

CHAPTER V
CONCLUSION AND SUGGESTIONS

A. Conclusion

1. The Liability of The Carrier (The Captain and The Shipowner) Against the Loss of Passengers

a. The liability of the captain

The liability of the captain of the ship is based on the provisions of Article 117 of Law No. 17 of 2008 on Shipping. KM Lestari Maju sank because of a leak in the hull of the ship. The ship was not sea-worthy or did not meet the standards of sailing (kelaiklautan). The captain shall get punishment in the criminal act because his actions caused many victims, and this is based on Article 302 in Law No. 17 of 2008 on Shipping.

b. The liability of the shipowner

The carrier must also fulfill passengers' safety and security and the right to be responsible when the passengers becomes victims, and this is based on Article 40 and 41 Law No. 17 of 2008 on Shipping. The carrier are obliged to insure their responsibilities and carry out basic public passenger protection insurance in Article 41 Law No. 17 of 2008 on Shipping, everyone who does not ensure its responsibility as referred to in Article 41 paragraph (3) shall be punished based on Article 292 of Law Number 17 of 2008 on Shipping. The clauses on the ticket of passengers

can be detrimental to passengers who want to take responsibility and compensation. This is actually guaranteed in Article 40 paragraph (1) of Law No. 17 of 2008 on Shipping.

2. The Legal Efforts of Passangers in Losses of Sea Transportation

The legal efforts for passenger in the loss of life according to Article 41 Law No. 17 of 2008 on Shipping to the provisions of the legislation in the event of an event or situation that causes the loss of life, the transporter is responsible for compensating for the loss of life by passengers to be given in the form of compensation, compensation for the cost of care, and permanent disability benefits for victims of accidental public transportation based on Article 7 Law no.33 of 1964 on Passenger Accident Insurance Funds.

Regarding the legal efforts for passenger in the loss of goods, the clause on the ticket was also not in accordance with Article 18 paragraph (1) of Law No. 8 of 1999 on Consumer Protection, which states about the release of the responsibility of the transport company for passenger goods. The company did not fulfil its obligations, namely according to Article 40 Law No. 17 of 2008 on Shipping and Article 18 of Law No. 8 of 1999 on Consumer Protection. The related legal efforts for passenger for the loss of goods in sea transportation are through litigation and non-litigation; this is in accordance with the contents in Article 45 paragraph (2) of Law No. 8 of 1999 on Consumer Protection.

B. Suggestions

1. It is expected that the Institution for the protection of consumers of ships' passengers in ports must exist in each port. This is related to the many problems that occur at the port, both from the users of sea transportation services and from the sea transporters, so that when problems arise they can be resolved through this institution.
2. It is expected that the sea transporters in this case the KM Lestari Maju and related parties must provide adequate supporting facilities and infrastructures, especially in terms of security and comfort in the port, so that the users of sea transportation services are guaranteed more secure and comfortable when traveling by ship.
3. The parties involved in sea transportation must be careful in carrying out the transportation business. They should not only pursuing profits but ignoring the mans' souls, but the sea transportation party must also provide passenger safety equipment. Likewise, the sea freight supervisor in this case the Syahbandar party is not easy to issue a sailor feasibility letter in order to avoid marine vessel accidents in Indonesia.
4. The important role of the government is to monitor the ports, so that there is no more sinking ship due to overcapacity. The government also needs to review the law regarding the problem of losses charged by passengers, based on the ticket clause.