Ideal Construction of Marine Accident Dispute Resolution

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ABSTRACT

The purpose of this study is to analyze: 1) Is construction in the current marine vessel dispute settlement not ideal? 2) How to reconstruct the ideal marine vessel dispute settlement?. The research method used is empirical juridical with a statutory approach, concept approach, and case studies.

The results showed that the settlement of marine accident disputes requires an ideal construction that includes several important aspects to ensure fairness and efficiency: 1. Comprehensive Regulation: Clear and detailed regulations regarding marine accident dispute resolution procedures are required. This regulation shall include the responsibilities of the various parties, claims procedures, and dispute resolution mechanisms, 2. Special Dispute Resolution Agencies: The establishment of specialized agencies that handle marine accident disputes can help speed up the resolution process. The institution should consist of maritime law experts, ship engineers, and other relevant professionals. 3. Arbitration and Mediation Procedures: The use of arbitration and mediation as an alternative dispute resolution (ADR) can reduce the burden on courts and provide faster and more efficient solutions. 4. Transparency and Accountability: The dispute resolution process should be transparent and accountable. Every step and decision taken must be well documented and accessible to the parties concerned.

By implementing this ideal construction, the settlement of marine accident disputes can be more effective, efficient, and fair, thus providing legal certainty for all parties involved.

Keywords: Construct, Ideal, Dispute, Accident, Ship.

INTRODUCTION

Background

Indonesia is the largest archipelagic country in the world. The sea between the islands in Indonesian territory is not a separating factor, but a unifying factor in realizing the entire territory of Indonesia as a political, socio-cultural, economic and security defense unit, the realization of which can be realized in shipping activities. The sea cannot be separated from land, sea and land are a unified whole.

With such geographical conditions, the position of the sea or waters has an important role, both in terms of economic aspects, communication and transportation, trade, tourism, protection and preservation of nature, as well as for the benefit of security defense. Judging from the aspect of potential and utilization, marine resources in general can be divided into three parts, namely: (a) potential and utilization of biological

resources; (b) the potential and utilization of non-biological resources; and (c) the potential and utilization of marine services.[1]

Shipping in Indonesia is controlled and organized by the state and fostered by the government, through the realization of aspects of regulation, control, and supervision. This form of regulatory aspect is the legal basis for the holding of voyages. Provisions regarding shipping are regulated in Law of the Republic of Indonesia No. 17 of 2008 (UUP). According to the UUP, Article 1 point 1, the definition of shipping is a unified system consisting of transportation in waters, ports, safety and security, and maritime environmental protection. From this understanding, it can be understood that there are two shipping activities, namely transportation activities in the waters and activities to the port. In addition, it is also mentioned about security and safety in the implementation of voyages.

The rise of the accident, being swept away by the waves and failing to lean at the port is an indication that the shipping safety system in Indonesia has not run optimally. To realize shipping safety and shipping security, the role of all parties is needed, namely the government as a regulator, entrepreneurs as operators and not to mention the community as users of sea transportation services.

Ship accidents with various causes will economically be able to harm the owner of the goods due to damage or loss of goods transported and in criminal law there is a possibility of loss of life of passengers or crew of the ship itself. Therefore, Law Number 17 of 2008 concerning Shipping regulates ship accidents which are defined as events that occur on board and have the potential to endanger human life or ship safety, such as ships burning, sinking, colliding, or running aground. A ship accident is an event that can cause great losses to passengers, crew, and ship owners. In civil law, there is a principle of civil responsibility that stipulates that everyone is responsible for his or her own actions. In the context of ship accidents, this principle applies to ship owners who are responsible for losses incurred due to ship accidents caused by negligence on their part.

There are many causes of ship accidents; due to the disregard of the necessity of each vehicle on board to be tied (*lashing*), to the problem of placing goods that do not take into account the weight of the ship and stable arm force. Thus the cause of a ship accident cannot be stated with certainty, but needs to be studied. Various problems related to ship accidents and shipping safety, especially those related to shipping lanes are the background for researchers to conduct an analysis, what factors cause ship accidents.

In the case of ship accidents, there are often losses, both material and non-material. Therefore, it is necessary to settle compensation for parties who suffered losses due to the ship accident. Settlement of damages can be made through civil or criminal channels, depending on the type of accident and loss suffered.

