

## Legal Protection on Sinking Victims of KM. Sinar Bangun Ship at Toba Lake in the Criminal Law Perspective

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### Abstract

*This research deals with legal protection on sinking victims Of Km Sinar Bangun Ship at Toba Lake in the criminal law perspective. This type of research used in this study is in the form of qualitative research with an empirical juridical research approach. The result shows that the form of legal protection given to the victims sinking of KM. Sinar Bangun in Toba Lake is that every accident victim is entitled to protection based on the provisions of the legislation, which is provided by the government in the form of direct social assistance in the form of cash through the Ministry of Social Affairs, types of compensation for victims in the form of death compensation, permanent disability compensation, and survivors. Each accident victim also received compensation from PT Jasa Raharja (Persero), the amount of which was determined by the minister of finance, in addition to other legal protections the implementation of legal proceedings for the occurrence of criminal acts.*

### Keywords

legal protection; victims; KM  
Sinar Bangun Ship; criminal  
law



## I. Introduction

Carrying out transportation is a reciprocal agreement between the service of the carrier and the passenger, whereby the carrier is bound to carry out the transportation of goods and / or people safely from a certain place to a destination, while the passenger or sender is bound to pay the transportation fee.

Motor Ship Accident on Monday, June 18, there was a sinking of KM Sinar Bangun 4 GT.35 No. 177 in Toba Lake waters + 1 (one) Mile from the Port of Simanindo, Samosir Regency headed to Port of Tiga Ras Nagori Dolok Pardamean Sub-district Simalungun Regency, North Sumatra Province which was originally the KM. Sinar Bangun Ship 4 GT.35 No. 117 departs from the port of Simanindo Samosir Regency headed to Port of Tiga Ras, Simalungun Regency around 16.50 p.m by carrying around 180 passengers and also carrying the motorcycles of approximately 70 units.

The tragedy of KM. Sinar Bangun on Toba Lake leaves a big question mark about safety guarantees in ferry transportation. The lack of supervision of crossing transportation on Toba Lake caused 3 (three) victims died, and 184 people lost their lives due to the sinking of KM. Sinar Bangun which is overloaded. A week after the incident, the North Sumatra Regional Police set 4 (four) initial suspects in this case. Not only the owner of the ship, but the police also prosecuted a number of transportation service officials responsible for the incident. They are Poltak Soritua Sagala as the owner and captain of KM. Sinar Bangun, an honorary member of the Simanindo Port Post named Karnilan Sitanggang, became a suspect considering that his job was supposed to regulate the entry of passengers and oversee ship activities and shipping. He should have banned overloading ships and prohibited sailing if it

was not feasible. In addition, there has also been a warning of bad weather from BMKG, but the fact is that the person concerned is not doing his job properly. So Golpa F. Putra, who is the Head of Simanindo Port Post, is considered to have left his duties but still charges retribution. The other suspect was Head of Samosir Regency River and Lake Water Transport Section, Rihad Sitanggang, considered failing to supervise port activities in Samosir, even though he was responsible. In reality he, among other things, still allowed traditional vessels to carry motorcycles, which were prohibited, and allowed ships to over capacity or sail without a permit.

Here is a picture at the time of incident of KM. Sinar Bangun when sinking:



**Figure 1.** Before the Sinar Bangun Ship departed



**Figure 2.** The condition of the Sinar Bangun Ship when sinking, passengers try to save themselves



**Figure 3.** *A passing ship provides assistance to victims who are trying to save themselves*

184 Passenger of KM. Sinar Bangun is missing, the mode of the perpetrators determined as the party responsible for the incident is seeking profit by loading passengers beyond the capacity of KM. Sinar Bangun which is only 45 people. But the estimated number of passengers reached more than 188 people. That number does not include dozens of motorcycles that were also deliberately transported to the special ferry passenger ship. As a result, after a few minutes of sailing, the ship's engine died, while the ship tilted to the right and turned upside down.

## II. Review of Literature

### 2.1 The Definition of Legal Protection

The presence of law is nothing but the protection of human interests in the form of norms or methods. The law as a collection of rules or methods contains content that is general and normative, general because it applies to everyone, and normative because it determines what is and is not permissible, and determines how to implement compliance with the method. (Sudikno Mertokusumo, 2003: 39)

Based on Article 1 number 8 of Law Number 31 Year 2014 Amendment to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, which reads "protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and / or victims who must be carried out by LPSK or other institutions in accordance with the provisions of this law. " Legal protection for the community is very important because the community, both groups and individuals, can be victims and even as perpetrators of crime. The aim of legal protection is expected to obtain real justice or responsive, accommodating justice for comprehensive legal interests, both from the criminal aspect as well as from the civil and administrative aspects, therefore to achieve responsive justice it is necessary to have legal awareness from all walks of life including government agencies and the public to obey the law itself.

