

**INSURANCE CLAIMS FOR LOSS OF GOODS  
(study decision number 16/Pdt.G.S/2022/PN Mks)**

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**ABSTRACT**

*Insurance or coverage is something that is no longer foreign to the Indonesian people, where most Indonesian people have entered into insurance agreements with insurance companies, both state-owned and private insurance companies. Insurance companies are non-bank financial institutions that have a role that is not much different from banks, namely engaged in the field of service services provided to the community in overcoming risks that occur in the future. Insurance is very important because in addition to providing protection against possible losses, insurance also encourages other economic growth. The method used in this study is the normative juridical method. The results of the study show that claims in insurance terms are interpreted as requests or demands for payment of benefits in accordance with the provisions stipulated by the insurance policy. A claim is an application by a participant to obtain coverage for losses available based on the agreement. The claim process steps for each insurance company are different, but basically the process is carried out by the insured by submitting a claim to the insurer which will then be processed whether the process rights are approved or not approved. Unfortunately, in practice, the guarantee of legal protection for insurance policyholders is less protected. The problem that is always experienced by policyholders is the difficulty of obtaining compensation payments when an event occurs. Thus it can be said that default is the implementation of obligations that are not fulfilled or broken promises or negligence carried out between the parties either because they do not carry out what has been agreed or even do something that according to the agreement should not be done. There are ways that can be taken to resolve disputes between the parties involved in a dispute, namely through litigation and non-litigation.*

**Keywords:** Dispute Resolution, Insurance, Policy Holders

**INTRODUCTION**

Insurance companies are non-bank financial institutions that have. The role is not much different from banks, namely operating in the service sector given to the community in overcoming risks that occur in the past will come. The transfer of risk to insurance companies does not just happen without any obligation to the party transferring the risk. This is a must agreed in advance with what is called an insurance agreement.

According to Article 1 number 1 of Law no. 40/2014. Insurance is an agreement between two parties, namely the insurance company and the policy holder, which is the basis for receiving premiums by the insurance company in return for (1) providing compensation to the insured or policy holder due to losses, damage, costs incurred, lost profits, or liability. third party legal liability that the insured or policyholder may suffer due to an uncertain event; or (2) provide payments based on the death of the insured or payments based on the life of the insured with benefits whose amounts have been determined and/or based on the results of fund management. According to Article 1 number 6 of the Service Authority Regulations Finance Number 23 of 2015 concerning Insurance Products and Product Marketing Insurance (hereinafter referred to as POJK concerning Insurance Products and Marketing Insurance Products) that an Insurance Policy is an insurance agreement deed or other documents that are equivalent to insurance agreement deeds, as well as other documents which is an integral part of the insurance agreement, which is made in writing and contains an agreement between the insurance companies and policy holders.

With this insurance agreement, people can overcome the risks may occur to his life, health, goods or property. This risk transfer does not It just happens without any obligation on the part of the transferring party. This must be agreed in advance. As a reward for switching

This risk means that in the coverage agreement, the premium payment becomes a necessity. The premium is an obligation for the insured and is the right of the insurer.

Insurance premiums are an amount of money paid by the holder of the policy to the insurance company in connection with the coverage stated in the insurance policy. The insurance policy itself is a contract or agreement between the insurance company and the insured. For the insured, both individuals and companies, the policy is proof that he has transferred the risk to the insurance company. For the insured, both individuals and companies, the policy is proof that he has transferred the risk to the insurance company. An insurance policy contains all the rights and obligations of both the insurance provider and the insured, and what you need to remember is that the insurance policy has legal force because it is an agreement. So if one party violates the agreement, they can be subject to legal sanctions.

One of the cases regarding insurance policies that occurred was in Decision Number 16/Pdt.G.S/2022/PN Mks where the dispute was submitted by the plaintiff as the insurance policy holder of PT Asuransi Eka Lloyd Jaya. The plaintiff chose the defendant as transportation insurance which provides guaranteed protection for goods or property transported via land, sea and air transportation against various risks as stated in Sea Cargo Policy Number 07030321000181. Between the plaintiff and the defendant an agreement/agreement has been entered into via Sea Cargo Policy Number 07030321000181 where this dispute lawsuit was filed by the plaintiff as the holder of the Sea Cargo Policy Insurance. The plaintiff and defendant have entered into an agreement/agreement as outlined in the Sea Cargo Policy with Policy Number 07030321000181 dated January 3 2022. That regarding Sea Cargo Policy Number 07030321000181 regarding The scope of the Port to Port policy can only be said to be Port to the Port if the protected goods have been transported dismantling/dismantling of insured goods.