In the context of settling compensation for ship accidents in Indonesia, it is necessary to understand the civil liability held by the parties involved in the ship accident. Civil liability refers to legal liability relating to breach of agreement, neglect of liability, or acts of negligence. This matter must receive serious attention for more in-depth study.

In relation to marine services, the function of the sea conventionally is as a medium of transportation. No exception in today's modern era, where transportation facilities tend to prioritize comfort and relatively fast travel time, sea transportation facilities are still needed. Sea transportation facilities, namely ships, are still a tool that has not been replaced by other means of transportation, such as airplanes or land transportation facilities. Especially in the transportation of goods *(cargo)* both domestic and international.[2]

Therefore, the development of the shipping fleet is still important to pursue, both by modernizing shipping facilities and increasing the number of ships. The condition of domestic sea transportation, both shipping safety facilities and infrastructure, until now does not support the smooth running of sea transportation in the country. In addition to the relatively low order of service and operation of facilities and infrastructure, there

are also many factors surrounding it, such as weak awareness *from* ship owners and companies in implementing effective safety systems and implementative in the field.[3]

The seaworthiness of ships that are more certification-oriented which in fact is not supported by careful inspection, also the supervision carried out by the government on the implementation *(drilling)* of shipping safety requirements is inconsistent. This condition is also exacerbated by the level of security at ports, on ships, and at sea that should be in accordance with international regulations, namely by the application of the ISPS Code, but in reality has not been fully realized.[4]

The large number of ship accidents that occur, generally indicates that shipping conventions both international and national are not adhered to. Although the number of ship accidents that occur is quite high, the handling of ship accidents is still administrative and documentative in nature that does not solve the problem of shipping safety. One of them is that accidents at sea are often repeatedly caused by human *error*.

Accidents in the field of shipping have claimed many lives, property, and pollution of the marine environment. Based on the results of statistical analysis shows about 80% of shipping accidents are caused by human error factors. The mistakes that often occur are from ship operations where ships are seaworthy again due to not making annual repairs and often delayed. In addition, the ship's navigation maintenance was not maintained properly, it could not even be used anymore but still replaced with a new one.[5]

In this study, an analysis will be conducted on the perspective of civil responsibility in the settlement of compensation for ship accidents in Indonesia. Case studies of district court rulings will be used to gain a better understanding of the resolution of shipwreck-related disputes in the context of civil liability. This study will discuss several factors that can affect the resolution of disputes related to ship accidents, such as the role of district courts in resolving disputes, dispute resolution procedures, and other legal aspects related to resolving disputes related to ship accidents.

Ships that have accidents are usually caused by bad weather factors, overloaded ships, or ships that do not meet seaworthiness standards. There are two common causes of ship accidents in shipping in Indonesia. The first is the condition of the fleet of ships used for transportation, because the security on the fleet of ships does not meet good standards. In addition, the fleet of ships used in Indonesia usually comes from other countries and is then purchased by shipping companies in Indonesia. These used ships are usually old and do not meet seaworthiness standards, and their maintenance is not good. This factor is categorized as an internal factor, because the cause of the accident comes from the condition of the ship.

The second factor is related to the operational use of the ship. This factor arises due to the lack of oversight of shipping safety from the responsible authorities. This second factor belongs to the external category, because ship accidents are caused by outside factors that really affect the safety and security of the ship.

In addition to the causes of the conditions mentioned, ship accidents can also be caused by human error even though they are caused by natural factors.[6] All parties involved in shipping activities are responsible for ship accidents that occur. This responsibility lies not only with the government, but also on the syahbandar, captain, ship owner or operator, sea guide officer, port business entity, UPT, and marine inspector. [7]

In addition, the party responsible for the accident is the shipping company. In Article 40 paragraph (1) of Law Number 17 of 2008 concerning Shipping, it has been stated that: "Transport companies in waters are responsible for the safety and security of passengers and / or goods transported".

The responsibility of the transportation company in sea transportation to passengers begins from the time the passenger is transported to the agreed destination. Likewise, responsibility for the owner of the goods (sender) begins from the time the goods are received for transportation until the delivery of the goods to the sender or receiver. Which is where the responsibility is due to the occurrence of an accident. An accident is an unintended and unexpected event that can cause human and/or property casualties.