### 2.2 The Definition of Victim

Regarding the understanding of the victims themselves listed in Article 1 number 3 of Law Number 31 of 2014 Amendment of Law Number 13 of 2006 concerning Protection of

Witnesses and Victims which states that the victim is a person who suffers physical, mental, and / or economic loss caused by a crime. According to Arif Gosita, what was meant by the victim was:

Those who suffer physically and spiritually as a result of the actions of others who are contrary to their own interests or others who seek the fulfillment of their own interests or others who are contrary to the interests of suffering human rights. (Rena Yulia, 2010: 49)

### 2.3 Victims' Rights

As a party that suffers suffering and loss of course the victim has rights that can be obtained as a victim. The rights of the victims according to Van Boven are the right to know, the right to justice and the right to reparation (recovery), which is the right that refers to the type of recovery both material and non-material for victims of human rights violations. These rights have been found in various applicable human rights instruments and also in the jurisprudence of international human rights committees and regional human rights courts. (Rena Yulia, 2010: 55)

In many cases, there are problems when victims provide information in the judicial process, which is caused by interruption, forcing victims to provide information in unusual and unnatural ways, and giving questions that produce short answers. A judicial process based on the concentration of victims should provide space for victims to construct their narratives in full. However, this does not mean that victims are permitted to threaten the perpetrators, witnesses of the perpetrators, and the like. That is, there will still be certain limitations even though the system is based on the concentration of victims.

### 2.4 The Definition of Criminal Law

Criminal law is the most difficult part of the law. Because criminal law has many aspects, each of which has its own meaning. Where, the scope of criminal law is broad and can also be narrow. A law is a part of the entire law in force in a country, which establishes the basis and rules for:

- a. Determine which actions should not be carried out, which are prohibited, accompanied by threats or sanctions, in the form of certain penalties for those who violate the prohibition.
- b. Determine when and in what ways those who violate the restrictions can be imposed or convicted as threatened.
- c. Determine how criminal imposition can be carried out if there is a person suspected of having violated the prohibition. (Jur. Andi Hamzah, 2012: 4-5)

## III. Research Method

In accordance with the title of the research and the problems raised in this study, the implementation will be carried out in the North Sumatra Regional Police because the investigator in the incident was the North Sumatra Regional Police and possibly also conducted in Simanindo Sub-district, Samosir Regency.

This type of research used in this study is in the form of qualitative research with an empirical juridical research approach. The empirical juridical research method is a legal



research conducted by examining directly to the field where the object under study in the North Sumatra Regional Police and in Simanindo Sub-district, Samosir Regency.

## IV. Discussion

Legal protection is an illustration of the operation of the legal function to realize legal objectives, namely benefits, certainty and legal justice. Legal protection is a protection that gives legal subjects in accordance with the rule of law, both preventive and repressive, in writing or unwritten in the context of enforcing regulations. Basically everyone has the right to get legal protection, because the form of protection will be divided into two parts, namely direct legal protection and indirect legal protection.

### 4.1 Direct Legal Protection

Direct legal protection is a form of legal protection for victims that is collective in nature including the interests of many people, including improving the consequences of physical and psychological recovery of victims. The forms of direct victim protection include:

#### a. Compensation for victims

Protection of victims, especially victims' rights to obtain compensation is an integral part of human rights in the field of welfare and social security. Compensation for victims is one form of direct legal protection in accordance with Law Number 31 of 2014 concerning Witness and Victim Protection, which is more explained in compensation to victims in Government Regulation Number 7 of 2017 concerning Granting of Compensation, Restitution, and Assistance to Witnesses and Victims.

#### b. Provision of restitution to victims

When viewed from the witness and victim protection law, restitution is contained in Article 7A which states that the LPSK is an authorized body as an intermediary between the victim and the court in applying for restitution. Submission is submitted before and after the decision has a permanent law and certainly has a process that has been regulated in this law. (Maya Indah, 2014: 137)

Whereas in Government Regulation No. 7 of 2018 concerning Provision of Compensation, Restitution and Legal Aid to Witnesses and Victims, as stipulated in Chapter II, the second part, Article 19 to Article 36 which explains how the restitution is submitted in the same way as the witness protection law and victims namely LPSK who played a role in handling granting restitution.

