

Is the Master Civil Liable Based on Sea Freight Arrangements in Indonesia?



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ARTICLE INFO

Article history

Received: November 10, 2023

Revised: December 20, 2023

Accepted: January 15, 2024

Keywords

Marine;

Sea;

Regulation;

ABSTRACT

This research aims to analyze the regulations regarding the civil liability of the master based on the Maritime Transport Regulations in Indonesia. This research is normative legal research using secondary data and a statutory regulatory approach. The research results show that, first, if the captain, in carrying out his duties and authority, causes losses to shippers or passengers, including other material losses, due to his negligence, mistake, or error, then the master is not civilly responsible; however, if the master is due to negligence, mistake, or mistake, causing damage or destruction to the goods being transported or passengers suffering minor injuries, serious injuries, permanent disability, or death. Second, the weaknesses in the current regulation of ship worker responsibilities consist of legal weaknesses in terms of legal substance, where the responsibilities of ship workers have not been regulated strictly in the shipping law, and weaknesses in terms of legal structure, namely the legal understanding of law enforcement officials, which is still lacking in action. Shipping Crimes: There is no Special Court for Shipping Crimes, and Human Resources for Law Enforcement Officers for Shipping Crimes still needs to be improved.



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1. Introduction

Indonesia is an archipelagic nation with approximately two-thirds of its land area consisting of sea.¹ About 70% of Indonesia's land is in waters with significant marine resources, including fisheries, marine industry, marine services, transportation, and maritime tourism. Indonesia's ocean area covers 5.8 million

¹ Adrian Nugraha and others, 'Revisiting Indonesia's Governance and Conservation of Cetaceans', *IScience*, 27.1 (2024), 108585 <https://doi.org/https://doi.org/10.1016/j.isci.2023.108585>

square kilometers, with a coastline length of 95,181 kilometers and a water area of 5.8 million square kilometers. Indonesia, known for its 17,500 islands, has yet to fully utilize its vast shallow waters spanning 24 million hectares and the bay covering 4.1 million hectares. The preamble of Law No. 32/2014 on Maritime Affairs specifies that management should align with the national development interests of the country's population. Indonesia's maritime administration should align with the assertion of national sovereignty, ensuring continuity and sustainability, and should not be manipulated to meet economic interests controlled by specific groups.²

The sea is a water body connecting landmasses and other natural features, forming a geographical and ecological unity. Its system is governed by legal regulations and international laws aimed at utilizing marine resources for economic development, transforming marine wealth into natural resources, and, ultimately, capital to benefit society and nation-building. Maritime transportation has consistently been a viable choice for society, particularly stimulating economic growth. Sea transportation provides cost-effective services for passengers and bulk trade commodities over vast distances, offering lower rates than land and air transportation. Ships are crucial for generating revenue as shipping businesses aim to maximize earnings through their transportation services.³

To ensure a company's advancement, shipping businesses need to be financially viable, with revenue exceeding expenses, requiring operational costs to be minimized. Ship repair significantly impacts revenue and operational costs, indirectly increasing the ship's sailing days. The ship's condition is crucial for assuring the safe arrival of people or cargo at their destination. Despite the ships being old, they must be well-maintained to ensure the ship's safety, crew, cargo, and environment.⁴ Despite the crucial role of the ship's condition in ensuring passenger safety, many sea transportation service owners need to pay more attention to this aspect. Failure to prioritize passenger safety will lead to the execution of Law Number 17 of 2008 regarding shipping. The ship is deemed unseaworthy due to its failure to meet the regulatory safety and security standards. Expired ship certificates, insufficient safety equipment, missing ship

² Heini M Natri and others, 'Genetic Architecture of Gene Regulation in Indonesian Populations Identifies QTLs Associated with Global and Local Ancestries', *The American Journal of Human Genetics*, 109.1 (2022), 50–65 <https://doi.org/https://doi.org/10.1016/j.ajhg.2021.11.017>

³ Arie Afriansyah, Leonardo Bernard, and Christou Imanuel, 'Should Indonesia Regulate Foreign Military Activities in Its EEZ?', *Marine Policy*, 159 (2024), 105931 <https://doi.org/https://doi.org/10.1016/j.marpol.2023.105931>

⁴ Phuchiwan Suriyawong and others, 'Airborne Particulate Matter from Biomass Burning in Thailand: Recent Issues, Challenges, and Options', *Heliyon*, 9.3 (2023), e14261 <https://doi.org/https://doi.org/10.1016/j.heliyon.2023.e14261>

registration marks, overloaded cargo, and discrepancies between cargo and documentation pose deadly risks if the ship remains in operation.⁵

There are often numerous issues that arise. The ship's captain, who neglected security and safety protocols on board, was in violation, potentially endangering the passengers or cargo. Government Regulation Number 20 of 2012 on Water travel defines ferry travel as a means of transportation that connects road networks or areas separated by railway lines to convey passengers over water. Although not synonymous, the right to legal settlement encompasses the right to compensation. Consumers can receive compensation without necessarily initiating legal proceedings. Conversely, any legal action inherently includes a request for remuneration by one of the parties.⁶

Ship workers are those the ship owner or operator engages to do specific activities on the ship as outlined in their certificate book. Marine workers possess distinctive traits when compared to those in other fields. According to data from the Central Statistics Agency, Indonesia's employment in the shipping sector is reported to be 50.62 million. Currently, are 1,143,290 individuals employed at sea, consisting of 1,120,462 males and 22,828 females. Based on this data, it may be inferred that seafarers constitute a minority of the workforce compared to land-based workers.⁷

Maritime security and safety patrol operations, involving multiple stakeholders at sea and coordinated by patrol vessels under the Directorate General of Sea Transportation, are used to enforce laws related to Shipping Law. Deployed at various Sea and Coast Guard Bases and Technical Implementation Units across the territory of the Republic of Indonesia, there have been instances recorded during maritime safety and security patrols where ships possessing a Sailing Approval Letter from the authorized Harbor Master were found to be unseaworthy during inspections conducted at sea by patrol boats. The daily ship administration during shipment is a crucial document per laws. The primary purpose of publishing a ship's diary is to establish its potential value as legal proof in court proceedings if any unfavorable incidents arise that could impact the

⁵ Muliari Muliari and others, 'Pollutant Levels in the Waters of the Industrial Area of North Aceh and Lhokseumawe Regency, Indonesia', *Marine Pollution Bulletin*, 201 (2024), 116170 <https://doi.org/https://doi.org/10.1016/j.marpolbul.2024.116170>

⁶ Natali Pearson and Benjamin S Thompson, 'Saving Two Fish with One Wreck: Maximizing Synergies in Marine Biodiversity Conservation and Underwater Cultural Heritage Protection', *Marine Policy*, 152 (2023), 105613 <https://doi.org/https://doi.org/10.1016/j.marpol.2023.105613>

⁷ Moses Gregory Ginting and others, 'Electrification of Public Buses in Jakarta, Indonesia: A Life Cycle Study', *Science of The Total Environment*, 914 (2024), 169875 <https://doi.org/https://doi.org/10.1016/j.scitotenv.2024.169875>

carrier, master, or cargo owner. This pertains to the notion of justice, and there is no requirement for a ship's log.⁸