There are several principles of carrier responsibility in sea transportation, namely;

1. Presumption *of Liabelity*;
2. Responsibility on fault *or negligence*;
3. Absolute Liability of the Carrier;
4. Limitation of Libelity*;*
5. *Presumtion of Non Liability;*

From the description above, it then arises an interest in conducting a research on transportation safety in general is the right of every citizen. Behind ship accidents that often occur, in fact, often also cause victims and / or parties who are harmed as a result of the accident. To obtain liability for losses incurred, victims and/or aggrieved parties can file a lawsuit in court. In terms of suing the aggrieved party, of course, strong evidence will be needed. Because basically the judge's decision will be based on the evidence of the parties. In civil terms, the losing party will be subject to punishment or sanctions, while in criminal terms the party found guilty will be subject to criminal sanctions.

Problem Statement

1. Is construction in the current maritime dispute settlement not ideal?
2. How is the ideal reconstruction of marine vessel dispute resolution?

THEORETICAL FRAMEWORK

1. Theory of Accountability (Hans Kelsen)

The responsibility of the transportation company in sea transportation to passengers begins from the time the passenger is transported to the agreed destination. Likewise, responsibility for the owner of the goods (sender) begins from the time the goods are received for transportation until the delivery of the goods to the sender or receiver. Which is where the responsibility is due to the occurrence of an accident. An accident is an unintended and unexpected event that can cause human and/or property casualties.

Liability theory is a legal concept that asserts that every individual or legal entity is responsible for the actions or omissions he committed. This concept aims to encourage individuals or legal entities to act responsibly and prevent harm to other people or parties. This theory is also the basis for determining sanctions or punishments given if there is a violation of the law.[8]

In the context of ship accidents, liability theory is applied to all parties involved in shipping activities, such as ship owners or operators, captains, syahbandar, sea guide officers, port business entities, UPT, and marine inspectors. Each of these parties has different responsibilities, depending on their respective roles and authorities in shipping activities.

The application of liability theory in the case of ship accidents is important because it can minimize the risk of accidents and encourage related parties to act responsibly. In the settlement of damages for ship accidents, the perspective of civil liability becomes important to explain and analyze further.

According to Article 1367 of the Civil Code, hereinafter abbreviated as the Civil Code, legal liability to a person who suffers a loss is not only limited to his own actions, but also his actions, employees, employees, agents, representatives if they cause losses to others, as long as the person acts in accordance with the duties and obligations imposed on that person.

The responsibility of the transportation company in sea transportation to passengers begins from the time the passenger is transported to the agreed destination. Likewise, responsibility for the owner of the goods (sender) begins from the time the goods are received for transportation until the delivery of the goods to the

sender or receiver. Which is where the responsibility is due to the occurrence of an accident. An accident is an unintended and unexpected event that can cause human and/or property casualties.[9]

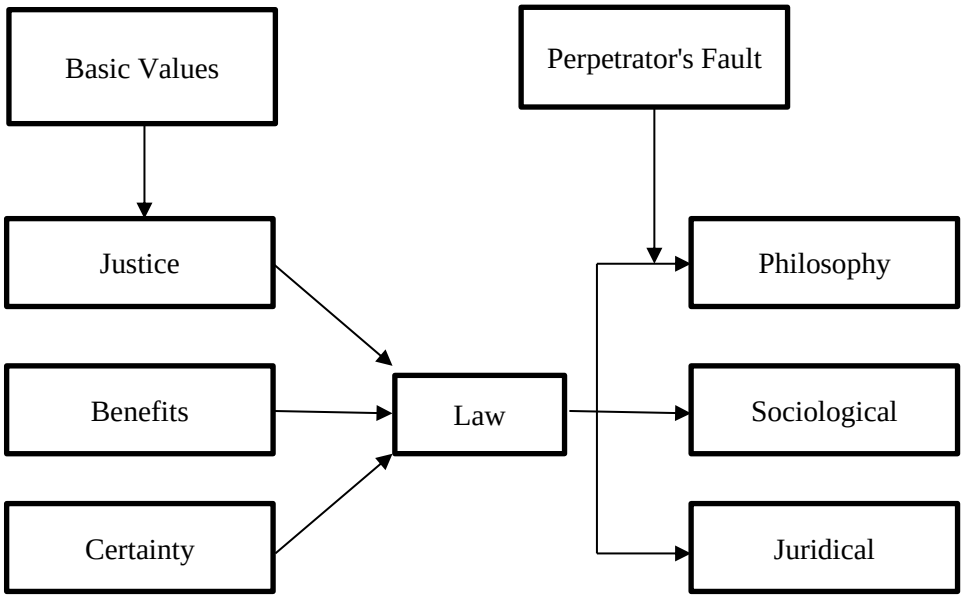
2. Theory of Legal Certainty

According to Hans Kelsen, legal norms are rules, patterns or standards that need to be followed. Then it is further explained that the functions of legal norms, are:[10] Rule, Forbid, Control, Allow and Store. In specializing in discussion or discussion of legal methods or norms, it is necessary to understand in more depth the theory *"stufenbau"* of Hans Kelsen. According to Hans Kelsen, the legal method of a country, is a hierarchical system of legal methods in a very simple form.[11]