#### c. Giving compensation to the victims

Giving compensation is not found in the law specifically, but the law on witness and victim protection which in Article 7 of this law, victims of crime are entitled to compensation paid to the human rights court through LPSK, and then LPSK will provide compensation, restitution and assistance the law for Witnesses and Victims, the compensation is explained in chapter II part one contained in Article 2 through Article 18.

#### d. The rights of other victims to obtain legal protection

Legal protection in this matter is not only material but also immaterial in which victims of a legal event are also entitled to:

- 1) Obtain protection for personal, family and property security, and be free from threats relating to the testimony that will be, is, or has been given.
- 2) Participate in the selection process and determine the forms of protection and security support, provide information without pressure, get translators, free from entrapment questions.
- 3) Get information about the progress of the case, get information about the court's decision, get information in case the convict is released, withheld his identity.
- 4) Get a new identity, get a temporary residence, get a new residence, get reimbursed transportation costs as needed.
- 5) Get legal advice, get temporary living expenses and get assistance.

#### 4.2 Indirect Protection

Ships are ships with propulsion used for trading to transport goods, passengers weighing more than 500 tons. Arrangement and management of transportation of goods transporting and transportation of people has been regulated in Act Number 17 of 2008 concerning Shipping. The forms of regulation in the law cover all aspects including shipping safety, the shape or size of the ship and some requirements that must be met by the company and / or the ship as well as the crew or vessel crews. In the writings of various shipping accidents, transportation of people is generally caused by human error both on land and during sailing, and also caused by companies or ship owners. Many ships carrying people have a design that does not consider aspects of passenger safety, one example is the sinking incident of KM Sinar Bangun 4 on Toba Lake which resulted in hundreds of passengers drowning. In general the victims could not swim and the ship's safety equipment was inadequate so that the passengers were unable to save themselves when an accident occurred. Then the design of the ship that is operated to transport people from the Port of Simanindo Samosir Island to Tiga Ras port, North Sumatra Island, ignores passenger safety aspects.

Based on data obtained that the total number of KM. Sinar Bangun passengers which sank in the waters of Toba Lake based on the following table:

**Table 1.** Victims of KM Sinar Bangun who survived

No	Name	Aged	Address
1	Rahman Saputra	22	Indrapura
2	Sri Santika	26	Kuala Tanjung
3	Hernando Lingga	24	Tj. Morawa
4	Riko Sijabat	26	Kota Pinang
5	Tiambuns Situmorang	16	Aek Kanopan
6	Hermanto Turnip	27	Tigaras
7	Suhendra	22	P. Siantar
8	Sandri Sianturi	23	Lubuk Pakam
9	Dedi Setiawan	22	Lubuk Pakam
10	Hafni	29	P. Siantar
11	Toni	29	Kota Pinang
12	Roni	17	Simpang Raja Huta
13	Muh. Riadi Saputra	23	Indrapura
14	Rudi Wibowo	22	Binjai
15	Muhammad Fitri	21	Indrapura
16	Heri Nainggolan	23	Panitonga

17	Jamuda	17	Parbunga-bunga
18	Juita Morga	30	Serbelawan
19	Josua Sinaga	18	Simpang Raja Huta
20	Fernando	27	Kec. Simanindo
21	Poltak Saritua Sagala	43	Kec. Simanindo
Total survivors		21 people	

Data of victims as many as 21 (twenty one) people, in accordance with data obtained by Basarnas from the Tiga Ras Health Center, Department of Communication and Information Samosir Regency and Institution verification results related to Samosir Regional Police, Simalungun Regional Police, Jasa Raharja, Ministry of Transportation, UPTD Region II of North Sumatra, Simalungun Regency, Simalungun Transportation Office, Head of the SAR office in Medan (SMC).

**Table 2.** KM Sinar Bangun Victims Died

No	Name	Aged	Address
1	Indah Jwita Saragih	22	Sidamanik
2	Fahrianti	47	Binjai Selatan
3	Tri Suci Wulandari	24	Aceh Tamiang
Total number of deaths		3 people	

Data that victims died as many as 3 (three) people, namely 1 (one) person obtained data from the Tiga Ras Health Center and 2 (two) victims who died obtained from the results of a search operation on Wednesday, July 20, 2018 around the waters of Toba Lake.