The Plaintiff submitted an insurance claim on January 24<sup>th</sup>, 2022 for the 4180 bags of cement that sank with KLM Aruna Sentosa to the Defendant. However, regarding this claim, he decided to give a letter of rejection of the claim for transportation of goods on the grounds that the loss suffered by the plaintiff was beyond the responsibility of the Defendant because the subject of port to port coverage only guarantees coverage for goods during the journey of the KLM Aruna Sentosa ship from the port of Makassar (Paotere) to the port of Sabu Raijua (NTT). Due to the refusal issued by the Defendant, the Plaintiff made a complaint to the Financial Services Authority (OJK) by attaching evidence of the incident experienced by the Plaintiff and submitting it on February 25<sup>th</sup>, 2022 to provide certainty regarding the insurance claim that should have been borne by the Defendant.

Default lawsuits are regulated in Article 1243 of the Civil Code (KUHPer), which reads: "Compensation for costs, losses and interest due to non-fulfillment of an obligation begins to be required, if the debtor, even though he has been declared in default, still fails to fulfill the obligation, or if something that must be given or done can only be given or done within a time that exceeds the specified time.

## **RESEARCH METHODS**

This research is normative legal research, or library legal research, which refers to legal norms contained in international regulations and statutory regulations. The focus of this research is positive law, what is meant is the law that applies at a certain time and place, namely written rules or norms that are officially formed and determined by the authorities, as well as previously written laws that have been established by law.

**DISCUSSION****A. Causes of dispute over Goods Insurance Claims at PT ASURANSI EKA LLOYD JAYA (study decision Number 16/Pdt.G.S/2022/PN Mks)**

According to the Big Indonesian Dictionary, a claim is a claim for the fact that someone has the right (to own or possess) something or a statement about a fact or the truth of something. According to the Indonesian Institute of Accountants (IAI), a claim is compensation that is paid or is an obligation to the insured by the insurance company in connection with a loss. Insurance is coverage or protection for an object from the threat of danger that causes loss.

From a legal perspective, insurance is a coverage contract (agreement). Risks agreed between the insured and the insurer. The insurer promises will pay for losses caused by risks insured against insured. Meanwhile, the insured pays premiums periodically to underwriter. So, the insured trades a possible large loss occurs with certain payments as agreed.

Insurance or coverage is an agreement, so in it there are at least two parties entering into an agreement. One party is the party that transfers the risk to another party, which is called insured. Meanwhile, the other party is the party that accepts the risk. The insured party is called the insurer, namely the insurance company.

Insurance is known in various types and is grouped according to focus and risk. This focus and risk determine the size of the uniformity in the risks covered according to the type of policy. This will be used by insurance companies to anticipate potential losses and determine the premium level offered according to each type of insurance. The following types of insurance exist:

1. Life Insurance
2. Health Insurance
3. Vehicle Insurance
4. Home and Property Ownership Insurance
5. Education Insurance
6. Business Insurance
7. General Insurance
8. Credit Insurance
9. Marine Insurance
10. Travel Insurance

Article 1313 of the Civil Code, or Civil Code, states that "Agreement is an act by which one or more parties bind themselves to one or more people." According to this article, an agreement causes a person to bind himself to another person. This shows that an agreement creates an obligation or performance from one party to another party who is entitled to that performance. Two parties are always present in an agreement; One party is obliged to do something and the other party has the right to that something.

Based on article 246 of the Commercial Code, the characteristics of an insurance agreement are as follows :

1. An insurance agreement is basically a compensation agreement (shcadevezekering or indemnity contract). The insurer is bound to compensate for losses because the insured party suffers losses and what is compensated is proportional to the losses actually suffered (principle of indemnity).
2. The Insurance Agreement is a conditional agreement. The obligation to indemnify the insurer is only carried out if an event that is not specified for which the insurance is provided occurs.
3. The insurance agreement is a reciprocal agreement. The insurer's obligation to compensate for losses is expected from the insured's obligation to pay premiums. The

losses suffered are as a result of unspecified events in the name of which insurance is provided.