The legal basis that overshadows the guarantee of security and safety in shipping has actually been regulated in Law Number 17 of 2008 concerning Shipping. In the law, it is stated that shipping safety and security is a condition of fulfillment of safety and security requirements concerning transportation in waters, ports, and the maritime environment. However, various accidents at sea still often occur

Satjipto Rahardjo argues that legal principles can be defined as the "heart" of legal regulations,7 therefore to know a legal regulation a legal principle is also needed.

Satjipto Rahardjo in his book entitled "Science of Law", described three basic values of a law on the basis of its validity, while the picture is as follows:[12]



It can be seen from the series of concepts above, then legal certainty is actually interpreted as a condition where it is certainly legal because of the real power for the law concerned. The condition of a legal certainty is a form of protection for the public concerned with legal cases or justice seekers (judicial) against arbitrary actions, which means that a person will and can obtain something that is really expected in certain circumstances.[13]

The concept gives the understanding that Legal Certainty has 2 (two) aspects, where the first can be determined by law in concrete terms and the second can be determined by law as a form of legal security, meaning that parties seeking justice want to know what is the law in a certain matter before they start a case and to get protection for justice seekers.

3. Theory of Legal Protection

The presence of law in public life is useful to help and coordinate interests that usually conflict with each other, therefore, the law must be able to integrate it so that conflicts of interest can be suppressed to a

minimum. Meanwhile, Hulman Panjaitan said the purpose of legal protection is to provide a sense of security, certainty and justice for the community.[14]

The word "protection" itself means providing protection to the weak so that legal protection can also be interpreted as protection given by the government to someone to provide a sense of security, justice and certainty of their rights in public life and national life, both in the form of services, laws and regulations or other policies, including in the practice of law enforcement itself.[15]

According to Satjipto Rahardjo, legal protection is an effort to protect one's interests by allocating a human right power to him to act in the framework of his interests.[16]

According to Philipus M. Hadjon, legal protection is the protection of dignity and dignity, as well as recognition of human rights possessed by legal subjects based on legal provisions from arbitrariness or as a collection of regulations or rules that will be able to protect one thing from another. With regard to consumers, it means that the law provides protection for customer rights from something that results in the non-fulfillment of these rights.[17] Various definitions have been put forward and written by jurists, which basically provide an almost simultaneous limitation, namely that the law contains the regulation of human behavior.[18]

As described above, regarding legal protection, it is important to want legal regulatory efforts in legislation made by authorized parties so that as a result business actors and consumers can comply with these legal values.

According to the basic concept of shipping safety, ships that want to sail must be in *seaworthiness*. That is, the ship is fit to face various risks and events reasonably in the voyage. The ship deserves to receive cargo and transport it and protect the safety of its cargo and crew (ABK). Shipworthiness requires the ship's building and engine condition to be in good condition. Skippers and crew must be experienced and certified.[19] Equipment, stores and bunkers, as well as security equipment are adequate and qualified. Most of the vessels operating in Indonesian waters are old vessels. These ships are generally managed by human resources whose quality of professionalism is low. Ship accidents that occur generally indicate non-observance of shipping conventions both internationally and nationally.[20]

RESEARCH METHODOLOGY

The type of research used is empirical juridical research. Empirical juridical research which in other words is a field research, which examines the provisions of applicable law and that have occurred in people's lives. Or in other words, it is a research carried out on the actual situation or real situation that has occurred in the community with the intention of knowing and finding the facts and data needed.[21]

The research approach applied in this study is empirical juridical. This research uses an empirical juridical approach in accordance with the type of research, namely empirical juridical legal research, so more than one approach can be used.[22] In this study, a statutory approach and a comparative approach were used.[23] By containing a description that is researched based on a carefully and in-depth literature review. Legal research conducted by examining library materials or secondary data.[24]

In legal research, it is knowing about legal processes, legal events, legal regulations, and knowing the substance and legal procedures.[25] Legal research is carried out to find solutions to legal issues that arise, so that it can be done that legal research is a research within the framework of *knowhow* in law. To get regulatory guidance on what should be done about the issues raised.[26] Because conducting a legal research basically cannot be separated from the use of research methods. Because, every study must use methods to analyze the problems raised.