**Table 3.** The Victims of the KM. Sinar Bangun missing were found

No	Name	Aged	Address
1	Resmi Sinaga	60	Perasmian Kec. Dolok Sialau Kab. Simalungun
2	Khayrani Uandayani	22	Warga Medan Jln. SM Raja Gg. Mandailing
3	Inksan Zulkarnaen	51	Warga Deli Tua Medan
4	Bayu	30	Deli Tua Pasar 9 Medan
5	Nony Zoya	27	Warga Medan Titi Kuning
6	Ferry Sembiring	31	Warga Brastagi
7	Novia Barus	16	Warga Medan Marindal
8	Pandi	26	Wargaa Medan Deli Tua Gg. Santria
9	Jandur Simarmata	41	Desa Sihusapi Kec. Simanindo
10	Tiar Silaban	32	Desa Sihusapi Kec. Simanindo
11	Ami Elisabet	32	Desa Sihusapi Kec. Simanindo
12	Gresia	11	Desa Sihusapi Kec. Simanindo
13	Berliana Si	50	
14	Damersis Purba Tambak	43	Simpang Baga Saribu Dolok Kab. Simalungun
15	Hotman Manik	43	Warga Sidamanik Parmahanan Kab. Simalungun

16	Hotman Nainggolan	21	Warga Sionggang P. Siantar
17	Dorman Nainggolan	40	Warga Sionggang P. Siantar
18	Ledikson Nainggolan	38	Warga Sionggang P. Siantar
19	Basaria Br. Nainggolan	35	Warga Sionggang P. Siantar
20	Bungaran Nainggolan	28	Warga Sionggang P. Siantar
21	Lilis Lubis	50	Warga Sionggang P. Siantar
22	Hasiholan Sidabutar	62	Warga Sionggang P. Siantar
23	Riani Nainggolan	50	Warga Sionggang P. Siantar
24	Jon Veldi Nainggolan	8	Warga Sionggang P. Siantar
25	Nicolas Nainggolan	17	Warga Sionggang P. Siantar
26	Astrit Nainggolan	18	Warga Sionggang P. Siantar
27	Melinton Togatorop	26	Warga Sionggang P. Siantar
28	Jaya Sidaurok	21	Desa Simanindo Kab. Samosir
29	Jomelin Andreas Purba	34	Warga Purba Saribu Haranggaol
30	Nova Sulastri Sijabat	21	Naga Pane Tiga Runggu Kab. Simalungun
31	Hotbin Sitanggang	40	Laras Dua Kec. Siantar Kab. Simalungun
32	Farel Sitanggang	11	Laras Dua Kec. Siantar Kab. Simalungun
33	Pardamean Purba	42	
34	Bongbong Simarmata	35	Nagori Bayu
35	Jonner Silalahi		Nagori Bayu
36	Ader Nainggolan	48	Kab. Simalungun
37	Lonser Nainggolan	50	Tiga Runggu Kab. Simalungun
38	Selma Sinaga	25	Tiga Ras Kab. Simalungun
39	Atur Sinaga	30	Tiga Ras Kab. Simalungun
40	Ranto Fajar Siregar	47	Simantintulo Kab. Simalungun
41	Yeni Manik Uluan	35	Kab. Simalungun
42	Niko	15	Kab. Simalungun
43	Doni	17	Kab. Simalungun
44	Febri	20	Kab. Simalungun
45	Maya	25	Kab. Simalungun
46	Riski	30	Kab. Simalungun
47	Fitri Wulandari	23	Indra Pura
48	Obet Hutaurok	46	Kec. Harian
49	Trisman Renol Simarmata	40	P. Siantar
50	Juliana Suraida	35	Jln. Puan Gunung Purba Depok
51	Manan Sitanggang	25	P. Siantar
52	Lusi Nurbayati Sitanggang	15	P. Siantar
53	Lucky Pratama	20	P. Siantar
54	Mei A. Siadani	25	P. Siantar
55	Fery Panggabean	28	P. Siantar
56	Lucky Pratama	17	P. Siantar
57	Joel Manurung	26	Bahbirong Kab. Simalungun
58	Tamara Oktavia	15	Pekanbaru