According to Article 224 of Law Number 17 of 2008 regarding Shipping, all individuals employed on a vessel in any capacity must possess the necessary skills, maritime credentials, and certification from the Harbor Master. As specified in paragraph (1), the Ship's Crew Certificate is issued at the signing phase. Seafarers and sea transportation companies have maritime work agreements recognized by the harbormaster. The Master records the names and positions of the ship's crew in a certificate book approved by the harbormaster based on these agreements and the crew's skills. Hence, all individuals employed at sea must be provided with safeguards, necessitating the establishment of a marine labor pact between employers and seafarers.⁹

A marine work agreement is a legal contract between a ship owner and a ship worker in which the ship worker agrees to work for the ship owner in exchange for payment. The Master symbolizes the entrepreneur. The entrepreneur is an individual or organization that operates a ship for marine shipping services by personally conducting the shipment or delegating the task to a captain. The captain is a crew member with the most significant authority aboard the ship, ensuring compliance with rules and regulations. The anticipated shipping safety standard is to attain zero incidents involving ship captains.¹⁰

The captain has total authority on the ship, and passengers must comply with the captain's commands for security and maintaining order and discipline. While the captain is the primary employee of the ship's operator, they are responsible for the ship. They must act with competence, precision, and knowledge to fulfill their duties as required. The skipper must adhere rigorously to standards and current provisions to guarantee the ship's navigability, passenger safety, and cargo transportation. The skipper will only embark on the journey if the ship fulfills the necessary conditions and is adequately supplied with an ample crew.¹¹

Criminal acts related to Shipping are specifically governed by the Criminal Code (KUHP) in the second book, Chapter XXIX, which covers shipping crimes.

⁸ Siti Arieta and others, 'Calling for Institutional Arrangements in Napoleon Wrasse Conservation and Management in Indonesia: The Anambas Islands Case', *Marine Policy*, 145 (2022), 105258 <https://doi.org/https://doi.org/10.1016/j.marpol.2022.105258>

⁹ Alexandra Langford, Welem Turupadang, and Scott Waldron, 'Interventionist Industry Policy to Support Local Value-Adding: Evidence from the Eastern Indonesian Seaweed Industry', *Marine Policy*, 151 (2023), 105561 <https://doi.org/https://doi.org/10.1016/j.marpol.2023.105561>

¹⁰ Worradorn Phairuang and others, 'Daytime-Nighttime Variations in the Concentration of PM0.1 Carbonaceous Particles during a Biomass Fire Episode in Chiang Mai, Thailand', *Particulology*, 87 (2024), 316–24 <https://doi.org/https://doi.org/10.1016/j.partic.2023.09.013>

¹¹ Sylvie N Tranter and others, 'The Inclusion of Fisheries and Tourism in Marine Protected Areas to Support Conservation in Indonesia', *Marine Policy*, 146 (2022), 105301 <https://doi.org/https://doi.org/10.1016/j.marpol.2022.105301>

This includes offenses such as piracy, making false statements about sailing permits, violating agreements, and assaulting the captain. Since the implementation of Law Number 17 of 2008 on Shipping, restrictions regulating illegal activities in the shipping industry have expanded to include individuals and corporations.¹² According to Article 333 of the Shipping Law, corporations are held responsible for criminal acts in the shipping industry if they are carried out by individuals on behalf of the corporation or in its interest, whether through work relationships or other connections, within a corporate setting, either individually or collectively. Corporations in the shipping sector can face investigations, prosecutions, and penalties for criminal conduct, which might be directed toward the firm itself or its management. In addition, the penalties may be tripled from the amount specified in the shipping law. Although the Shipping Law has been expanded, it does not govern the crime of piracy as stipulated in the Criminal Code.¹³

According to Law Number 17 of 2008 on Shipping, every ship must promptly provide letters, documents, and records to the Harbor Master upon arrival at a port. The captain, ship owner, and ship operator also informed the harbormaster about the arrival. The skipper must complete, sign, and deliver ship records to the harbor manager. Article 137, paragraph 3 of Law Number 17 of 2008 about Shipping specifies that Master is accountable for the accuracy or legality of the material papers associated with the ship's cargo. The regulations regarding the duties of ship personnel are outlined in the Commercial Code from Article 375 to Article 392 and in Law Number 17 of 2008 concerning Shipping, namely in Articles 142 and 143. Sailors must comply with the captain or ship leader and cannot leave the ship without their consent. If a shipworker fails to fulfill their commitments, they may face the consequence of not receiving a Sailing Approval Letter (SPB).¹⁴

The previous studies related to this theme have been carried out, for example, Barbara Stepien in Marine Policy, "Can a ship be its captain? Safe management of autonomous and uncrewed vessels". The research states that new maritime technologies—autonomous and uncrewed vessels—are already poised to revolutionize the shipping industry. However, they are virtually unregulated under the current maritime laws, which raises significant safety and social impact

¹² Mauliza Fatwa Yusdian and others, 'Concept Design of Military and Civilian Interoperability Based on Sensing Technology to Support Defense Systems in the Malacca Strait Region', *Remote Sensing Applications: Society and Environment*, 32 (2023), 101034 <https://doi.org/https://doi.org/10.1016/j.rsase.2023.101034>

¹³ Mai Kai Suan Tial and others, 'Size-Fractionated Carbonaceous Particles and Climate Effects in the Eastern Region of Myanmar', *Particuology*, 90 (2024), 31–40 <https://doi.org/https://doi.org/10.1016/j.partic.2023.11.010>

¹⁴ Tumiran and others, 'Maximum Penetration Determination of Variable Renewable Energy Generation: A Case in Java–Bali Power Systems', *Renewable Energy*, 163 (2021), 561–70 <https://doi.org/https://doi.org/10.1016/j.renene.2020.08.048>

issues. Can their incorporation into the maritime legal order occur through a policy decision by the international community, or are substantial amendments to existing laws or the adoption of new international legal instruments necessary? Siqi Sun's journal *Ocean and Coastal Management* research states that a port state is not obliged to allow foreign cruise ships to dock at its port at the cost of its domestic public health and safety.

Regarding the *Diamond Princess*, the Japanese government has undertaken pandemic preventive measures against passengers on board the ship and complied with its domestic laws, including the Japanese Quarantine Act. This article further evaluates whether a port state's pandemic preventive measures concerning cruise ships are appropriate from the perspective of law. More importantly, it is necessary to consider the characteristics and specialties of international cruise ships to improve future pandemic preventive measures against large passenger ships and cruise passengers. Another study by Goran Vojković in the journal *Case Studies on Transport Policy* also explains the emergence of autonomous ships, where at least part of the journey is going to be led by artificial intelligence (AI), bringing a full range of legal challenges and, in particular, changing the role of the shipmaster, which has developed for centuries. Today, the ship's master authorities are divided into three segments: the public authorities, the duties of the ship's safety and navigation, and the representation of the shipping companies. If the ship master is not physically on board, the powers change significantly to the level of a legal question: Who is the master of an autonomous ship. Based on the above description, this paper aims to investigate how the Civil Liabilities based on Sea Freight Arrangements in Indonesia.