RESEARCH RESULTS

Construction in the settlement of marine vessel disputes is currently not ideal

Disputes are inevitable if humans are at odds with each other or there are differences in understanding with other humans in everyday life. According to Soeryono Soekanto[27], dispute can also be interpreted as a condition where there is incompatibility between individuals or groups that enter into relationships because the rights of one party are disturbed or violated. In a legal perspective, disputes can originate from the default of one of the parties involved in a legal relationship.

The birth of a legal responsibility begins with an engagement that gives birth to rights and obligations. According to the provisions of Article 1233 of the Civil Code, rights and obligations (engagements) originate from agreements and laws. Engagements originating from law are further divided into acts according to law and unlawful acts, while the emergence of an engagement born because of an agreement imposes on the parties who make an agreement to carry out rights and obligations or known as "performance", if one party does not carry out the performance then it can be said to have defaulted.

The scope of default in the context of sea transportation is described in Article 40 paragraph (1) of the Shipping Law which states that; "Transport companies in waters are responsible for the safety and security of passengers and/or goods they carry." then in Article 41 paragraph (1) of the Mourning Law states; Water transportation companies are responsible for the consequences caused in the operation of ships in the form of:

1. death or injury of the passenger being transported;
2. destruction, loss, or damage to the goods transported;
3. Delays in the transportation of passengers and/or goods transported; or
4. Third Party Losses

According to PNH Simanjuntak, default is a condition where a debtor (debtor) does not fulfill or carry out performance as it should as stipulated in an agreement. Default (negligent / negligent / negligence) can arise due to the intention or negligence of the debtor itself and due to factors of force *majeure (overmacht / force majeur).* The criteria for a debtor are said to have defaulted if:

1. The debtor does not fulfill the feat at all;
2. The debtor meets the achievement, but not as it should;
3. The debtor meets the achievements, but not on time and
4. The debtor fulfills the merit, but is not obliged in the agreement.

In general, a default will occur if one party is declared to have neglected to fulfill the performance or in other words a default exists if one party cannot prove that he has committed the default beyond his fault or due to force majeure. Default committed by one party can of course cause losses to the other party.

Legal disputes or disputes in a legal relationship can generally be resolved through two ways of resolution, namely:

1. Amicable settlement (non-litigation),
2. Settlement through authorized institutions or institutions (litigation).

Both types of dispute resolution above can also be applied in sea freight. However, both types of dispute resolution have their own advantages and disadvantages.

Peaceful settlement of disputes, requires the willingness and ability to negotiate to achieve a peaceful settlement of disputes. The use of a non-litigation dispute resolution model prioritizes a "consensus"

approach and seeks to bring together the interests of the disputing parties and aims to obtain the results of dispute resolution towards *a win-win solution*.

The justice to be achieved through this mechanism is commutative justice. Meanwhile, settlement through authorized institutions or agencies requires knowledge of the procedures and / or rules that apply to the resolution of the dispute, namely in the form of procedural legal rules.

In addition, sea transportation can also apply legal protection as stipulated in the Consumer Protection Law. Based on the provisions of Article 1 point 1 of the UUPK states "Consumer protection is all efforts that ensure legal certainty to provide protection to consumers". The above formulation is an effort by the framer of the law to fortify or to protect consumers from arbitrary actions of business actors.

According to Yusuf Shofie, consumer protection law in Indonesia groups consumer protection norms into 2 (two) groups, namely;

1. Prohibited acts for business actors
2. Provisions on the inclusion of standard clauses.

So that if the business actor, in this case, the carrier violates one of the prohibited acts in the UUPK which can cause losses to consumers, in this case passengers, the aggrieved consumer can resolve the dispute through filing a lawsuit against the business actor, either through the institution in charge of resolving disputes between consumers and business actors or through courts in the general court environment, as stipulated in Article 45 of the Law which states:

Based on Article 45 paragraph (2) of the Law, the settlement of consumer disputes can be taken through the court or outside the court based on the voluntary choice of the parties to the dispute. Thus, the parties are given the authority to choose in resolving their problems both court and outside the court.