According to Article 225 of the Criminal Code, an insurance agreement must be made in writing in the form of a document called a policy, which contains agreements, special conditions and special promises which function as a basis for fulfilling the rights and obligations of the parties (insurer and insured) in achieving insurance purposes. An insurance policy is a document that explains the terms and conditions that apply to the use of insurance.

The policy is written proof of the existence of an insurance agreement between the insured and the insurer. Considering its function as written evidence, the parties (especially the insured) are obliged to pay attention to the clarity of the contents of the policy, it must not contain words or sentences that allow for differences in interpretation so that it can cause disputes.

The policy plays an important role in maintaining consistent accountability for both the insurer and the insured. With an insurance policy, the agreement between the two parties gains legal force. By having this insurance policy, the insured party has authentic guarantees and evidence that the insured can use to submit a claim if the insurer neglects its responsibilities. With an insurance policy, both parties entering into the insurance agreement will be bound and have their respective responsibilities as agreed from the start. An insurance policy is very important in the insurance service itself, because the policy will protect every right and obligation of the customer and the insurance company.

Insurance is a profitable long-term investment for its users. Insurance claims are one of the rights that customers must accept as long as you regularly pay insurance premiums. Insurance claims are demands from the insured party because of the existence of a contractual agreement with the insurance party for guarantees payment of compensation as long as premium payments have been made by insured party. In short, a claim is a claim is a demand for a fact that someone has the right (to own or possess) something or a statement about a fact or the truth of something.

The end of insurance is the same as the end of an agreement. The agreement will be terminated when the objectives of the agreement have been achieved. And each party has fulfilled their mutual obligations or achievements as desired by them together. Expiration of insurance can occur due to:

1. Insurance ends because an Event

In insurance, the only event that is the burden of the insurer is the death of the insured. If the death of the insured occurs within the agreed time period, the insurer is obliged to pay compensation to the beneficiaries (heirs) appointed by the insured.

2. Because the time period expires

In insurance, events are not always the burden of the insurer until the end of the insurance period. If the validity period of the insurance expires without an event occurring, then the insurer's risk burden ends. However, the insurer will return the amount of money to the insured if the insurance period expires and no event occurs.

3. Because insurance has failed

The legal consequences or sanctions given to parties for defaulting are as follows:

1. Obligation to pay compensation

Compensation is paying for all losses due to destruction or damage to the creditor's property due to the debtor's negligence. To claim compensation, there must be a collection or (subpoena) first, except in certain events that do not require it reprimand. Provisions regarding compensation are regulated in Article 1246 of the Civil Code, which consists of three types, namely: costs, interest and losses.

2. Cancellation of Agreement

The second sanction resulting from a debtor's negligence is in the form of cancellation of the agreement. This sanction or punishment, if someone cannot see the nature of the

cancellation as a punishment, is considered by the debtor to feel satisfied with the cancellation because he feels freed from all obligations to perform. According to the Civil Code Article 1266: Conditions of cancellation are deemed to always be included in reciprocal agreements, when one the party does not fulfill its obligations. In such cases, the agreement is not null and void, but an annulment must be requested from a judge. This request must also be made even though the conditions are void regarding non-fulfillment of the obligations stated in the agreement. If the conditions for cancellation are not stated in the judge's agreement, the judge is free to, according to the circumstances, at the request of the defendant, provide a period of time to still fulfill his obligations, which period cannot exceed 1 (one) month.

**B. Insurance Claim Dispute Settlement Process (study of decision Number 16/Pdt.G.S/2022/PN Mks)**

According to the Indonesian dictionary, a dispute is something that causes differences of opinion, quarrels, debates, disputes, disputes. According to law, a legal dispute occurs when one of two or more people binds themselves to what has been agreed. Disputes can be public or civil in nature and can occur both locally, nationally and internationally. Disputes can occur between individuals and individuals, between individuals and groups, between groups and groups, between companies and companies, between companies and countries, between one country and another, and so on.

A dispute is a situation where a party feels disadvantaged by another party, who then conveys this dissatisfaction to the second party. If the situation shows a difference of opinion, then what is called a dispute occurs.

A dispute is a dispute that occurs between parties due to a violation of the agreement that has been stated in a contract, either in part or in whole. In other words, there has been a breach of contract by the parties or one of the parties due to the failure to fulfill the obligations that must be carried out or fulfilled but insufficiently or excessively, which ultimately results in the other party being harmed.