2. Research Method

Normative juridical study utilizes the legal research approach. Normative, doctrinal, library research, or document study will be conducted as part of this research.¹⁵ Focused solely on written regulations or legal documents. Research entails examining library resources or secondary data, such as original legal papers, secondary legal sources, and tertiary legal sources. This study utilizes many approaches to attain comprehensive research results.¹⁶ One of these ways is the statutory approach, which is used to analyze the legislative laws concerning criminal conduct committed by captains on unseaworthy ships that result in ship

¹⁵ Husni Mubarrak and Faisal Yahya, 'Contestation on Religious Interpretation in Contemporary Aceh Shari'a: Public Caning in Prison as the Case of Study', *JURIS (Jurnal Ilmiah Syariah)*, 22.2 (2023), 213–22 <https://doi.org/http://dx.doi.org/10.31958/juris.v22i2.10258>

¹⁶ Paul Atagamen Aidonjje, Toyin Afolabi Majekodunmi, and Janet Adeyemi-balogun, 'The Legal Issues Concerning the Operation of Fin-Tech in Nigeria', *Media Hukum*, 50.2017 (2023), 76–88 <https://doi.org/https://doi.org/10.18196/jmh.v30i2.18337>

accidents.¹⁷ The conceptual method is suggested for understanding these legal laws.¹⁸ Normative legal study utilizes legal research as its methodology. Research methods include normative, doctrinal, library research, and document study. Exclusively concentrated on written regulations or legal texts.¹⁹

3. Results and Discussion

The Regulation of Master's Liability in Indonesian Sea Freight

The increase in the number of Indonesian ships mentioned above would be if the combined total shipping transport capacity throughout Indonesia were 280 million metric tons per year, with seven types of shipping such as barge transport, passenger vehicles, liquid cargo, dry bulk, general goods, container transport, and offshore transport. As a logical result, there is an increased need for domestic ship workers (seafarers), and by Presidential Instruction, Indonesian seafarers must work on ships with the Indonesian flag. INSA, however, explained that there currently needs to be more ship workers for Indonesian ships. The shortage of ship workers is because Indonesian seafarers prefer to work on foreign ships rather than Indonesian ships.²⁰

In the field of sea transportation, implementing K3 is also very necessary because safety is the leading indicator for measuring the success of transportation at sea. In the current era of advances in technology and communication, ships used as transportation facilities have been touched by technology and are equipped with adequate navigation facilities for the sake of comfort and safety when traveling by sea. However, ship accidents still occur frequently, thus increasing concern for the world of maritime transportation. Weak safety systems at sea are a potential cause of many accident victims at sea. Implementing K3 is also necessary in maritime transportation because safety is the leading indicator for measuring the success of transportation at sea.²¹

¹⁷ Emad Mohammad, Al Amaren, and Mustafa M Al-husban, 'A Critical Overview of Islamic Performance', *Legality: Jurnal Ilmiah Hukum*, 32.1 (2024), 51–70 <https://doi.org/https://doi.org/10.22219/ljih.v32i1.29964>

¹⁸ Ahmad Siboy and others, 'The Islamic Law-Based Design of Regional Head', *Legality: Jurnal Ilmiah Hukum*, 32.1 (2024), 1–15 <https://doi.org/https://doi.org/10.22219/ljih.v32i1.31261>

¹⁹ Fokky Fuad and Heriyono Tardjono, 'Ownership of Land: Legal Philosophy and Culture Analysis of Land Property Rights', *Media Hukum*, 30.2 (2023), 98–116 <https://doi.org/https://doi.org/10.18196/jmh.v30i2.18264>

²⁰ Yudi N Ihsan and others, 'Renewable Energy from Ocean Currents on the Outflow ITF Pathway, Indonesia', *Energy Procedia*, 65 (2015), 131–39 <https://doi.org/https://doi.org/10.1016/j.egypro.2015.01.045>

²¹ Noir P Purba and others, 'Suitable Locations of Ocean Renewable Energy (ORE) in Indonesia Region – GIS Approached', *Energy Procedia*, 65 (2015), 230–38 <https://doi.org/https://doi.org/10.1016/j.egypro.2015.01.035>

In the current era of advances in technology and communications, ships used as means of transport have been touched by technology and are equipped with adequate navigation facilities for the sake of comfort and safety when traveling by sea. However, ship accidents still occur frequently, thus increasing concern for the world of maritime transportation. Weak safety systems at sea are a potential cause of many accident victims at sea. In general, all equipment on the ship uses equipment or engines derived from diesel engines, and electrical equipment or installations are the most prioritized.²² Everything must be controlled and in excellent and average condition. If a worker who works on a ship experiences an accident that results in total or temporary disability, is unable to work, or even results in death, then they or their heirs will receive compensation or social security as regulated in SOR 1940, as long as there is no intentional factor. Likewise, suppose a ship accident is caused by fire, collision, or other maritime dangers, resulting in many victims dying.²³ In that case, a captain and his replacement can be submitted to the Shipping Court to be held accountable for carrying out the voyage and his efforts to save the ship and its cargo.²⁴

Diverse policies in the maritime and shipping industries necessitate responsible and disciplined personnel on ships; since seafarers lack these qualities, work accidents frequently transpire on board. There is growing awareness and concern regarding occupational safety among governments and enterprises. The significance of work safety factors stems from their close correlation with the performance of both employees and the organization.²⁵ Specialized underwater labor or work performed underwater on ships, installations, or construction is considered underwater work. Ensuring work safety is of the utmost importance when conducting business. One industry that is particularly susceptible to accidents is the maritime sector, particularly its personnel, who constantly interact with the environment while at sea. As per Law No. 17 of 2008 of the Republic of Indonesia about shipping, the shipping industry comprises port operations, maritime environmental protection, and water transportation. It is a component of a national system whose role and potential must be enhanced to establish a transportation system that is both efficient and conducive to forming a dynamic

²² Abdul Kadir Jaelani, Resti Dian Luthviati, and Muhammad Jihadul Hayat, 'Halal Tourism Sector and Tax Allowance Policy: A Case Study Observed from Normative Problems to Effective Implementation', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 23.2 (2023), 185–210 <https://doi.org/10.18326/ijtihad.v23i2.185-210>

²³ Abdul Kadir Jaelani, Muhammad Jihadul Hayat, and others, 'Green Tourism Regulation on Sustainable Development: Droning from Indonesia And', *Journal of Indonesian Legal Studies*, 8.2 (2023), 663–706 <https://doi.org/https://doi.org/10.15294/jils.v8i2.72210>

²⁴ Wouter Heijlen and Chris Duhayon, 'An Empirical Estimate of the Land Footprint of Nickel from Laterite Mining in Indonesia', *The Extractive Industries and Society*, 17 (2024), 101421 <https://doi.org/https://doi.org/10.1016/j.exis.2024.101421>

²⁵ Wayan G Santika and others, 'An Assessment of Energy Policy Impacts on Achieving Sustainable Development Goal 7 in Indonesia', *Energy for Sustainable Development*, 59 (2020), 33–48 <https://doi.org/https://doi.org/10.1016/j.esd.2020.08.011>

and stable national distribution pattern. Protection is provided for ship personnel.²⁶

Protection and safety at sea are already regulated by Indonesian policy, specifically in Law No. 17 of 2008 about shipping. Many ship personnel are exposed to an elevated risk of occupational accidents during ship operations, particularly in areas such as the engine room and the deck, where the likelihood of such incidents is more significant than usual. At times, the expertise or skills possessed by a shipworker must be proportional to the number of seafarers' requirements and the number of willing individuals. In order to promote maritime safety and facilitate the seamless operation of vessels, it is imperative to employ competent, capable, and skilled personnel on board each vessel. Consequently, each vessel that sets sail must be staffed with ship workers with the requisite qualifications and capabilities to fulfill their designated responsibilities. Considering the dimensions of the vessel, its configuration, and the designated shipping region.²⁷

