LEGAL LIABILITY OF FREIGHT CARRIER COMPANY FOR BREACH OF CONTRACT ACTION REGARDING WITH BOOK III BURGERLIJK WETBOEK JUNCTO LAW NUMBER 8 /1999 ABOUT CONSUMER PROTECTION

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ABSTRACT

The development of word currently is marked by globalization flows in all fields that have considerable impact on the economic development in Indonesia. Meanwhile, the global economic development pace currently is marked by globalization in all fields accompanied by the high rates of population mobilization, money traffic, and goods in trade flows and increasingly intense of businesses competition. The large numbers of people that send goods to one another from distant locations makes this service very important. There are numerous companies specializing in freight shipment, be them public and private companies, one of which is PT Jalur Nugraha Ekakurir, a company specializing in freight shipment service. However, the operation of freight shipment is not risk free, resulting either from a negligence of the carrier or from anything beyond the control of human. Accordingly, it needs to study the contract between businesses and consumer so that the former can be accountable in accordance with the contract, and the remedial action the latter may take over any nonperformance committed by a business based on Buki III BW and Undang-Undang Number 8/1999 about Consumer Protection.

This research was conducted in a descriptive-analytical way by using a juridicial-normative approach method, and then the data was analyzed by a juridical-qualitative way. The data obtained as the findings of research was analyzed by a juridical-qualitative way, where legislations should not be in contradiction with one another, and by paying attention to the hierarchy of legislation and legal certainty.

Based on the analysis of the data obtained, it could be concluded that the liability of PT Tiki JNE on the occurrence of nonperformance was provided for in Buku III BW and it could be made as a basis if the business commits performances according to Article 1234 that stipulates that if one of the performances were not fulfilled. Based on UUPK, the liability of business is provided for in the provisions of Article 7 letter G that stipulates that the business should pay any compensation, damage and/or replacement if good and/or service received or utilized is not in conformity with the contract. Meanwhile, legal protection on consumer over the liability of business on the occurrence of nonperformance can be taken by lawsuit, either criminal or private, either by litigation or non-litigation. One of the non-litigarion processes is the settlement of dispute outside court as provided for in Article 45 of UUPK. The settlement of dispute outside court includes what is taken by Consumer Dispute Settlement Agency (BPSK).