59	Indah Juwita Saragih	24	Sidamanik
60	Edy Subastian	22	Indrapura
61	Very Despihan Penggabean	28	P. Siantar
62	Mei Apriana Saragih	28	P. Siantar
63	Irwan Syahputra	22	T. Tinggi
64	Eka Handayani	19	Batubara
65	Ilham Lubis	25	Indrapura
66	Tams Melani	22	Tanjungkaso
67	Ranto Siregar	27	Panetonga
68	Afri Franyoto	24	Tiga Balata
69	Endang Pangestu	21	Tiga Balata
70	Triwulandari	27	Kuala Simapang
71	Diky Wibowo	24	Simarimbun
72	Diky Prayogi	26	Sidamanik
73	Eka Siti Apriyanti	26	Sidamanik
74	Heru Purnomo	24	Sidamanik
75	Bayu Syahputra	25	Medan
76	Kinoy Ajeng Sandi	22	Sidamanik
77	Kriman Reynol Simarmata	26	Sinaksak
78	Juliana Suraida	27	Depok
79	Jonathan Fernano Tp. Bolon	26	Tanjung Morawa
80	Juniko	22	Sidamanik
81	Yeni	23	Sidamanik
82	Riki	28	Sidamanik
83	Dony Septian	28	Binjai
84	Arin	29	Binjai
85	Salama Febriani	14	Sidamanik
86	Maya	14	Sidamanik
87	Wagino	18	Sidamanik
88	Dengot Nainggolan	30	Sidamanik
89	Akmal Tino Kamsa Nainggolan	10	Sidamanik
90	Wira Pradana	20	Indrapura
91	Restu Apriyanga	24	Indrapura
92	Fadly Saputra	22	Indrapura
93	Yanda Aria	24	Indrapura
94	Ali Imron	21	Indrapura
95	Bagas Prama Ananta	30	Indrapura
96	Muh. Nursaid Sinaga	24	Medan
97	Toyan Bakkara	35	Sidamanik
98	Arifin Lubis	40	Sidamanik
99	Dinda Fuji Lestari	21	Pem. Bandar
100	Dimas Afandi	17	Pem. Bandar
101	Mutiara Oktaviani	17	Pem. Bandar
102	Ramansyah	27	Karang Sari
103	Gusti Muliani	23	Karang Sari
104	Rasia Arjuna	11	Karang Sari

105	Yudi Samsudin	30	Kampar Riau
106	Sri Wahyuni	23	Kampar Riau
107	Adli Pratama	25	Kampar Riau
108	Noval Ajis Rambe	19	Indrapura
109	Rida Syahfitri	19	Batubara
110	Heriawan	23	Batubara
111	Siti Arbia	23	P.Siantar
112	Alfaruq Siahaan	23	P.Siantar
113	Indah Juwita Saragih	21	Sidamanik
114	May Sri Novi	30	Medan
115	Roy Sirait	23	Indrapura
116	Dedi Suhaini	19	Perdagangan
117	Erwansyah	20	Pem. Sidamanik
118	Kak Wantri Sianipar	40	Dibutuon
119	Sahala Pardamaean	30	Raji Nihuta
120	Ismail Purba Cibu	20	Batubara
121	Muh. Irfan	39	Medan
122	Poltak Sitio	42	Medan
123	Marsinta Pakpahan	42	Medan
124	Berman Sitio	50	T. Tinggi
125	Lamtama Br. Napitupulu	15	Pekanbaru
126	Arif Chandra	23	Martubung
127	Desi Dwi Wahyuni	22	Martubung
128	Nisa Hastari	19	Labusel
129	Ayu Sahfitri	20	Labusel
130	Iwan Sugiarto	33	Kampung Musliman
131	Farida Sarigi Sumbayak	33	Kampung Musliman
132	Wafa Izzy	7	Kampung Musliman
133	Bambang Wardana	32	Dolok Melangir
134	Aska	6	Dolok Melangir
135	Asmi	2	Dolok Melangir
136	Yoka Hendri Sumbayak	40	Sidamanik
137	Manja Naibaho	35	Sidamanik
138	Alfarch	5	Sidamanik
139	Keyla	2,5	Sidamanik
140	Syahputra	40	Medan
141	Awaleni Sumbayak	35	Medan
142	Vikri	9	Medan
143	Husna	8	Medan
144	Bamsyah	30	Medan
145	Nina Insani	22	Medan
146	Naya	1	Medan
147	Sri Hendriyani	23	Kota Pinang
148	Yeni Limbong	32	Medan
149	Beben	26	Labusel
150	Sarsubhan Nasution	32	Pem. Karangrejo

151	Atur Duma Sinaga	19	Sibunga-bunga
152	Selmalina Sinaga	16	Sibunga-bunga
153	Halomoan Siagian	53	Sibunga-bunga
154	Halasan Siagian	40	Sihemun
155	Wasinton Silalahi	46	Sihemun
156	Rudiman Siboro	55	Panetonga
157	Elisabet Hutahuruk	12	Panetonga
158	Marsinta Sijabat	55	Panetonga
159	Ipan Rahmat Saputra	20	Sei Suka
160	Ayu Lestari	19	Dolok Marawan
161	Romy Siadari	17	Salbe
162	Dedek Wika Ikani	23	Aek Kanopan
163	Nurwanto	28	Kampar Riau
164	Herman Suryanto	24	Aek Nabaraa
Total Missing Victims		164 people	