Arrangements must be made in light of the unique characteristics of the duties of a ship worker, which include being away from family for an extended period, being responsible for repairing ship damage without time constraints, working in all weather conditions, and working without regard to the passage of time. The government regulations were formulated in light of the factors above; they govern all aspects of seafarers, including education, training, certifications, authority, rights, and obligations. (INSA and the Directorate General of Sea Transportation of the Indonesian Shipping Business Association in 2005, respectively). Legally, criminal acts in the shipping industry were governed solely by the Criminal Code (KUHP), specifically in the Second Book, Chapter XXIX Concerning Shipping Crimes, Articles 438 to 479, which addressed piracy, dissemination of false information regarding the contents of a sailing permit, breach of agreements, and assaults.²⁸

This was the case prior to the enactment of Shipping Law Number 21 of 1992, which has since been superseded by Shipping Law Number 17 of 2008. However, since the implementation of Law No. 17 of 2008 concerning shipping, there has been a surge in regulations about illicit activities within the shipping industry. It is

²⁶ Nugroho Agung Pambudi and others, 'Renewable Energy Education and Awareness among Indonesian Students: Exploring Challenges and Opportunities for a Sustainable Future', *Sustainable Energy Technologies and Assessments*, 63 (2024), 103631 <https://doi.org/https://doi.org/10.1016/j.seta.2024.103631>

²⁷ Indra Jaya and others, "'Are the Working Principles of Fisheries Management at Work in Indonesia?'"', *Marine Policy*, 140 (2022), 105047 <https://doi.org/https://doi.org/10.1016/j.marpol.2022.105047>

²⁸ Tries B Razak and others, 'A Review of the Legal Framework for Coral Reef Restoration in Indonesia', *Ocean & Coastal Management*, 248 (2024), 106944 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2023.106944>

important to note that individuals and corporations can commit criminal offenses.²⁹ According to Article 333 of the shipping law, criminal activities occurring within the corporate environment, either alone or in collaboration with others, are considered to have been committed by corporations if they are carried out by individuals acting on behalf of the corporation or in its service, regardless of whether the relationship is one of employment or other affiliation. In jurisdictions where criminal investigations, prosecutions, and punishments against corporations or their management are possible for acts of criminality committed in the maritime industry. In addition, the penalty may be multiplied by a maximum of three times the amount specified in the shipping legislation. Despite expanding the subject matter in shipping law, the criminal act of piracy, which the Criminal Code governs, is not regulated in shipping law.³⁰

The existing welfare regulations about salaries and allowances remain general, devoid of standardized criteria concerning the minimum wage and salary amounts and work allowances for seafarers. As stipulated in Article 151 of Law Number 17 of 2008 about shipping, the welfare of seafarers consists of the following: remuneration, rest periods, assurance of departure and return to their point of origin, compensation in the event of vessel inoperable circumstances resulting from accidents, career advancement prospects, provision of lodging, recreational amenities, sustenance, medical attention, and maintenance services; and work accident insurance.³¹

Regarding welfare, everything is still governed in general terms; there are no fundamental principles. While the government has established a minimum wage for workers in various regions and cities, this does not apply to seafarers and cannot be used as a benchmark for their wages and allowances. In addition to the substantial disparity between domestic and international firms, it is comprehensible that ship work entails considerable peril and necessitates sufficient specialized expertise and knowledge. Seafarers' welfare comprises eleven facets: remuneration and allowances, sustenance and lodging, opportunities for rest and leisure, medical care, reparation in the event of an accident, severance pay if the vessel is sold to a third party, insurance for our

²⁹ Yuliana Susilowati and others, 'Carbon Credit and Economic Feasibility Analysis of Biomass-Solar PV-Battery Power Plant for Application in Indonesia Remote Area', *Renewable Energy*, 219 (2023), 119383 <https://doi.org/https://doi.org/10.1016/j.renene.2023.119383>

³⁰ Yanuandri Putrasari and others, 'Resources, Policy, and Research Activities of Biofuel in Indonesia: A Review', *Energy Reports*, 2 (2016), 237–45 <https://doi.org/https://doi.org/10.1016/j.egy.2016.08.005>

³¹ Mochamad Riza Iskandar and others, 'Pathways of Floating Marine Debris in Jakarta Bay, Indonesia', *Marine Pollution Bulletin*, 169 (2021), 112511 <https://doi.org/https://doi.org/10.1016/j.marpolbul.2021.112511>

belongings in the event of a shipwreck, and a work performance guarantee that places safety measures at the forefront.³²

The mariners may execute their responsibilities with excellence and perfection, in accordance with their specific obligations and responsibilities; each of these facets must be satisfied. In addition, while performing their duties, mariners experience a sense of tranquility, which naturally influences their work ethic and drive, resulting in the attainment of anticipated outcomes.³³ With the expectation that they closely align with international standards pertaining to salaries and allowances, the regulations concerning salaries and allowances will serve as a benchmark for the optimal nominal sum of salaries and allowances. The author concludes, based on the interview results, that the wage disparity is not commensurate with the remuneration received by seafarers aboard Indonesian vessels and can be as great as four or five times.³⁴

The minimum wage on the vessel is approximately 1,500,000 rupiah, while the maximum wage is approximately eleven,000,000 rupiah." Aside from that, both occupations entail significant danger, which is why many aspiring mariners aspire to work aboard foreign vessels. Law enforcement personnel continue to base their decision-making in judicial institutions on the positivism paradigm. Whether or not we acknowledge it, the law as a tool for social engineering or societal transformation is merely an expression of ideals that the law seeks to materialize. In order for the engineering society to benefit from the function of law, it is not sufficient to merely have law in the form of regulations or rules; rather, it is also critical to ensure that these regulations are implemented in legal practice; this is referred to as good law enforcement.³⁵

Therefore, the operation of the law is dependent not only on the legislation itself but also on the operations of the implementing bureaucracy. Presently, there is a perception that law enforcement decisions are predicated solely on formal legal principles, positivist paradigms, and rules. Given that the majority of law student curricula adhere to the positivism paradigm, all subjects must be grounded in established and documented regulations. Later law enforcement

³² Sugeng Mujiyanto and Günter Tiess, 'Secure Energy Supply in 2025: Indonesia's Need for an Energy Policy Strategy', *Energy Policy*, 61 (2013), 31–41 <https://doi.org/https://doi.org/10.1016/j.enpol.2013.05.119>

³³ Sarjiya and others, 'Generation Expansion Planning with a Renewable Energy Target and Interconnection Option: A Case Study of the Sulawesi Region, Indonesia', *Renewable and Sustainable Energy Reviews*, 183 (2023), 113489 <https://doi.org/https://doi.org/10.1016/j.rser.2023.113489>

³⁴ Paul K Gellert and Sarah D'Onofrio, 'Flex Commodities and Intertwining World-Ecologies: Indonesian Palm Waste as an Environmental Fix in the New Zealand Dairy Industry', *Political Geography*, 108 (2024), 103038 <https://doi.org/https://doi.org/10.1016/j.polgeo.2023.103038>