Thus, what is meant by dispute is a dispute that occurs between 2 (two) or more parties who maintain their respective perceptions, where the dispute can occur due to an act of default on the part of the parties or one of the parties to the agreement.

Ways that can be taken in resolving disputes between related parties in a dispute are:

**1. Dispute resolution through non-litigation**

In resolving disputes through non-litigation, it is known that this exists alternative dispute resolution or Alternative Dispute Resolution (ADR), which in the perspective of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Alternative Dispute Resolution is an institution for resolving disputes outside of court based on the agreement of the parties to the exclusion of litigation dispute resolution in court. Dispute resolution through non-litigation includes:

**a. Negotiation**

Negotiation is a two-way communication designed to reach an agreement when both parties have various similar or different interests. Negotiation is a process bargaining to reach an agreement with another party through interaction process, dynamic communication with the aim of find a solution or way out of the problem is being faced by both parties.

**b. Arbitrage**

Arbitration and Alternative Dispute Resolution explains that arbitration (referee) is a way of resolving a civil settlement outside general court based on the arbitration agreement made in writing by the parties to the dispute. Arbitration is used to

anticipate scenes that may or may not occur is experiencing a problem that cannot be resolved properly negotiation or consultation or through third parties as well as for avoid settlement through judicial bodies So far it feels like it takes a long time.

c. **Mediation**

Mediation is one of the alternative options used in when a dispute occurs between the customer and the bank cannot be resolved. The main characteristic of mediation is its essence of negotiation the same as the deliberation or consensus process.

2. **Dispute Resolution through Litigation**

The dispute resolution process is carried out through court or which is often referred to as litigation. Litigation itself is a term in law regarding the resolution of a dispute at hand through court. This process involves the disclosure of information and related evidence for the dispute being tried. It's used for avoid unexpected problems in the future. Problem The dispute is resolved under the auspices of the judiciary. Litigation is a dispute resolution carried out through a process proceedings in court where the authority to regulate and The decision is made by the judge. Litigation is a process dispute resolution in court, where all parties to the dispute facing each other to defend their rights in before the court. The final result of a dispute resolution through Litigation is a decision that states a win-lose solution.

In Article 6 point 1 of Law Number 30 of 1999 concerning Arbitration, which essentially states that disputes in the civil sector can be resolved by the parties through alternative dispute resolution based on good faith by excluding litigation settlement in the District Court.

In Case Number 16 / Pdt. G.S / 2022 / Pn Mks, the plaintiff, namely Ahmad Hidayat, filed a lawsuit at the district court suing PT Asuransi Eka Lloyd Jaya. In this case, the main problem was that the Plaintiff experienced a rejection of the claim for transportation of goods. The rejection letter given by the defendant to the plaintiff caused the plaintiff to suffer a loss of Rp. 234,080,000 (Two hundred thirty-four million eight thousand rupiah).

Ahmad Hidayat as the plaintiff chose PT Asuransi Eka Lloyd Jaya as cargo insurance which provides guaranteed protection for goods or property transported via land, sea and air against various risks, which are stated in marine cargo policy number 07030321000181. Policy coverage Port to Port Only which can be said to be Port to Port if the insured goods have been unloaded on the insured goods.

This transportation of goods consisted of 4180 bags of cement carried by the KLM ship Aruna Sentosa. On January 23th, 2022, the KLM Aruna Sentosa was hit by wind and large waves which resulted in the ship running aground on a reef and experiencing a leak so that the hull and hold of the ship were immediately filled with sea water and submerged the 4,180 bags of cement that were still in the hold. Due to this incident, the plaintiff suffered losses.

The losses experienced by the plaintiff were in accordance with the standard insurance policy regarding risks guaranteed by the defendant, so based on this the plaintiff submitted an insurance claim on January 24th 2022 to the defendant.

The claim submitted by the plaintiff was rejected on the grounds that the loss was beyond the defendant's responsibility.

In this case the defendant was proven to have committed a breach of contract based on Marine Cargo Policy Number 07030321000181. It was stated that the Marine Cargo Policy was still valid for the insured goods totaling 4,180 bags of cement which sank with KLM Aruna Sentosa with an insurance claim of Rp. 206,080,000,- (two hundred and six million eight thousand rupiah)

## **CONCLUSION**

Based on the description above, it can be concluded that the cause of the insurance claim lawsuit dispute was because there was a breach of contract in the life insurance claim dispute. Then the route used in the process of resolving the dispute in this case uses litigation or the court process.

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