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LEGAL REVIEW OF THE INSURED'S CLAIMS AGAINST ACCIDENT RISK IN THE MOTOR VEHICLE INSURANCE AGREEMENT AT PT. TOKIO MARINE INDONESIA INSURANCE

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ABSTRACT

Motor vehicle damage due to accidents, then every owner and driver cannot be sure what will happen in the future so that it is insured. It is concluded that the insured's obstacles in submitting a claim if there is a risk of accident in the motor vehicle insurance agreement at PT. Asuransi Tokio Marine Indonesia are inactive policies, damage occurs before the insurance period, incomplete documents, risks are not guaranteed in the policy, exceeding the claim submission deadline, and committing a violation of the law. The efforts made are to first make efforts to resolve the matter through deliberation and if no agreement is reached, it is resolved through the courts. Therefore, it is recommended that the regulation of the legal relationship between PT. Asuransi Tokio Marine Indonesia and the insured in the motor vehicle insurance agreement should provide detailed information regarding the cooperation contract to avoid cross-disputes in the future.

1. Introduction

An insurance contract is a contract in which the insured and the insurer enter into an agreement regarding their respective rights and obligations. The insurance company charges a premium to be paid by the insured. The premium paid is pre-estimated or calculated based on the risk they will face. The greater the risk, the higher the premium, and vice versa.

The insured's obligation under the insurance contract is to pay the premium, while the insurer's obligation (insurance company) is to pay compensation if a specified event occurs. If the insured event occurs, the insured must request that the insurer (insurance company) pay the specified compensation. This request is called a "claim" submission. Insurance claims are usually accompanied by supporting evidence that the event occurred.

One of the important roles of insurance in modern society is loss prevention. By compensating the insured, they are protected from financial loss. Compensation should not exceed the actual loss, as this reduces the possibility of the insured intentionally committing negligent acts or intentionally profiting from the insurance payment.

Insurance also assumes responsibility for the risks incurred by consumer finance companies by covering losses suffered by them in accordance with applicable terms and conditions. Insurance helps protect and minimize the risks that may arise for consumer finance companies. Finance companies inevitably enter into partnerships with insurance companies to minimize these risks.

The high public interest in these agreements, particularly for meeting their secondary needs, has led people to enter into consumer finance agreements. These agreements are also frequently encountered in the motorcycle trade. In fact, consumer finance agreements are growing and thriving in Indonesia. The rights and obligations under consumer finance agreements are similar to those in sales and purchases, namely, the purpose is to transfer ownership of goods. The only differences are the payment method and the acquisition (transfer) of ownership.

Risks faced by consumer finance companies include loss of the motorcycle caused by the individual involved or by a third party, meaning not the owner. A second potential risk is an accident. A third risk is default on installment payments by consumers who are not acting in good faith (default). The insurance provided by financing companies for such cases also covers motor vehicles involved in accidents.

Damage to motor vehicles due to accidents means that no owner or driver can predict what will happen in the future. While the owner is driving and an accident occurs, the vehicle suffers damage, whether minor or major. The insurance provided by financing companies for such cases also covers motor vehicle accidents that result in estimated damage to the vehicle exceeding 75% (seventy-five percent) so that a claim can be filed and compensation claimed. Accidents can happen anywhere and at any time. It is prudent to take steps to protect yourself, your valuables, and your loved ones from the unexpected.

If a motor vehicle is damaged, the insured party will file a claim with the insurance company, assisted by a consumer finance company. The consumer finance company assists consumers who have suffered a loss by preparing the necessary documents according to the claims filing procedure.

If an accident involving a third party is required to compensate for the loss, the required documentation is different. Each claim submission has a procedure to ensure prompt processing and prompt receipt of compensation. Different cases require different documents.

Many claims are rejected and do not meet the insured's expectations. The losses suffered by the insured are disproportionate to the compensation received. This is the problem with claims settlement, which actually benefits the insurance company. Therefore, not all claims are granted. The insurance company has criteria for accepting losses, which are mutually agreed upon at the time of insurance coverage. The insured party should read and understand the policy to understand the events covered and avoid misunderstandings if motor vehicle damage occurs.

2. Research Method

This research is descriptive in nature, as it only describes the object of the problem. Descriptive research leads to empirical legal research, namely by conducting an interview with Faisal Ramadhan Sinaga, Head of the Insurance Division at PT. Asuransi Tokio Marine Indonesia, Medan Branch.

This type of research utilizes both normative and empirical legal approaches. The normative legal approach is used to analyze laws and regulations related to insured claims in the event of an accident under a motor vehicle insurance agreement. The empirical legal approach is carried out by obtaining data relevant to the problem in this thesis and conducting an interview with the marketing manager of PT. Asuransi Tokio Marine Indonesia, Medan.

The collected data will be thoroughly analyzed using qualitative analysis or described in sentences. Qualitative analysis is an analysis based on the paradigm of the dynamic relationship between theories, concepts, and data, which constitutes feedback or constant modification of theories and concepts based on the collected data.