³⁵ Rais Torodji and others, 'The Role of the Corporate Environmental Regulation Penalty System On', *Journal of Human Rights, Culture and Legal System*, 3.3 (2023), 600–624 <https://doi.org/https://doi.org/10.53955/jhcls.v3i3.179>

personnel, having been initially educated through this approach, continue to operate under the paradigm they have acquired thus far: that which posits the law as written regulations. Consequently, they rely on pre-existing articles when attempting to resolve cases. Friedman provides the following explanation regarding the legal structure: to commence, the legal system possesses the structural components of a legal system, which comprise the following elements: the quantity and magnitude of tribunals; their jurisdiction; and... Additionally, structure refers to the organization of the legislature, the protocols followed by the police department, and so forth.³⁶

The structure can be likened to a still photograph, serving as a cross-section of the legal system while immobilizing the unfolding events. The framework of the legal system comprises the subsequent components: the quantity and magnitude of courts, their jurisdiction (including the categories of cases they are empowered to hear), and the processes by which appeals are transferred between courts.³⁷

Additionally, structure refers to the organization of the legislative body, the powers and limitations of the president, the protocols adhered to by law enforcement, and so forth. Consequently, the framework (legal framework) comprises established legal institutions that are designed to execute pre-existing legal instruments. The structure of the Indonesian legal system, for instance, includes the structure of law enforcement institutions such as the courts, prosecutors, and police. The absence of a specialized judicial institution to address welfare concerns for ship labours on Indonesian vessels continues to give rise to challenges in the legal framework governing this issue.³⁸

One such issue is that the resolution of industrial relations disputes involving seafarers at the Industrial Relations Court has proven inadequate in addressing the underlying issues. A pattern that illustrates how the law is executed in accordance with its formal provisions is referred to as structure. This structure illustrates the operation and execution of legal processes, legislators, tribunals, and bodies. Concerning the resolution of disputes, the following are crucial aspects: industrial relations disputes, rights disputes, and interest disputes. Industrial

³⁶ Soeleman Djaiz Baranyanan, Nilam Firmandayu, and Ravi Danendra, 'The Compliance of Regional Autonomy with State Administrative Court Decisions', *Journal of Sustainable Development and Regulatory Issues*, 2.1 (2024), 35–52 <https://doi.org/https://doi.org/10.53955/jsderi.v2i1.25>

³⁷ Purchase Land, 'Model Regulations for Collecting State Revenue in Registration of Sale And', *Journal of Sustainable Development and Regulatory Issues*, 2.1 (2024), 67–85 <https://doi.org/https://doi.org/10.53955/jsderi.v2i1.24>

³⁸ Fayakun Satria and others, 'Characterizing Transshipment At-Sea Activities by Longline and Purse Seine Fisheries in Response to Recent Policy Changes in Indonesia', *Marine Policy*, 95 (2018), 8–13 <https://doi.org/https://doi.org/10.1016/j.marpol.2018.06.010>

relations disputes are disagreements that lead to conflict between employers, labours, trade unions, or a combination of employers and labours.³⁹

These disputes may concern rights, interests, the termination of employment relations, or even disputes between trade unions or labours unions within the same company. The regulation of industrial relations under the purview of the Settlement of Industrial Relations Disputes (PPHI) is limited to land-based labours exclusively, with no specific focus on seafarers. Concerns pertaining to workplace arrangements and locations of disputes will escalate into contentious debates. The Maritime Work Agreement governs the work environment, specifically aboard a vessel with constantly shifting locations. Even if the location is in constant motion while serving on a ship, locating the dispute becomes a challenge in and of itself. This has a significant impact on the provisions that the Industrial Relations Court uses as a foundation when determining matters such as salaries, such as whether to refer to local regulations or the terms under which the PKL is executed. For instance, following the signing of the PKL in Jakarta, the vessel proceeded to Sorong, whereupon a dispute transpired throughout the journey. Without a doubt, the resolution of this issue will occur at PHI Sorong and not in Jakarta.⁴⁰

The Indonesian National Army Navy fulfills its responsibilities through three significant sectors: the police sector, the military sector, and the diplomatic sector. The Indonesian Navy is equipped with universal functions, including military, police, and diplomatic responsibilities. The legal regulation governing the three duties' implementation can be found in Law Number 34 of 2004, which pertains to the duties of the Indonesian Navy. An obligation that the TNI AL is obligated to fulfill is stipulated in Article 9 of Law No. 34 of 2004. In contrast, Article 1, paragraph (22) of Law No. 34 of 2004 delineates the explicit obligations of security officers. Then Implementation of enforcement Furthermore, the regulations enforced by the TNI AL are explained in detail in the Elucidation. The TNI AL is clearly given its main power in Article 9 letter b of Law Number 34 of 2004 about the TNI. This power includes the enforcement of the law in Indonesian, other rules and laws that govern the Exclusive Economic Zone of Indonesia (ZEEI), such as those that say certain crimes can only happen in Indonesian territorial waters, clearly and unmistakably set the groundwork for the TNI AL's authority and power to get rid of these crimes.⁴¹

³⁹ Rini Astuti and Yuti A Fatimah, 'Science in the Court: Expert Knowledge and Forest Fires on Indonesia's Plantations', *Environmental Science & Policy*, 151 (2024), 103631 <https://doi.org/https://doi.org/10.1016/j.envsci.2023.103631>

⁴⁰ Dirham Dirhamsyah, Saiful Umam, and Zainal Arifin, 'Maritime Law Enforcement: Indonesia's Experience against Illegal Fishing', *Ocean & Coastal Management*, 229 (2022), 106304 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2022.106304>

⁴¹ Yety Rochwulaningsih and others, 'Marine Policy Basis of Indonesia as a Maritime State: The Importance of Integrated Economy', *Marine Policy*, 108 (2019), 103602 <https://doi.org/https://doi.org/10.1016/j.marpol.2019.103602>

Article 14 of Law Number 5 of 1983 spells out the rules for the investigative powers that TNI officers are allowed to use in the ZEEI sea area to look into illegal activities. Provisions concerning the investigative authority of the Indonesian Navy with respect to criminal offenses as a consequence of international conventions, including UNCLOS 1982, and the enactment of Law No. 6 of 1996 concerning Indonesian waters, criminal law in Indonesian territorial waters has been strengthened. Legislative procedure for criminal acts in Indonesian territorial waters is explicitly outlined in Article 24 of Law Number 6 of 1996 concerning Indonesian Waters. In accordance with the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the Indonesian government ratified that convention in Law No. 17 of 1985. The UNCLOS 1982 provisions governing the authority of the Indonesian Navy are outlined in Article 111, paragraph 5.⁴²

Article 111, paragraph 5, of the 1982 United Nations Convention on the Law of the Sea designates the Indonesian Navy as possessing the power to uphold the integrity of state sovereignty and to enforce laws over its maritime domain in accordance with state jurisdiction. Given the current state of law enforcement coordination among institutions in Indonesia, which falls short of anticipated levels, the following policy must be formulated in an effort to foster partnerships, establish and enhance relevant legislation, and facilitate synergistic coordination among law enforcement institutions by augmenting human resources and enhancing inter-institutional coordination.⁴³ Implementing this policy necessitates a comprehensive approach involving various state entities, including the Coordinating Ministry for Maritime Affairs, Ministry of Fisheries, Police, Prosecutor's Office, Supreme Court, and Indonesian Navy. Harmoniously and systematically, each government agency—in this instance, the Maritime Coordinating Ministry, Ministry of Fisheries, Police, Prosecutor's Office, Supreme Court, and Indonesian Navy—could develop its efforts to implement the determined strategy.⁴⁴

Is the Master Civil Liable based on Sea Freight Arrangements in Indonesia?

