage that has not been found and cannot be declared lost as intended in paragraph (2) in the amount of Rp. 200,000.00 (Two hundred thousand rupiah) per day for a maximum of 3 (three) calendar days.

If cabin baggage is damaged or lost, the carrier is not responsible unless the passenger can prove that the loss was caused by the carrier or someone it employs. On the other hand, if damage occurs to checked baggage due to negligence of airline officers, the passenger is entitled to compensation calculated based on the damage to the damaged

checked baggage or if the damage results in the entire baggage being unusable, the carrier is responsible based on the entire weight of the unused baggage or cargo. can be used because this is related to the requirements stated in Article 168 paragraphs 2 and 3 in Law no. 1 of 2009 concerning Aviation.

2 Lion Air airline's responsibility regarding damage to consumer baggage

There are regulations that explain the responsibilities of airlines. In the Minister of Transportation Regulation number 77 of 2011 concerning the Responsibilities of Air Transport Carriers Article 18:

- a. The carrier's responsibility to passengers begins from the moment the passenger leaves the airport waiting room for the aircraft until the passenger enters the arrival terminal at the destination airport.
- b. The carrier's responsibility for checked baggage begins from the time the carrier receives the checked baggage at the time of reporting (check-in) until the passenger receives the checked baggage.
- c. The carrier's responsibility for the cargo begins from the moment the sender receives a copy of the air bill of lading from the carrier until the time specified as the pick-up limit as stated in the air bill of lading (invoicing bill).

PT's responsibility. Lion Mentari Airlines for lost items in aircraft baggage is to replace them in the form of money or the same items as the lost items, if possible. Based on the results of the interviews conducted, the amount of compensation for damage to the suitcase was adjusted to the liability rules based on Law no. 1 of 2009 concerning Aviation and Minister of Transportation Regulation no. 77 of 2011 concerning the Responsibilities of Air Freight Carriers. It was also said by Mr. Fandi, who is a staff member at PT. Lion Mentari Air for a large nominal amount, the maximum compensation is only IDR. 200,000 (Two hundred thousand rupiah) which is adjusted for the damage suffered by passengers.

Efforts or process for claiming compensation to obtain liability from the airline :

- a. Passengers go to the Lost and Found office at the arrivals terminal of the passenger's destination International Airport.
- b. Lost and Found will make a property irregularity report in the form of a PIR (Property Irregularity Report).
- c. The airline will provide a copy of the PIR (Property Irregularity Report) to passengers who experience lost checked baggage.
- d. The airline's Lost and Found will immediately search for lost baggage by contacting the baggage unloading section in the field, and if it is not found , continue by contacting the Lost and Found section at the passenger's departure airport.
- e. The search period is 14 days, which are calendar days, not business days.
- f. If a passenger's checked baggage is not found within 14 days, the airline will pay the passenger in accordance with statutory regulations.

According to the research results, the baggage identification tags used by PT. Lion Mentari Airlines includes the following information:

- a. Passenger name
- b. Baggage identification number
- c. Baggage location code and destination
- d. Luggage weight

Based on Article 153 paragraph 2 of Law no. 1 of 2009 concerning Aviation, PT baggage identification tags. Lion Mentari Airlines meets the requirements of the baggage identification agreement. This baggage identification tag will be affixed to the ticket by the check-in officer and to the passenger's suitcase or bag for identification purposes. You also need to show it to the officer at the arrival terminal. In addition, to prevent passengers'

suitcases from being confused with other passengers, PT. Lion Mentari Airlines can easily find passengers' suitcases or bags if they are lost or damaged.

Lion Mentari Airlines passengers have the right to make efforts to recover their checked baggage if they experience loss or damage to their checked baggage. To do this, they must report the loss of their baggage in writing to Lion Air's Lost and Found section located at the passenger's destination airport.

Several cases of passengers experiencing this when using Lion Air aircraft include damage to baggage, including:

- a. Yasmin Hanifa Putri
- b. Hendro
- c. Ricci

Of the three cases mentioned above, PT. Lion Mentari Airlines in the case of baggage damage can be considered a breach of contract, because the airline was negligent in providing its responsibilities to passengers. In this case the conflict can turn into a consumer dispute. Consumers have the right to file a lawsuit against airline actions that are detrimental to them, both at BPSK and at the District Court.

Legal Efforts in Resolving Problems Related to Damage to Consumer Baggage

If baggage is not received upon arrival or baggage is found to be damaged, passengers must immediately report it to the Baggage Service office in the arrival area before leaving the airport. Especially for international flights, the deadline for reporting actionable baggage damage is no more than 7 (seven) days from the date of flight arrival or from the time the baggage is received .

Consumers who use airline transportation services and leave their luggage in the aircraft's luggage compartment and experience loss of the items entrusted can resolve this peacefully or through legal action. Legal efforts that can be taken by consumers for items lost in airplane baggage, such as reporting problems that are detrimental to consumers to consumer protection institutions in Indonesia, to the District Court or others.

Consumer Protection Law Number 8 of 1999 provides protection for resolving consumer disputes, namely by resolving disputes through court and consumer settlements outside of court. This is regulated in Article 45 Paragraph (1) and 47 of the Consumer Protection Law, namely: Article 45 paragraph (1) UUPK:

" Every consumer who is harmed can sue business actors through institutions tasked with resolving disputes between consumers and business actors or through courts within the general court environment."

Article 47 UUPK;

"Consumer dispute resolution outside of court is carried out to reach an agreement regarding the form and amount of compensation and/or regarding certain actions to ensure that losses suffered by consumers will not happen again or will not happen again."

Based on the formulation of Article 45 Paragraph (1) jo, Article 47 of the Consumer Protection Law Number 8 of 1999, resolving consumer disputes outside of court can be achieved in two ways, namely: Settlement of instant compensation claims, and Settlement of compensation claims through the Dispute Resolution Body Consumer (BPSK).

There are 3 (three) ways to resolve consumer disputes, namely:

- a. Settlement of consumer disputes through court
- b. Settlement of consumer disputes with instant claims
- c. Settlement of consumer disputes through the Consumer Dispute Resolution Agency (BPSK)

CONCLUSION

The form of the air transportation agreement, namely in the form of a ticket, refers to Article 151 paragraph 2 of Law no. 1 about Aviation. An air transportation agreement creates a legal relationship, namely in the form of rights and obligations that must be fulfilled. The occurrence of damage and loss of passenger baggage will be the responsibility of the airline. The amount of compensation given by airlines is limited by Minister of Transportation Regulations. These regulations show that airlines' responsibilities towards passengers are limited, indicating that these regulations still do not protect consumers enough.

Likewise with passengers who use Lion Air airlines, the carriage agreement made creates rights and obligations for both passengers and Lion Air. The terms of the agreement outside the ticket are listed in the "General Conditions of Carriage" on the PT website. Lion Mentari Airlines. Consumers as passengers who experience loss and damage to checked baggage using Lion Air aircraft can submit a claim through the Lost and Found office first with the conditions provided. If checked baggage is not found and the compensation solution provided by Lion Air is not appropriate, the passenger can file a lawsuit with BPSK or the District Court.

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