Data sources were obtained from Medan SAR Office in 2018

The results of interviews with Iptu Iriani as Panit 2 Unit 5 Sub-Directorate 2 of the North Sumatra Regional Police Directorate General said that there were 164 victims or missing data of 164 (one hundred sixty-four) based on the results of verification by relevant agencies namely Samosir Regional Police, Simalungun Regional Police, Jasa Raharja, Ministry of Transportation UPTD Region II of North Sumatra, Simalungun Regency Government of Social Service Simalungun Regency, Head of Medan SAR Office / SMC which obtained data from the Community Complaints Post located in the tiga Race Simalungun Regency and Simanindo Command Post Samosir Regency and then the number of victims lost was 164 (one hundred sixty four).

The sinking incident of KM. Sinar Bangun, for victims who are compensated for accidents if they have received compensation offered by the shipping party, the peaceful settlement outside the court has been completed. However, if the compensation fund is refused, a compensation claim can be filed.

The claim for compensation that can be submitted is based on Article 40 paragraph (1) of the Shipping Law, which confirms:

Water transport companies are responsible for the safety and security of passengers and/or the goods they transport. These responsibilities may arise as a result of the operation of the ship, in the form of:

1. Death or injury of the passenger carried;
2. Destroyed, lost, or damaged goods transported;
3. Delay in transporting passengers and / or the goods transported; or
4. Third party losses.

Death or injury to a passenger carried is the death or injury of a passenger caused by an accident during transportation and occurs on board, and / or an accident when boarding or getting off the ship, in accordance with statutory regulations. Based on these explanations, as a passenger can be categorized as a passenger who has an accident while in transportation, so it is entitled to accept the responsibility of the ship as the service provider.

The case of KM. Sinar Bangun, compensation is provided in two forms, namely social assistance and social insurance. Social assistance funds come from the state budget and regional budget. Therefore, the amount depends on the government's financial capacity. The

provision of this assistance was preceded by the determination of the accident as a disaster. There is a separate mechanism regarding designation as a disaster worthy of social assistance with a set of criteria.

Based on Law Number 2 Year 2007 concerning Disaster Management in Article 69 paragraph (1) states that the central and regional governments provide compensation and disability for disaster victims. Further provisions regarding this benefit are regulated according to Government Regulation No. 22/2008 concerning Funding and Management of Disaster Assistance, in particular there are Article 25 and Article 26. Grieving compensation consists of funeral costs and / or condolence money, while disability compensation is given to disabled victims mental and / or physical.

In addition, Law Number 11 Year 2009 concerning Social Welfare and Government Regulation Number 39 Year 2012 concerning the Implementation of Social Welfare, also includes disaster victims as a priority group in providing social protection. This social protection, among others, is provided in the form of direct social assistance in the form of cash through the Ministry of Social Affairs.

Referring to Law Number 2 Year 2007 and Law Number 11 Year 2009, the Ministry of Social Affairs issued Social Minister Regulation (Permenson) Number 1 of 2013 concerning Social Assistance for Disaster Victims. Article 5 of the Permensos mentions several types of direct assistance for victims of disaster, one of them is condolence money and medical expenses. So in the case of KM Sinar Bangun, the Ministry of Social Affairs has decided to provide compensation of Rp 2,500,000 (two million five hundred rupiah) per person for victims while Rp 15,000,000 (fifteen million rupiah) / death victims.

This social assistance is not specifically for victims of public passenger transportation accidents, but for disaster victims. Distribution of compensation for victims is also just one part of the effort being made. However, because the KM Sinar Bangun accident could be categorized as a disaster, the victims were given compensation.

The compensation for the victims of KM Sinar Bangun also came from the social insurance program based on Law Number 33 of 1964 concerning the Accident Compulsory Accident Coverage Fund. This law regulates the management of special compensation funds for victims of public transportation accidents on land, river or lake, ferries or crossings, sea, and air. Its management uses an insurance mechanism, where funds are collected from passengers through compulsory contributions.

