



Airline Company Liability for Luggage in Lost or Damaged Airline

Ayunda Novita Sari^{1*}, Prof. Dr. Prasetijo Rijadi²

¹ayundanovita6@gmail.com, ²pras@ubhara.ac.id

Universitas Bhayangkara Surabaya

*Corresponding Author: Ayunda Novita Sari

Email: ayundanovita6@gmail.com

ABSTRACT

Since Indonesia has a diverse geological and territorial landscape, air transportation is preferred by certain community groups. This research study aims to examine legal protection for the loss or damage of passengers' luggage on airplanes. The research employs a normative juridical approach, with data collected through a library study and analyzed qualitatively. As air transportation, particularly airplanes, continues to develop, many airline companies—both domestic and international—have experienced significant growth due to the increasing preference for air travel among Indonesians, as it is faster and more efficient. However, this growth must be accompanied by a high standard of service from airline companies, especially regarding baggage handling. In cases of lost baggage, lost baggage contents, or destruction of checked baggage, passengers are entitled to compensation of IDR 200,000 per kilogram, with a maximum of IDR 4,000,000 per passenger. Compensation for damaged checked baggage is determined based on the type, shape, and brand of the item.

Keywords: Airline, Liability, Luggage

INTRODUCTION

Since Indonesia has a unique geological and territorial structure, air transportation is preferred by certain community groups. For scheduled domestic air transportation, options include Garuda Indonesia, Citilink, Lion Air, Batik Air, and Sriwijaya. Meanwhile, for international flights, airlines such as Singapore Airlines, Malaysia Airlines, Royal Brunei, Cathay Pacific, and AirAsia are available.

In transportation, service users have fundamental rights that are strongly protected by legal provisions, including Law No. 1/2009 concerning Aviation, Law No. 8/1999 concerning Consumer Protection, and Ministerial Regulation No. 77/2011 concerning liability for lost or damaged goods. If these rights are not upheld, service users can request compensation or file complaints with the airline. The airline's liability for lost or damaged baggage is specifically regulated in Article 144 of Law No. 1/2009 concerning Aviation.

Transportation law is divided into three categories: land, sea, and air transportation, each regulated by specific laws in accordance with the principle of *lex specialis derogate legi generalis* from the Civil Procedure Code. Air transportation law is governed by Law No. 1/2009 concerning Aviation. Article 1 defines air transportation as any activity using an aircraft to transport passengers, cargo, and/or mail for one or more trips between airports.¹

In air transportation, baggage is classified into two types: checked baggage and carry-on baggage. Checked baggage refers to passengers' belongings handed over to the airline for transport on the same aircraft. In contrast, carry-on baggage consists of items carried by passengers under their own supervision. According to Article 5, Paragraph (1) of Ministerial Decree No. 77/2011, the maximum compensation for lost or damaged checked baggage is IDR 200,000.00 per kilogram, with a maximum of IDR 4,000,000.00 per bag.

Under Indonesian law, Article 1365 of the Civil Code states: "Every act that violates the law and causes harm to another person obliges the responsible party to compensate for the loss." This research aims to examine legal protections related to the loss and damage of passengers' luggage on airplanes.

RESEARCH METHODOLOGY

Legal research can be defined as research on the "legal system." The primary method used in this research involves collecting data in a realistic manner. In normative legal research, the focus is on examining the provisions of positive law, with positive legal instruments serving as sources of legal material.

¹ Adrian Tanjung and Amad Sudiro, "Due to Late Check-In Passenger Who Had Losses in the Organization of Flights in Indonesia (Case Study on Decision Number 612/Pdt.G/2019/PnJkt.Pst)," 2022, <https://www.atlantispress.com/article/125973099>.

This type of research studies law as its main object while excluding any non-legal material from its scope.²

RESULT AND DISCUSSION

Legal Regulations of Lost or Damaged Passenger's Luggage on Airland

An airline is an organization that provides flight services for passengers or goods. They charter or own aircraft to offer these services and may form partnerships or alliances with other airlines for mutual benefit.

According to Law No. 1/2009 concerning aviation, Article 1, Paragraph (25), air transportation refers to a commercial air transportation business entity that holds a commercial air transportation business license. This entity operates based on commercial air transportation contracts.³ Meanwhile, carriers in air transportation are companies or airlines that have received operating permits from the government and use civilian aircraft for a fee. Based on the definition above, airlines have several characteristics:

1. Serve passengers and their luggage.
2. Have a fleet of aircraft.
3. Operate a published flight schedule.
4. Provide a publicly available price list.
5. Are intended for public use.