3. Results And Discussion

Results

Motor vehicle insurance is a type of loss insurance that is not specifically regulated in the Commercial Code (KUHD). Due to this lack of specific regulation, all general provisions for loss insurance in the KUHD apply to motor vehicle insurance between the insured and the insurer. The policy is signed by the insurer and serves as written evidence for both parties to fulfill their obligations and obtain reciprocal rights. To further discuss motor vehicle insurance, a standard motor vehicle insurance policy can be used as a primary reference in addition to the general provisions in the KUHD.

Insurance agreements are included in the agreements regulated by Article 1774 of the Civil Code, which refers to insurance as a "gain agreement." However, insurance agreements cannot be equated with "gain agreements," as insurance has a more definite purpose: transferring existing risks related to specific economic benefits, thus maintaining the same position.

When individuals agree on something, that agreement is binding on the parties making it, and the force of agreement is equal to the force of law. Therefore, it can be said that this agreement is a law made by private parties. This principle is a consequence of the open system adopted in Book III of the Civil Code and is justified because what they do in the agreement is a manifestation of individual or relative rights.

Demonstrating the existence of an agreement can be done orally or in writing. Both oral and written agreements have the same binding force, but proving the existence of an agreement is easier when it is written than when it is verbal.

In the law of evidence, a letter is a form of evidence, although several other requirements must be met to determine whether it has absolute probative force. This means that not all letters have the same probative force; this depends on the nature of the letter, whether it is a regular deed, a private deed, or an authentic fact.

In everyday life, almost all agreements are made in writing. With the exception of agreements concerning movable property, where verbal agreements are sufficient, however, agreements concerning movable property of significant value are often made in writing.

PT. Asuransi Tokio Marine Indonesia, in its business operations, collaborates with consumer finance companies as facilitators to facilitate the convenience and continuity of financing agreements. The legal relationship between the insurance company, PT. Asuransi Tokio Marine Indonesia, and the consumer finance company arises because the consumer finance company faces various risks associated with the financing, necessitating a collaborative relationship with PT. Asuransi Tokio Marine Indonesia to transfer and minimize the risks of providing financing to consumers.

The insurance agreement between PT. Asuransi Tokio Marine Indonesia and the consumer is evidenced by a deed in the form of a standard agreement (standard agreement). A standard agreement is a form of agreement in which all aspects of the relationship between the parties are predetermined in a form by the party in a more powerful position and cannot be changed unless otherwise specified.

The contents of a standard agreement are not specified in the Civil Code. Therefore, the parties can determine their own terms in accordance with the principle of freedom of contract, as derived from Article 1338 of the Civil Code,

JURNAL META HUKUM
Volume 3, Number 3, Edition July 2024
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which states that all legally made agreements are valid as law for those who make them.

According to Article 1313 of the Civil Code, "An agreement is an act by which one or more persons bind themselves to one or more persons." This implies that in an agreement, one party is obligated to perform and the other party is entitled to the performance. The agreement also regulates matters agreed to be implemented or for the fulfillment of performance that is lawful, meaning it does not conflict with applicable laws.

Claims are a byproduct of the insurance business, and poor claims handling can lead to dissatisfaction among insureds and damage the company's reputation. Poorly controlled claims handling and the absence of proper administrative procedures can lead to devastating losses for a company.

4. Discussion

In practice, if damage occurs, the insured party must immediately report it to PT. Asuransi Tokio Marine Indonesia to determine the completeness of the documents required to file a claim. PT. Asuransi Tokio Marine Indonesia will assist the insured in filing the claim.

Many people assume that filing a motor vehicle insurance claim with an insurance company is difficult and complicated. However, if the procedures are followed correctly, filing a motor vehicle claim with an insurance company is not as difficult as imagined, and can even be considered easy.

Each motor vehicle insurance company has a time limit for the insured to report claims related to their vehicle, either verbally or in writing. The time limit usually varies, and if this period is exceeded, the motor vehicle insurance company has the right to reject the claim, even for accidents.

Motor vehicle insurance is not only beneficial for protecting the vehicle; having vehicle insurance also contributes to a sense of safety and comfort while driving. The protection provided is not limited to the vehicle itself, but also to the driver, passengers, and in the event of loss to a third party. When a risk of loss occurs, the first step is to file an insurance claim immediately. If the insured's claim is rejected in the event of an accident under a motor vehicle insurance agreement with PT. Asuransi Tokio Marine Indonesia, resolution can be sought through deliberation, as stipulated in Article 29 of the Motor Vehicle Insurance Policy with PT. Asuransi Tokio Marine Indonesia.