Detailed provisions are regulated in Government Regulation Number 17 of 1965 and Minister of Finance Regulation No.15 / PMK.010 / 2017 related to the amount of compensation and contributions. This fund is managed by BUMN, namely PT Jasa Raharja (Persero). In the context of KM Sinar Bangun, this provision is in line with Law Number 17 of 2008 concerning Shipping and Government Regulation Number 20 of 2010 concerning Transportation on Water. Water transport companies are responsible for the safety and security of their passengers. This responsibility includes the death and injury suffered by the passenger being transported. For this reason, the company is obliged to insure its responsibilities and carry out basic passenger protection insurance in accordance with statutory provisions.

The laws and regulations referred to herein are Law Number 33 of 1964 and its derivative legal products. Law Number 33 of 1964 basically regulates the rights and obligations of passengers. Each accident victim is entitled to compensation in the amount determined by the minister of finance. The Ministry of Finance last year increased the value of compensation by an average of 100% through PMK No.15 / PMK.010 / 2017, which took

effect on June 1, 2017. With reference to this PMK, accident victims receive several types of compensation, namely:

1. Death benefit worth IDR 50,000,000 (fifty million) per passenger submitted to the heirs.
2. Permanent notes for a maximum of Rp 50,000,000 (fifty million rupiah). Realization depends on the type of defect calculated based on a certain percentage as stipulated in detail in Government Regulation No. 17 of 1965.
3. For victims who need treatment, receive a maximum maintenance cost of Rp. 20,000,000 (twenty million rupiahs), an ambulance fee of a maximum of Rp. 500 thousand, and first aid costs for accidents a maximum of Rp. 1,000,000.- (one million rupiahs) ).
4. If a passenger dies and does not have an heir, the burial party will be reimbursed for the burial fee of Rp 4,000,000 (four million rupiah).

Mandatory contributions this compensation fund is obtained through mandatory contributions called mandatory fees for ships (IWKL). Each passenger must pay the fees attached to the ticket price. This fee is collected by the transportation owner to be deposited to Jasa Raharja no later than the 27th of every month. IWKL is divided into two major groups, namely compulsory contributions for public transportation of lakes and rivers and compulsory contributions for public transportation for ferries / crossings and sea.

With reference to PMK No 15 / PMK.010 / 2017, the amount of the mandatory contribution for public transport passengers in lakes and rivers is divided into 2 groups based on ticket prices. For prices up to Rp 2,500, the fee is Rp.100, whereas for ticket prices above Rp. 2,500, the fee is Rp. 200. In the case of KM Sinar Bangun, the contribution fee must be included in the lake and river transportation group.

The important thing to know is that the distribution of compensation follows the principle of no fault. That is, do not consider mistakes made by shipowners. In the case of KM Sinar Bangun there were errors such as the number of passengers that exceeded capacity and did not have manifests. Nevertheless the victims still receive compensation. Because there is no manifest there needs to be a determination of victim data.

Despite using the principle of no fault, law enforcement must still be carried out for violations committed. More importantly, supervision of shipping compliance must be increased. Manifest, for example, is also very much needed in determining the amount of mandatory contributions. Without manifests, determining the amount of mandatory contributions is difficult so there is a chance of data manipulation.

Then, based on an interview with Mrs. Purnama Sidahuruk, one of the wives of the victims sinking of KM. Sinar Bangun in the waters of Toba Lake where her husband was not found or declared missing said that the protection provided was only insurance assistance from PT. Jasa Raharja (Persero) Medan North Sumatra Province Branch each heir received Rp. 50,000,000 (fifty million rupiah). In addition, there are also some assistance provided by the government, among others: Social Service Rp. 15,000,000 (fifteen million rupiah), the Government of Samosir Regency in the amount of Rp. 20,000,000 (twenty million rupiah), the Government of Simalungun Regency in the amount of Rp. 2,000,000 (two million rupiah) and rice, sugar and cooking oil assistance. (Results of an interview with Ms. Purnama Br. Sidahuruk on November 31, 2019)



## V. Conclusion

The form of legal protection given to the victims sinking of KM. Sinar Bangun in Toba Lake is that every accident victim is entitled to protection based on the provisions of the legislation, which is provided by the government in the form of direct social assistance in the form of cash through the Ministry of Social Affairs, types of compensation for victims in the form of death compensation, permanent disability compensation, and survivors. Each accident victim also received compensation from PT Jasa Raharja (Persero), the amount of which was determined by the minister of finance, in addition to other legal protections the implementation of legal proceedings for the occurrence of criminal acts.