The Types of Airline

The types of airlines can be divided into two categories:

1. Non-Commercial AirlineA Non-Commercial Airline refers to air transportation that does not seek profit from its operational activities. Examples include Presidential aircraft, Military aircraft, the Indonesian Red Cross Society (PMI), SAR aircraft, and Private Aircraft.
2. Commercial AirlineA Commercial Airline refers to air transportation that seeks profit from its operational activities. Examples include Air Cargo, Air Charter, Air Taxi, Helicopters, and Airlines. In service companies, apart from customers and consumers, the term "passenger" is also recognized. Essentially, there is no fundamental difference between customers and passengers, as passengers are also customers or consumers who use a service provided by the airline.

Referring to aviation law, passengers have various rights that airlines are obligated to fulfill. In the event of an accident, for example, passengers are entitled to compensation, and the airline is legally required to provide it. If a

² Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (May 2016): 201–207, <https://linkinghub.elsevier.com/retrieve/pii/S1877042816300660>.

³ H.K Martono & Pramono., *Hukum Perdata Udara Internasional Dan Nasional* (Jakarta: Raja Grafindo Persada, 2013).

passenger's baggage is lost, destroyed, or damaged while under the airline's control, the passenger is entitled to compensation. Article 5 of the Ministry of Transportation Regulation No. 77 states that for lost, damaged, or missing checked baggage, compensation is provided at IDR 200,000 per kilogram, with a maximum of IDR 4 million per passenger. In cases of flight delays, passengers also have rights. Article 77 of the Aviation Law stipulates that the airline is responsible for losses caused by delays in transporting passengers, baggage, or cargo, except when delays result from weather conditions or operational technical factors.⁴

Several airline websites provide explanations of conditions and provisions regarding ticket usage. Tickets can only be used by the person whose name is stated on the ticket. Passengers must present their baggage number when collecting baggage, and carrying prohibited items that may endanger flight safety is strictly forbidden. Some airline companies also specify refund policies. For example:

1. Refunds requested more than 48 hours before departure incur a 50% fee of the published basic fare per passenger.
2. Refunds requested 48 hours to 2 hours before departure incur an 80% fee of the published basic fare per passenger.
3. Refunds requested less than 2 hours before departure or after check-in incur a 90% fee.
4. A full (100%) refund is only granted if the airline cancels the flight unilaterally.

The definition of luggage is divided into two categories: checked baggage and cabin baggage, as outlined in Law No. 1/2009 concerning aviation. Chapter 1, Article 1, Paragraph 24 defines cabin baggage as passenger luggage that remains under the passenger's own supervision. Paragraph 25 defines checked baggage as items handed over by passengers to the carrier for transport on the same aircraft. The main difference between cabin baggage and checked luggage lies in the transportation process and placement location within the aircraft.

Airlines generally state that they may refuse to carry passengers or baggage due to misconduct or prior incidents. Many airlines also maintain passenger blacklists to prevent repeat offenders from boarding their flights.⁵

Carried Items in Luggage

To ensure flight security and safety, airplane passengers must comply with applicable regulations. All checked-in luggage must be properly packaged in accordance with these regulations. Checked luggage conditions include weight

⁴ Setiono, *Supremasi Hukum* (Surakarta: UNS, 2004).

⁵ Nova Maulani, "The Concept of Jurisdiction in the Air: To What Extent Can It Be Upheld Against Unruly Passengers in International Air Transport?," *Padjadjaran Journal of International Law* 5, no. 1 (2021): 21–36.

information, additional fees for excess baggage weight, and types of permitted items. The delivery and placement of checked baggage identification must be appropriately handled, ensuring that checked baggage is clearly identifiable.

The maximum weight for checked baggage is 32 kg per bag. Additional fees for exceeding this weight are displayed at the check-in counter. Information on additional charges for excess baggage weight is also available at the check-in counter. Checked baggage identification must be clear, easy to read, durable, and include personal identity. The placement of baggage identification marks is the responsibility of check-in officers.

Checked baggage identification information includes the baggage identification number, carrier name or logo, flight date, flight number, departure and destination codes, and luggage weight. Passengers are allowed one carry-on bag weighing 7 kg with maximum dimensions of 58x46x23 cm, which must fit in the overhead compartment. Additionally, passengers may bring one personal bag for in-flight necessities. Luggage items must be placed at the check-in counter's baggage test unit or as specified on standing banners.

According to Law No. 8/1999, consumer rights include the right to comfort, security, and safety in goods or services, the right to choose goods or services and receive them as promised, the right to clear and honest information about products and services, the right to voice opinions and complaints about goods and services, the right to advocacy, protection, and fair dispute resolution, the right to consumer training and education, the right to fair and non-discriminatory treatment, the right to compensation or replacement for defective goods or services, and other rights as regulated by law. Consumer obligations include following instructions and guidelines for product or service use, acting in good faith when making transactions, paying according to the agreed price, and complying with consumer protection dispute resolution procedures.⁶

Business actors' rights under Law No. 8/1999 include the right to receive payment as per the agreement, the right to legal protection against fraudulent consumers, the right to defend themselves in consumer disputes, the right to restore their reputation if legally proven not at fault, and other rights as per applicable laws. Their obligations include operating with good intentions, providing accurate and reliable information about products and services, treating consumers fairly and without discrimination, ensuring product quality meets applicable standards, and allowing consumers to test products and receive necessary guarantees.