Public transportation has an important role in mobilizing the community in carrying out their daily activities, whether on land, at sea and in the air. Public transportation activities need transportation agreement between the

⁴² Putri Amelia, Artya Lathifah, and I Nyoman Astawa Yasa, 'Analysis of the Impact of Maritime Sector Development in Supporting Indonesian Navy Ship Operations', *Procedia Computer Science*, 197 (2022), 317–25 <https://doi.org/https://doi.org/10.1016/j.procs.2021.12.146>

⁴³ Yusuf Sofiyandi, Yusuf Reza Kurniawan, and Muhammad Halley Yudhistira, 'The Impact of Maritime Logistics Subsidy on Food Prices: Evidence from Indonesia', *Economic Analysis and Policy*, 79 (2023), 1026–45 <https://doi.org/https://doi.org/10.1016/j.eap.2023.06.035>

⁴⁴ Ria Tri Vinata, Masitha Tismananda Kumala, and Cita Yustisia Serfiyani, 'Climate Change and Reconstruction of Indonesia's Geographic Basepoints: Reconfiguration of Baselines and Indonesian Archipelagic Sea Lanes', *Marine Policy*, 148 (2023), 105443 <https://doi.org/https://doi.org/10.1016/j.marpol.2022.105443>

transportation company and passengers.⁴⁵ Such agreement must be a valid in the form of agreement, skill, lawful causes and certain other things as stipulated in Article 1320 of the Indonesia Civil Code, which creates a legal relationship in the form of rights and obligations. Transportation companies have an obligation to transport passengers to their destinations safely and are entitled to transportation costs. Meanwhile, passengers have an obligation to pay transportation costs and have the right to be transported to their destination safely.⁴⁶

The main problem in the carriage agreement generally boils down to the non-performance of legal obligations of the transportation company or carrier to transport passengers to their destination safely. Such the cases can be seen in an accident of a public transportation vehicle where a passenger is riding, and in this case, the transportation company has an obligation to pay compensation.⁴⁷ The obligation to pay compensation, especially related to the determination of the limit for compensation that must be paid by the transportation company, which is regulated in the legislation in the field of transportation is still unclear. In cases of accidents that occurred both before the Covid-19 pandemic and during the Covid-19 pandemic, the limit for compensation has never been determined with certainty for passengers who died, injured or permanently disabled.⁴⁸

The transportation sector for Indonesia with a geographical condition consists of approximately 1500 islands, large and small, plays an important role in determining the life of the nation. The main role of transportation facilitates the economic improvement aspect, which can affect all aspects of life. This will result in an increasingly demand for transportation services for the mobility of people and goods, as an activity that has various aspects of life, transportation activities both on land, at sea and in the air have various problems as well.⁴⁹ One of the most important problems is the relationship between transportation companies as

⁴⁵ Nining Sari Ningsih, Ainun Azhari, and Titan Muslim Al-Khan, 'Wave Climate Characteristics and Effects of Tropical Cyclones on High Wave Occurrences in Indonesian Waters: Strengthening Sea Transportation Safety Management', *Ocean & Coastal Management*, 243 (2023), 106738 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2023.106738>

⁴⁶ Frida Sidik and others, 'Blue Carbon: A New Paradigm of Mangrove Conservation and Management in Indonesia', *Marine Policy*, 147 (2023), 105388 <https://doi.org/https://doi.org/10.1016/j.marpol.2022.105388>

⁴⁷ Abdul Kadir Jaelani, 'Indonesia ' S Omnibus Law On Job Creation : Legal Strengthening Digitalization of Micro , Small and Medium Enterprises', *Revista Relações Internacionais Do Mundo Atual Unicuritiba*, 3.41 (2023), 209–27 <https://doi.org/http://dx.doi.org/10.21902/Revrima.v3i41.5833>

⁴⁸ Erlan Wijatmoko, Armaidly Armawi, and Teuku Faisal Fathani, 'Legal Effectiveness in Promoting Development Policies: A Case Study of North Aceh Indonesia', *Heliyon*, 9.11 (2023), e21280 <https://doi.org/10.1016/j.heliyon.2023.e21280>

⁴⁹ Mukti Aprian and others, 'Re-Thinking Indonesian Marine Fisheries Quota-Based Policy: A Qualitative Network of Stakeholder Perception at Fisheries Management Area 718', *Ocean & Coastal Management*, 243 (2023), 106766 <https://doi.org/https://doi.org/10.1016/j.ocecoaman.2023.106766>

carriers and passengers as consumers of public transportation. Without consumers, all investments invested in public transportation facilities and infrastructure will be in vain. In this regard, it is important to investigate how the liability of the transportation company for the losses caused to passengers, especially in terms of the method of determining the loss that must be paid by the carrier.⁵⁰

The arrangement regarding the liabilities of the carrier is regulated in 4 (four) Transportation Laws in Indonesia, as follows; Law Number 23 of 2007 concerning Railways in conjunction with Government Regulation Number 72 of 2009 concerning Railway Traffic and Transportation; Law Number 17 of 2008 concerning Shipping in conjunction with Government Regulation Number: 20 of 2010 concerning Transportation in Waters; Law Number 1 of 2009 concerning Aviation in conjunction with Regulation of the Minister of Transportation Number: 77 of 2011 concerning Aviation, Law Number 22 of 2009 concerning Road Traffic and Transportation.⁵¹ In each of the laws mentioned above, there must be a special clause specifically regulates the liability of the transportation company to pay compensation to the passengers in the event of an accident, including the limit for compensation. The arrangements for the liability of the carrier can be seen in Table 1:

Legislation	Articles	Condition of the Passengers
Law No. 23/2007	Article 57 para (1) The Railway Transportation Company is responsible for service users who suffer losses, injuries or death caused by the operation of the train.	Died or injured
Law No. 17/2008	Article 41 para. (1) The transportation company in the waters, is responsible as a result of the operation of the ship, for the death or injury of the passengers being transported.	Died or injured
Law No. 1/2009	Article 141 para. (1) The air transportation company is responsible for the loss of passengers who die, permanent disability including mental stress or injuries caused by incidents in air transportation, both those that occur on the plane and when boarding and/or disembarking from the plane.	Death, permanent disability, mental stress or injuries.