Transportation at sea using ships is regulated in the second Book of the Commercial Law Code (hereinafter: "KUHD") title VA Article 466 KUHD concerning the transportation of goods and title VB Article 521 KUHD concerning the transportation of persons. Sea freight activities carried out in Indonesian territorial waters are commonly referred to as "Shipping".

Shipping is a unified system consisting of transportation in territorial waters, ports, safety and security and protection in maritime areas. This is clearly stated in the applicable rules through Law Number 17 of 2008 concerning Shipping (hereinafter: "Shipping Law"). The Shipping Law was issued so that there is no legal vacuum in accordance with the basic principles of legality and also the application of applicable legal rules because in the implementation of shipping activities there are still many sea accidents caused by several factors including human error factors, technical factors and natural conditions that cannot be avoided.

Ship accidents with various causes will economically be able to harm the owner of the goods due to damage or loss of goods transported and in criminal law there is a possibility of loss of life of passengers or crew of the ship itself. Therefore, Law Number 17 of 2008 concerning Shipping regulates ship accidents which are defined as events that occur on board and have the potential to endanger human life or ship safety, such as ships burning, sinking, colliding, or running aground.

A ship accident is an event that can cause great losses to passengers, crew, and ship owners. In civil law, there is a principle of civil responsibility that stipulates that everyone is responsible for his or her own actions. In the context of ship accidents, this principle applies to ship owners who are responsible for losses incurred due to ship accidents caused by negligence on their part. In Indonesia, ship accidents that result in losses often cause problems related to compensation settlement. The decision of the district court in this case is one of the means of dispute resolution that is often used.

However, in practice, there are some cases where district court rulings cannot provide justice for the aggrieved party. In the case of ship accidents, there are often losses both material and non-material. Therefore, it is necessary to settle compensation for parties who suffered losses due to the ship accident. Settlement of damages can be made through civil or criminal channels, depending on the type of accident and loss suffered.

In Indonesia, the jurisdiction and authority of the Shipping Court is very limited, even though it has been regulated in several laws and regulations. Currently, the Shipping Court can only impose disciplinary sanctions, as mentioned in Law Number 22 of 1999, "its duty is limited to imposing sanctions in the form of administrative punishments related to the marine profession."

In its decision, the Shipping Court has the authority to conduct further examinations to reinstate the decision on the ship accident, including imposing sanctions in the form of administrative penalties or penalties. Once the judgment is decided, he cannot exercise executory proceedings against material damages suffered by the aggrieved party, even if the judgment of the Shipping Court lists liability for damages.

His ability is only to perform administrative actions. The judgment that the Shipping Court can make from a juridical perspective is only a recommendation, not a juridical ruling. This is because the Court of Shipping is an executive institution rather than a judicial institution (Supreme Court). So, the decision of the Shipping Court in this case is only a suggestion that the aggrieved party can use to file a lawsuit with the District Court.

Reconstruction of Ideal Marine Vessel Dispute Resolution

The dispute resolution process should look at the source of the accident first. According to the Commercial Law Code in the event of a ship collision caused by: a. unforeseen events; b. overmacht; or c. According to Article 535, any individual who suffers a loss shall be solely liable because the cause of the collision of the ship is doubtful.

According to Molengraaff and Vollmar, the provisions contained in Article 535 are in line with the contents of Article 12 paragraph (1) of the 1910 Brussels Treaty. This was created because some countries have regulations stating that the owner of the ship in collision must be held simultaneously responsible for losses.

As stated in Article 536, the ship's employer—not the owner of the ship at fault—is liable for all losses incurred if the collision occurred through the fault of either party. There is a strange sense here, that is, the fault of the ship. There are two things to note from this understanding:

1. The ship's owner, not the ship's owner, is responsible for all losses incurred as a result of the collision. Losses caused by ship collisions should be prioritized over the proceeds of ship sales.
2. The blame should come from the ship, not from the individual.

According to the "Memorie van toelichting" mentioned in this article in the Netherlands, a ship's fault only occurs if the ship in question sails incorrectly for some reason on board, no matter what reason the ship has. The causes can be: 1. Defects in the vessel caused by imperfect shipbuilding, maintenance, or supervision; or 2. Wrong command from the skipper or wrong execution.