Ministerial Regulation No. 77/2011 states that the carrier is not responsible for lost or damaged cabin baggage unless proven to be due to the carrier's actions. If proven guilty through verification or legal ruling, the compensation amount is determined based on actual losses. Compensation for lost, destroyed, or damaged checked baggage includes IDR 200,000 per kg, up to a maximum of IDR

⁶ Abdulkadir Muhammad, *Hukum Perjanjian* (Bandung: PT. Alumni, 2013).

4,000,000 per passenger for lost baggage or damaged contents. Compensation for damaged baggage is based on type, shape, size, and brand. Checked baggage is declared lost if not found within 14 calendar days from the passenger's arrival at the destination. If baggage is delayed but not yet declared lost, passengers receive IDR 200,000 per day for up to three days.

Airline Liabilities to Passenger Who Lost Their Baggage

Legal liability can be claimed if there is an engagement that gives rise to rights and obligations. Based on the provisions of Article 1233 of the Civil Code, rights and obligations (commitments) originate from agreements and laws.

Article 168(1) states that in the event of lost checked baggage, the liability of airlines is regulated under the Republic of Indonesia Law No. 1/2009 and further detailed in Minister of Transportation Regulation No. 77/2011 concerning Air Transport Responsibilities. In line with this, the author will outline the technical steps and provide an analysis of Minister of Transportation Regulation No. 77 of 2011. Article 5(2) states that checked baggage is considered lost if it has not been found within 14 days from the passenger's arrival at the airport terminal. However, airlines are required to take necessary actions to prevent loss and to locate the missing baggage.

Lost baggage is often categorized as mishandling, which can sometimes result from airline staff's lack of caution when handling checked baggage. While airlines have implemented various preventive measures, baggage theft can still occur. If a passenger's baggage is missing upon arrival at the destination terminal, they typically report it to the airport's Lost and Found unit. Passengers are usually provided with a Property Irregularity Report (PIR) form, where they can describe their missing item, including details such as color, brand, and the airways bill number attached to their baggage.⁷

Following such incidents, the airline immediately contacts all terminals within its network to track the lost baggage. The carrier's responsibility begins when the checked baggage is received during check-in. Additionally, airlines collaborate with insurers to provide insurance coverage for checked baggage.

According to Article 1(1) of Minister of Transportation Regulation No. 77/2011 on Air Transport Responsibilities, aircraft are a type of air transportation used for carrying passengers, cargo, or mail. Meanwhile, under Law No. 1/2009, an airline company is classified as an Air Aviation Business Entity—holding a permit for non-commercial air transportation activities or conducting commercial air transport operations in compliance with aviation regulations and relevant business agreements.

⁷ Rahayu Hartini, *Hukum Pengangkutan* (Malang,: UMM Press, 2007).

Airline Liability Measures for Lost or Damaged Passenger Baggage

When a passenger's baggage is lost, the airline must take responsibility, as stated in the Regulation of the Minister of Transportation No. 77/2011. Compensation for lost baggage is set at IDR 200,000 per kilogram for all classes, including both economy and executive class passengers.

From the explanation above, it can be concluded that in cases of lost or damaged checked baggage, the airline is responsible if certain conditions are met. Specifically, the loss or damage must be proven to be connected to air transportation and must have occurred either on the aircraft or during the period when the passenger is boarding or disembarking.⁸

The airline will accept responsibility if the passenger can provide authentic evidence, or if the loss or damage results from an error by the airline or ground handling staff. However, the airline is not responsible for cabin baggage, as it is carried and supervised by the passenger. If the airline assumes responsibility, it may face difficulties in covering costs for incidents beyond its control.

The airline's liability for lost or damaged baggage includes:

1. In cases of lost baggage, compensation is provided at a rate of IDR 200,000 per kilogram.
2. If baggage is damaged but not considered valuable, repairs may be carried out.
3. If the item cannot be repaired, it may be replaced with an equivalent item based on its sale value, subject to the owner's approval.
4. If the lost or damaged item is food, compensation will be processed upon submission of a purchase receipt by the passenger.

Amount of Compensation

The amount of compensation for passengers due to damage or loss of cabin baggage is regulated under Article 1, number 9 of the Minister of Transportation Regulation No. 77/2011. Cabin baggage refers to items brought and supervised by the passenger. Passengers seeking compensation for damaged or lost cabin baggage must provide proof in court. If it is proven that the damage or loss resulted from the carrier's fault, the passenger is entitled to the highest compensation equivalent to the value of the goods.