⁵⁰ Abdul Kadir Jaelani, Ahmad Dwi Nuryanto, and others, 'Legal Protection of Employee Wage Rights in Bankrupt Companies: Evidence from China', *Legality: Jurnal Ilmiah Hukum*, 31.2 (2023), 202–23 <https://doi.org/https://doi.org/10.22219/ljih.v31i2.25874>

⁵¹ Reza Octavia Kusumaningtyas and others, 'Reduction of Digitalization Policy in Indonesian MSMEs and Implications for Sharia Economic Development', *Juris: Jurnal Ilmiah Syariah*, 21.2 (2022), 157–71 <https://doi.org/10.31958/juris.v21i2.6855>

Law No. 22/2009	Article 192 para. (1) Public transport companies are responsible for losses suffered by passengers who die or are injured.	Died or injured.
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Table 1 shows there are four Indonesia Laws which governs the liability of the transportation company, whether on land, at sea or in the air, explicitly stipulate the liability of the transportation company in the case of the death or injury of the passengers being transported. Such liabilities arise if the company transportation does not carry out its obligations to transport passengers to their destination safely, in accordance with the carriage agreement agreed between the transportation company and the passengers. In this case it can be seen that the arrangement of the carrier's liability for transportation on the road, by train and at sea, only regulates the liabilities of the carrier to passengers who die or injured. In other perspective, the regulation of the liability of the air carrier company does not only liable for the death or injury of passengers, but also regulates the liability of the transportation company for the mental stress suffered by passengers, even though they are not physically injured, but mentally experience prolonged trauma. Thus, the regulation of the liabilities of air carriers is much better than the regulation of liabilities for transportation on roads, trains and at sea.⁵² vIn all applicable carrier liability systems based on Indonesia Laws, in this case as stipulated in Law No.23 of 2007; Law No. 17 of 2008; Law No. 1 of 2009 and Law No. 22 of 2009, certain articles have already determined the amount of compensation to be obtained by injured passengers or their heirs, as can be seen in Table 2.

Table 2. Carriers Liability based on Indonesia Legislation

Legislation	Article	Compensation Limit
Law No. 23/2007	Article 157 para. (3) The carrier's liability is calculated based on the actual loss suffered.	There is no explicit exact total of compensation limit for the passengers who die or injured.
Government Regulation No. 72/2009 on Railway Traffic and Transport	Article 160 The liability of the Railway Transportation Company is further regulated by Government Regulation. Article 168 para. (2) The liability of the Rail Carrier shall be in the form of: a. Provides compensation and	Such Government Regulation concerned has already been regulated in Government Regulation No. 72/2009. Based on Government Regulation No. 72/2009, there is no explicit exact total of compensation limit as well as stipulated in Article 127 para. (3) of the Law No. 23/2007.

⁵² Alvin Camba, 'The Unintended Consequences of National Regulations: Large-Scale-Small-Scale Relations in Philippine and Indonesian Nickel Mining', *Resources Policy*, 74.October 2020 (2021), 102213 <https://doi.org/10.1016/j.resourpol.2021.102213>

		medical expenses for injured passengers; b. Provides compensation for passengers who died.																													
Law No.17 /2008	Article 43 Subsequent regulations concerning carrier's liability shall be regulated by a Government Regulation.		The content of this law is silent on compensation limit for passengers who die or injured. It only stipulates that the carrier's liabilities are regulated in a Government Regulation.																												
Government Regulation No. 20/2010	There is absolutely no provision regarding the compensation limit.		The Government Regulation in question is the Government Regulation No. 20/2010.																												
Law No.1 /2009	Article 165 para. (1) Compensation limit received by passengers who die, permanently disabled or injured, are determined by a Ministerial Regulation.		Compensation limit has been clearly determined for passengers who die, permanent disabled including mental stress or injury as stipulated in Article 3 of the Regulation of the Minister of Transportation No. 77/2011 on Liability of Air Transport Carriers as follows: a. Passengers who die, the amount of compensation shall be one Rp.1.250.000.000 (one billion two hundred and fifty million rupiahs/passenger); b. Passengers who are totally disabled, the amount of compensation shall be Rp.1.250.000.000 (one billion two hundred and fifty million rupiahs/passenger); c. Passengers who are injured, the amount of compensation shall be at the actual cost of treatment at a maximum of Rp.200.000.000,- (two hundred million rupiahs/passenger). d. Passengers who are mentally stressed, the amount of compensation is not determined. e. Passengers with partially permanent disability are depend on their permanent disability.																												
	Article 166 Air transportation companies and passengers can make special agreements, to determine the amount of compensation higher than the amount of compensation stipulated in Article 165 para. (1).		<table border="1"> <thead> <tr> <th>Permanently Disabled</th> <th>Compensation (Indonesian rupiahs)</th> </tr> </thead> <tbody> <tr> <td>One eye</td> <td>Rp150.000.000</td> </tr> <tr> <td>Hearing loss</td> <td>Rp.150.000.000</td> </tr> <tr> <td>Right hand thumb</td> <td>Rp.125.000.000</td> </tr> <tr> <td>Each segment</td> <td>Rp.62.500.000</td> </tr> <tr> <td>Right index finger</td> <td>Rp.100.000.000</td> </tr> <tr> <td>Each segment</td> <td>Rp.50.000.000</td> </tr> <tr> <td>Left index finger</td> <td>Rp.125.000.000</td> </tr> <tr> <td>Each segment</td> <td>Rp.25.000.000</td> </tr> <tr> <td>Right little finger</td> <td>Rp.62.500.000</td> </tr> <tr> <td>Each segment</td> <td>Rp.20.000.000</td> </tr> <tr> <td>Left little finger</td> <td>Rp.35.000.000</td> </tr> <tr> <td>Each segment</td> <td>Rp.11.500.000</td> </tr> <tr> <td>Right middle</td> <td>Rp.50.000.000</td> </tr> </tbody> </table>	Permanently Disabled	Compensation (Indonesian rupiahs)	One eye	Rp150.000.000	Hearing loss	Rp.150.000.000	Right hand thumb	Rp.125.000.000	Each segment	Rp.62.500.000	Right index finger	Rp.100.000.000	Each segment	Rp.50.000.000	Left index finger	Rp.125.000.000	Each segment	Rp.25.000.000	Right little finger	Rp.62.500.000	Each segment	Rp.20.000.000	Left little finger	Rp.35.000.000	Each segment	Rp.11.500.000	Right middle	Rp.50.000.000
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		finger	Rp.16.500.000
		Each segment	
		Left	Rp.40.000.000
		finger	Rp. 13.000.000
		Each segment	
		The parties may agree to determine the amount of compensation higher than determined in Article 3 of the Minister of Transportation Regulation No. 77 of 2011.	
Law No. 22 /2009	Article 192 para. (2) Losses are calculated based on losses that are clearly suffered or part of the cost of treatment.	The exact compensation limit does not explicitly mentioned. Until now, there is no Government Regulation regarding the amount of compensation as mandated by Article 192 para. (5).	
	Article 192 para. (5) The amount of compensation is further regulated in a government regulation.		

As shown in Table 2, based on the provisions above, the regulatory system regarding the determination of compensation limits regulated the Law No.23 of 2007 in conjunction with Government Regulation No. 72 of 2009; the Law No. 17 of 2008 in conjunction with Government Regulation No. 20 of 2010 and the Law No. 22 of 2009 which does not regulate a clear system and there is no exact clause on how much compensation must be paid. For example, Article 192 para. (2) determines that compensation is calculated based on the losses that were actually suffered. For passengers who die, it is very inappropriate and inhumane, because the loss of human life cannot be calculated. Likewise, Article 157 para. (3) of the Law No. 23 of 2007, only stipulates that the liability of the carrier is calculated based on the actual loss experienced with no specific limit for passengers who injured or died.