The parties' agreement regarding the method of resolving disputes or differences of opinion in a specific legal relationship (for example, a motor vehicle insurance agreement with PT. Asuransi Tokio Marine Indonesia) is made in a statement

JURNAL META HUKUM
Volume 3, Number 3, Edition July 2024
Published: 30-07-2024, e-ISSN: 2985-3338, Page: 394-402

from the parties stating that all disputes or differences of opinion that arise or may arise from the legal relationship will be resolved by arbitration or alternative dispute resolution, and through the courts.

Article 6 of Law Number 30 of 1999 states that the parties may use negotiation, mediation, conciliation, or expert assessment, which are resolved in a face-to-face meeting within 14 (fourteen) days, with the results outlined in a written agreement.

The dispute resolution clause through arbitration stipulates that the insured and insurer will attempt to resolve the dispute through the Indonesian Insurance Mediation and Arbitration Board (BMAI) in accordance with BMAI regulations and procedures or through other alternative insurance dispute resolution institutions registered with the Financial Services Authority (OJK).

In addition to resolving insurance disputes through the Indonesian Insurance Mediation and Arbitration Board (BMAI), disputes can also be resolved through the courts, as stipulated in Article 29 of the Motor Vehicle Insurance Policy of PT. Asuransi Tokio Marine Indonesia, which states that the insured and insurer will resolve the dispute through the District Court within the territory of the Republic of Indonesia.

Based on the above description, if an agreement cannot be reached between the insured and insurer, the insured shall be the first party to determine the alternative method for resolving the motor vehicle insurance claim dispute. The insured has the right to first determine whether to pursue arbitration or court proceedings.

One form of risk that must be considered is the risk resulting from uncertainty regarding the timeframe for dispute resolution in court. Essentially, insurance claims filed by the insured must comply with the obligations agreed to by PT. Asuransi Tokio Marine Indonesia. This agreement is outlined in the policy agreement and other related documents and is an integral part of the agreement.

In handling insurance claims, sometimes losses occur that are not technically PT. Asuransi Tokio Marine Indonesia's responsibility. If the amount is relatively small or still within the company's own responsibility, considering other factors that are more beneficial to the company, PT. Asuransi Tokio Marine Indonesia can compensate for the loss itself and does not involve reinsurance.

A potential business risk is a claim from the insured for a relatively large loss, which is believed to be beyond PT. Asuransi Tokio Marine Indonesia's responsibility. PT. Asuransi Tokio Marine Indonesia's rejection of the claim has led to a demand for settlement through civil court, with the insured as the plaintiff. It is uncertain whether the insurer will win, and the court's decision will require the company to pay the loss.

JURNAL META HUKUM
Volume 3, Number 3, Edition July 2024
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If the settlement process drags on for a considerable period of time, even years, and the relatively large loss will involve PT. Asuransi Tokio Marine Indonesia, which provided insurance protection for the period, then PT. Asuransi Tokio Marine Indonesia will experience difficulties in obtaining compensation from the reinsurance company.

Based on field research, insureds generally want their damaged vehicles repaired to their original condition, but claim provisions are specifically regulated according to the actual damage and its calculation. No motor vehicle insurance claims have ever been taken to arbitration or court proceedings. If the insured is dissatisfied with the resolution of their insurance claim, PT. Tokio Marine Indonesia Insurance prefers to resolve claims through deliberation and consensus.

PT. Asuransi Tokio Marine Indonesia respects the rights of the insured and provides legal protection. If the service is unsatisfactory, the insured has the right to file an objection. Generally, there are no disputes regarding claims settlement between the insured and PT. Asuransi Tokio Marine Indonesia, as it always prioritizes quality and excellent service to its customers.

5. Conclusion

The legal provisions of the motor vehicle insurance agreement at PT. Asuransi Tokio Marine Indonesia are standard Indonesian motor vehicle insurance policies, which take the form of standard contracts that stipulate the rights and obligations of the insurer and the insured. The motor vehicle insurance agreement at PT. Asuransi Tokio Marine Indonesia aims to transfer and minimize the risk of damage to motor vehicles.

The procedure established by PT. Asuransi Tokio Marine Indonesia in the event of an accident under a motor vehicle insurance agreement is to report the accident or damage directly to PT. Asuransi Tokio Marine Indonesia, the insured vehicle, by visiting the office, telephone, or fax within 3 x 24 hours. The report will be further processed by the insurance company in accordance with general insurance claim procedures. The required documents must be completed by the insured.

Obstacles for the insured in the event of an accident under a motor vehicle insurance agreement at PT. Asuransi Tokio Marine Indonesia include an inactive policy, damage occurring before the insurance period, incomplete documents, risks not covered by the policy, missing the claim submission deadline, and committing a legal violation. The efforts made are to first make efforts to resolve

JURNAL META HUKUM
Volume 3, Number 3, Edition July 2024
Published: 30-07-2024, e-ISSN: 2985-3338, Page: 394-402

the matter through deliberation and if no agreement is reached, it is resolved through the courts.

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JURNAL META HUKUM

Volume 3, Number 3, Edition July 2024
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