## References

- Amaruddin, Zainal Asikin. 2010. *Pengantar Metode Penelitian Hukum*. Jakarta: Rajawali Pers.
- Arief Amrullah, 2015, *Politik Hukum Pidana Perlindungan Korban Kejahatan Ekonomi di Bidang Perbankan Dalam Perspektif Bank Sebagai Pelaku (Offender)*, Yogyakarta: Genta Publishing.
- Ahmad Sofian, 2018, *Ajaran Kausalitas Hukum Pidana*, Jakarta: Kencana
- Chairul Huda, 2006, *Dari Tiada 'Pidana Tanpa Kesalahan' Menuju Kepada 'Tiada Pertanggungjawaban Pidana Tanpa Kesalahan'*. Jakarta: Kencana.
- Chazawi, Adami. 2018. *Pelajaran Hukum Pidana Bagian 1*. Jakarta : PT Raja Grafindo Persada
- Gultom, Maidin. 2012. *Perlindungan Hukum terhadap Anak dan Perempuan*, Bandung: Refika Aditama.
- Hamzah, Jur Andi. 2012. *Asas-Asas Hukum Pidana di Indonesia & Perkembangannya*. Jakarta : P.T. Sofmedia
- Hari Utomo, (2017), *Siapa Yang Bertanggung Jawab Menurut Hukum Dalam Kecelakaan Kapal ( Legally Responsible Parties In Ship Accident )*, Jurnal Legislasi Indonesia, 14 (1): 59-60
- I Agusti Agung Dian Bimantara dan I Putu Sudarma Sumadi, (2018), *Konsep Restitusi Terhadap Perlindungan Korban Tindak Pidana di Indonesia*, Kertha Wicara, 7 (2): 3-4
- Kusumohamidjojo, Budiono. 1999. *Ketertiban yang Adil*. Jakarta: Grasindo.
- Ketut Adi Wirawan, (2015), *Perlindungan Terhadap Korban Sebagai Penyeimbang Asas Legalitas*, Jurnal Advokasi, 5 (2): 173
- Moeljatno. 2008. *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta
- Moleong, Lexy, 2006, *Metodologi Penelitian Kualitatif*. Bandung: Remaja Rosda Karya.
- Mertokusumo, Sudikno, A. Pitlo, 1993, *Penemuan Hukum*, Yogyakarta: Citra Aditya Bakti.
- Mertokusumo, Sudikno. 2003. *Mengenal Hukum Suatu Pengantar*. Yogyakarta: Liberty
- Maya Indah, 2014, *Perlindungan Korban Suatu Perspektif Victimologi dan Kriminologi*, Jakarta: Sinar Grafika.
- Nasution, S., 2007, *Metode Research (Penelitian Ilmiah)*, Bumi Aksara, Jakarta.
- Peraturan Pemerintah Nomor 22 Tahun 2008 tentang Pendanaan dan Pengelolaan Bantuan Bencana
- Peraturan Pemerintah Nomor 2 Tahun 2002 tentang Tata Cara Perlindungan terhadap Korban dan saksi dalam Pelanggaran Hak Asasi Manusia

- Prodjohamidjojo, Martiman. 2001. *Penerapan Pembuktian Terbalik Dalam Kasus Korupsi*. Bandung: Mandar Maju.
- Raharjo, Satjipto, 2000, *Ilmu Hukum*, Bandung: PT. Citra Aditya
- Renggong, Ruslan. 2016. *Hukum Pidana Khusus*. Jakarta : Prenadamedia Group
- Teguh Prasetyo, Abdul Halim Barkatullah, 2005, *Politik Hukum Pidana Kajian Kebijakan Kriminalisasi dan Dekriminalisasi*, Yogyakarta: Pustaka Pelajar
- Undang-Undang Nomor 31 Tahun 2014 Perubahan Atas Undang-Undang Nomor 13 tahun 2006 tentang Perlindungan Saksi dan Korban
- Undang-Undang Nomor 17 Tahun 2008 tentang Pelayaran
- Undang-Undang Nomor 27 Tahun 2004 tentang Komisi Kebenaran dan Rekonsiliasi
- Undang-Undang Nomor 2 Tahun 2007 tentang Penanggulangan Bencana
- Yulia, Rena. 2010. *Viktimologi Perlindungan Hukum terhadap Korban Kejahatan*. Yogyakarta : Graha Ilmu
- Yuliana Beatrich Udam, (2013), *Perlindungan Hukum Bagi Konsumen Pemakai Jasa Angkutan Laut di Pelabuhan Jayapura*, Mix Law: Journal of Law, 1 (1): 104