From the perspective of Article 1367 of the Civil Code, number 2 is common, but number 1 is extraordinary. According to Article 1367 paragraph (5) of the Indonesian Civil Code, the shipowner can shirk his responsibility if the loss is caused by a ship defect, while Article 536 of the Indonesian Civil Code states that the shipowner is obliged to compensate for losses caused by the ship's defect. Thus, the framers of the Dutch law argued that shipowners were considered willing to take any risk because of their courage to operate ships at sea, which brought various dangers to ships, passengers and cargo.

The responsibility of the shipowners concerned is stipulated in Article 537 if the collision occurred due to the fault of both parties:

1. Article 537 paragraph (1) stipulates that the responsibility of the shipowners concerned is according to the balance of their respective faults. Therefore, in cases where the owner of one ship is sued by the owner of the other, the defendant can say that the mistake was made by both parties to reduce the amount of losses demanded. Losses are not calculated based on whether or not either party made a mistake intentionally. Instead, losses should be calculated at the point at which a particular vessel's fault affects the incurrence of losses.
2. Article 537 paragraph (2), which states that the plaintiff does not need to show fault himself. It is enough to wait until the defendant makes a mistake and pays the loss. If equilibrium is not reached, each shipowner will have to replace half of it.
3. Article 537 paragraph (3) states that the victim's family can ask one of the shipowners concerned to compensate if the collision causes death. These shipowners can also hold other shipowners accountable for their mistakes in these collisions.

Article 537 does not regulate the situation in which two ships make a mistake in crashing into a third ship. In this case, Article 1367 of the Indonesian Civil Code is used, which can be interpreted as follows: if two persons are accused of an unlawful act, each of them can be sued to pay damages in its entirety, with the right to consider it for the other party who is also guilty.

From these reasons, the dispute resolution process will go through the courts. It is very important to establish a court of authority to handle cases of ship accidents, especially ship collisions, because most cases occur outside territorial sea waters. Provisions: Article 543 aims to encourage plaintiffs to file a lawsuit with the competent Judge in the country in all cases, namely:

1. Before a Judge at the place of residence of the defendant or, in the case of many defendants, at the residence of one of them;
2. Before a Judge in the jurisdiction where the ship collision occurred;
3. Before the Magistrate at the location where the defendant's ship was registered;
4. In the face of the Magistrate in the place where In the event of a ship collision, there will definitely be losses.

A person may confiscate the vessel concerned with the permission of the chief justice of the district court in the jurisdiction where the vessel is located when the application is filed to ensure that the losses owed will be paid (Article 542 paragraph (1)).

After the accident occurs, a Ship Accident Report and Chronological Minutes must be made by the Master of the ship concerned. In addition, when an accident occurs, the syahbandar from the nearest port must also make a Minutes of Record, or resume, about the ship accident.

Article 209 of Law No. 17/2008 also states that the syahbandar is responsible for conducting an examination of ship accidents before proceeding to the Shipping Court. Government Regulation No. 1 of 1998 concerning Ship Accident Examination will provide for further examination by the Shipping Court. The preliminary examination will also determine who will be involved in the ship accident.

The Skipper, Ship Leader, and/or Ship Officer who is suspected of committing errors or negligence in carrying out the standards of the marine profession that caused the accident is considered involved.

A witness is any person who can provide information for the purpose of examination about a ship accident event that is heard, seen by himself, or experienced by himself, or other parties who have a direct or indirect relationship with the event or event. In addition to witnesses, the Shipping Court also has the authority to summon others to give their testimony.

CONCLUSION

Dispute resolution of marine accidents requires an ideal construction that includes several important aspects to ensure fairness and efficiency. Here is the conclusion of such an ideal construction:

1. **Comprehensive Regulation**:
   - Clear and detailed regulations regarding the procedure for resolving marine accident disputes are required. These regulations should include the responsibilities of the various parties, claims procedures, and dispute resolution mechanisms.

2. **Special Dispute Resolution Agencies**:
   - The establishment of a special institution that handles disputes over marine accidents can help speed up the resolution process. The institution should consist of maritime law experts, ship engineers, and other relevant professionals.

3. **Arbitration and Mediation Procedure**:
   - The use of arbitration and mediation as an alternative dispute resolution (ADR) can reduce the burden on courts and provide faster and more efficient solutions.

4. **Transparency and Accountability**:
   - The dispute resolution process must be transparent and accountable. Every step and decision taken must be well documented and accessible to the parties concerned.

By implementing this ideal construction, the settlement of marine accident disputes can be more effective, efficient, and fair, thus providing legal certainty for all parties involved.

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FOOTNOTES

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