Checked baggage refers to passenger belongings handed over to the carrier for transportation on the same aircraft. Compensation details for checked baggage are as follows:

1. Loss of baggage, contents of baggage, or destruction of checked baggage is compensated at IDR 200,000 per kilogram, with a maximum of IDR 4,000,000 per passenger.

⁸ E. Suherman, *Masalah Tanggung Jawab Pada Charter Pesawat Udara Dan Beberapa Masalah Lain Dalam Bidang Penerbangan : Kumpulan Karangan* (Bandung: Alumni, 1979).

2. Damage to checked baggage is compensated based on the type, shape, and brand of the item. Checked baggage is considered lost if not found within seven days after the passenger arrives at the destination airport.
3. The flight operator must provide a waiting fee of IDR 200,000 per day for a maximum of three calendar days for checked baggage that has not been found and cannot yet be declared lost.⁹

The process of submitting baggage claims for lost or damaged baggage is regulated under Article 168 of Law No. 1 of 2009 on Aviation. Compensation for checked baggage is determined solely by ministerial regulation, specifically Minister of Transportation Regulation No. 77/2011 on Air Carrier Responsibilities. Passenger baggage is categorized under Article 1, Numbers 24 and 25 of Law No. 1/2009, which distinguishes between cabin baggage and checked baggage. Cabin baggage is limited to a maximum weight of seven kilograms, with dimensions not exceeding 40cm x 30cm x 20cm, plus one bag of personal travel items. Airlines are not liable for loss or damage if they have taken necessary preventive measures, such as providing compensation for their negligence.

Passengers can submit claims for lost or damaged baggage through two legal processes: non-litigation and litigation. Non-litigation is an out-of-court settlement process aimed at reaching an agreement through consensus on compensation or corrective actions to prevent future losses. Litigation, on the other hand, involves bringing the dispute to court for a legal resolution. Court proceedings, commonly referred to as lawsuits, are pursued when disputes cannot be resolved through other means. Litigation cases are examined and decided by a judge, though this process does not always guarantee a fair outcome.¹⁰

CONCLUSION

Legal protection for the loss or damage of baggage placed in aircraft baggage compartments is regulated by law, specifically under Law No. 1/2009 on Aviation, Minister of Transportation Regulation No. 77/2011, and Law No. 8/1999 on Consumer Protection. Compensation for lost baggage, its contents, or destroyed checked baggage is set at IDR 200,000 per kilogram, with a maximum of IDR 4,000,000 per passenger. Compensation for damaged checked baggage is determined based on the type, shape, and brand of the item. The process for claiming baggage compensation from airlines can be pursued through either non-litigation or litigation channels.

⁹ Prasetyo. A. S, *Studi Kasus Maskapai Garuda Indonesia Di Bandara Adi Soemarmo Boyolali* (Surakarta: Universitas Sebelas Maret, n.d.).

¹⁰ A Pranowo, *Dasar-Dasar Hukum Udara Dan Ruang Angkas* (Bogor: Ghalia Indonesia, 2011).

REFERENCES

- Abdulkadir Muhammad. *Hukum Perjanjian*. Bandung: PT. Alumni, 2013.
- Christiani, Theresia Anita. "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object." *Procedia - Social and Behavioral Sciences* 219 (May 2016): 201–207. <https://linkinghub.elsevier.com/retrieve/pii/S1877042816300660>.
- H.K Martono & Pramono. *Hukum Perdata Udara Internasional Dan Nasional*. Jakarta: Raja Grafindo Persada, 2013.
- Hartini, Rahayu. *Hukum Pengangkutan*. Malang,: UMM Press, 2007.
- Maulani, Nova. "The Concept of Jurisdiction in the Air: To What Extent Can It Be Upheld Against Unruly Passengers in International Air Transport?" *Padjadjaran Journal of International Law* 5, no. 1 (2021): 21–36.
- Pranowo, A. *Dasar-Dasar Hukum Udara Dan Ruang Angkas*. Bogor: Ghalia Indonesia, 2011.
- Prasetyo. A. S. *Studi Kasus Maskapai Garuda Indonesia Di Bandara Adi Soemarmo Boyolali*. Surakarta: Universitas Sebelas Maret, n.d.
- Setiono. *Supremasi Hukum*. Surakarta: UNS, 2004.
- Suherman, E. *Masalah Tanggung Jawab Pada Charter Pesawat Udara Dan Beberapa Masalah Lain Dalam Bidang Penerbangan : Kumpulan Karangan*. Bandung: Alumni, 1979.
- Tanjung, Adrian, and Amad Sudiro. "Due to Late Check-In Passenger Who Had Losses in the Organization of Flights in Indonesia (Case Study on Decision Number 612/Pdt.G/2019/PnJkt.Pst)," 2022. <https://www.atlantispress.com/article/125973099>.