The Article 168 para. (2) of the Government Regulation No. 72 of 2009 has separated the provision of compensation for the injured based on medical expenses and compensation for passengers who died, but the limit is still not determined. Moreover, in Article 43 of the Law No. 17 of 2008 in conjunction with Government Regulation No. 20 of 2010, there is no limit on compensation for passengers or injured at all. Regulations that do not determine the limit for compensation for passengers who died or injured make such regulation

inappropriate and inhumane, because there is no firmness in determining the amount of the limit, which results in harm to passengers who died or injured.⁵³

The determination of compensation for passengers who died or injured or seriously injured in an airplane accident should be followed. The compensation limit has been clearly determined based on the Minister of Transportation Regulation No. 77 of 2011 (see Table 2). The liability of the transportation company and the limit of compensation provided by the transportation company to passengers who die or injured, can occur before or during the Covid-19 Pandemic. The Covid-19 pandemic began to occur in Indonesia in early March 2020, which underwent extraordinary changes and had an impact in all areas of life. The Covid-19 pandemic affects also to the public sector such as public transportation services.⁵⁴ Regarding public transportation, several Government policies were implemented during the Covid-19 pandemic, including maintaining social distance, wearing masks, washing hands with hand sanitizers, avoiding crowds and administering vaccines. The safety of transport passengers is absolutely mandatory. This effort was made to avoid the Covid-19 pandemic and to keep businesses in the transportation sector. However, in addition to the dangers of the Covid-19 pandemic that threatens transportation passengers, other dangers still continue to occur, namely public transportation accidents that occur on land, at sea or in the air. Each of transportation mode were discussed in the following paragraphs.⁵⁵

In Indonesia, it was noted that during the Covid-19 pandemic that began in March 2020, the number of public transport accidents, especially in Jakarta Special Region, remained high especially in road transport accidents, even though the traffic density had significantly decreased although based on data from the Traffic Directorate of Metro Jaya the Indonesian Local Police, there was a decrease number of accidents due to decreased human movement and increased traffic discipline during the Covid-19 pandemic. In 2019 there were 8,877 cases, while in 2020 there were 7565 cases, a decrease of 1312 cases or around 15%. The death toll in 2019 were 559 people, while in 2020 there were 489 people, down by 70 people or around 13%. The number of seriously injured victims in 2019 was 1,565 people, while in 2020 there were 1368 people, a decrease of 197 people or a decrease of

⁵³ Achmad Sahri and others, 'A Critical Review of Marine Mammal Governance and Protection in Indonesia', *Marine Policy*, 117.103893 (2020), 1–16 <https://doi.org/10.1016/j.marpol.2020.103893>

⁵⁴ Naimah Lutfi Talib and others, 'Three Centuries of Marine Governance in Indonesia: Path Dependence Impedes Sustainability', *Marine Policy*, 143.June (2022), 105171 <https://doi.org/10.1016/j.marpol.2022.105171>

⁵⁵ Amkieltiela and others, 'The Rapid Expansion of Indonesia's Marine Protected Area Requires Improvement in Management Effectiveness', *Marine Policy*, 146.December 2021 (2022), 105257 <https://doi.org/10.1016/j.marpol.2022.105257>

13%. Minor injuries in 2019 were 8,433 people, while in 2020 there were 7,044, a decrease of 16%.⁵⁶

Furthermore, based on data from the Ministry of Transportation, the number of cases of road accidents in Indonesia reached 103,645 cases in 2021, an increase of 3.62% compared to 2020.⁵⁷ This is due to the improvement in community mobility. For sea transportation accidents that have occurred throughout 2020 during the Covid-19 Pandemic, showed 4 accidents. The accidents caused several passengers died, went missing and injured. The cases of accidents that occurred during the Covid-19 pandemic can be seen in Table 3:

Table 3. Traffic accident on the water/sea

No	Name of Ship	Date	Condition of Passenger
1	The Selgabadan engine ship sank in the waters of Trangan Island, Aru-Maluku Islands.	Saturday, May 22, 2020	6 of the 19 passengers died.
2	The Kasih 25 engine ship, sunk due to big waves while sailing from Kupang to Rote-Ndao-East Nusa Tenggara	Sunday, July 5, 2020	3 people died and 7 people were missing from 17 Passengers.
3	Wicky Jaya Sakti engine ship broke and sank because of the big waves.	Monday, May 24, 2021	7 people died and 1 person is missing
4	Karya Indah engine ship, on the Ternatae-Sasana route, caught fire and sank in the waters of the Limfato-Sula Island.	Saturday, May 29, 2021	1 passenger out of 275 declared missing

Based on the data mentioned above, it can be seen that transportation accidents that occurred on the road, in waters causing passengers die or permanently disabled or injured, then the amount of compensation can't be determined as a result of unclear provisions that does not explicitly stating the amount of compensation based on the regulations of the Traffic and Road Transport Law and the Shipping Law. The total amount of compensation depends on the good faith of such transportation company concerned. In these cases, the payment of compensation has never been heard or it has never been reported or whether the passenger received proper compensation, whatever their condition such as whether the passengers died, seriously injured or lightly injured, except in the case of an air transport accident. The crash of Sriwijaya Airplane on January 9, 2020 caused the results of all passengers have been paid according to the provisions contained in Article 3 of the Minister of Transportation No. 77 of 2011. For all

⁵⁶ S. T.A. Pickett and others, 'Urban Ecological Systems: Scientific Foundations and a Decade of Progress', *Journal of Environmental Management*, 92.3 (2011), 331-62 <https://doi.org/10.1016/j.jenvman.2010.08.022>

⁵⁷ Afif Noor and others, 'Overcoming Regulatory Hurdles in the Indonesian Crowdfunding Landscape', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, VI.40 (2023), 245-60 <https://doi.org/https://doi.org/10.24090/volksgeist.v6i2.9447>

passengers who died the amount of total compensation paid as much as Rp. 1,250,000,000,000, - (one billion two hundred and fifty million rupiahs).⁵⁸

4. Conclusion

The commander assumes the role of the vessel's leader and is vested with the responsibility and power to ensure safety, order, and a favorable environment while the vessel navigates the ocean. These responsibilities and powers constitute the Master's execution of his duty to ensure the ship's stability. Master, in the performance of his responsibilities and exercise of his authority, shall adhere to the pertinent regulations explicitly delineated in the prevailing legislation in Indonesia, namely the Commercial Code and Law No 17 of 2008 pertaining to Shipping. In order to ensure the safe delivery of passengers and cargo to their intended locations, it is the Master's duty to ensure the ship's security and safety throughout its voyage. In the event that material or immaterial losses transpire, the Master assumes criminal liability. This includes damages or losses to passengers' belongings, as well as ship accidents caused by errors, negligence, or mistakes that result in passenger injuries. The Indonesian regulations pertaining to the Master's responsibility stipulate that any violations of provisions established in Indonesian regulations will result in criminal liability for the Master. However, with regard to civil liability, the regulations explicitly assign the Master complete responsibility. Given that the Master is an employee of the Carrier, all actions performed by the Master become the responsibility of the Employer in accordance with Article 523 of the Commercial Code, which serves as the *lex specialis derogate lex generalis* of Article 1367 of the Civil Code. In other words, the Carrier is fully civilly liable for any consequences that may arise as a result of the Master's conduct.

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⁵⁸ Harry Setya Nugraha and others, 'Examining the Legal Standing of IKN Authority Regulations within Indonesian 's Legislation System', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, VI.40 (2023), 21-34 <https://doi.org/https://doi.org/10.24090/volksgeist.v6i2.9394>

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