Procedure For Determining The Receipt Of Life Insurance Benefits

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Article Info
Received:
Revised:
Accepted:

Keywords:
Benefit; Life Insurance; Procedure;Receipt of Life Insurance.

Abstract
The background of this research is that there are differences in assessing insurance funds as joint property or as separate ownership rights by the beneficiary listed in the policy. The purpose of this study was to analyze the procedure for determining the receipt of life insurance benefits. The research method chosen was using empirical juridical research methods and descriptive analytical research approaches, by analyzing the judge's decision on the application for dispute resolution regarding Sharia Insurance, Islamic Inheritance Law, in a religious court. The results of this study indicate that; the procedure for determining the receipt of life insurance benefits, namely the insured can provide life insurance for a third party or for himself, so in life insurance there are the insurer, the insured and a third party, namely the person who receives the benefit (beneficiary) from the insured in the form of the rights and obligations of each - each of these parties.

I. Introduction

Insurance comes from the word verzekering (Dutch), which means coverage. Legal literature and the curriculum of law colleges in Indonesia generally use the term coverage. Meanwhile, the term insurance comes from the term assurantie (Dutch) or assurance (English), which is more widely known and used by business people. In the UK, in addition to the term assurance, there is also a companion term, namely insurance. While the term assurance typically refers to life insurance types, the term "insurance" refers to general insurance types.[1]

The 1938 Commercial Code (KUHD), which regulates insurance in Indonesia, states in article 264 that insurance or coverage is an agreement in which an insurer binds himself to an insured by receiving premium money to provide compensation for any loss, damage, or loss of expected profits he might suffer due to an unspecified event.[2]

The article's definition of coverage demonstrates that a transaction involves two parties, the first being the covered party, who transfers the burden or risk to the second party, the insurer. In other words, the insured party purchases the right to receive compensation or a guarantee, which they then sell by paying a sum of money known as the "premium." This applies to all types of insurance, including trade insurance, vehicle insurance, housing insurance, and life insurance. In life insurance, death is considered an event that is certain to occur, known as a "indeterminate event" because it is uncertain when death will become a reality.[3]

Basically, insurance or coverage is a form of contract or agreement called a policy and states that one party, called the insurer, agrees, in return for services, for an indemnity or known as a premium (premium), will pay an agreed amount of money to the other party (the insured) to replace a loss, damage, or injury to something valuable in it. An event, sometimes referred to as a hazard or peril, results in an insurable interest, or risk, for the insured person. The premium may be paid in one lump sum or installments; the contract may be valid for a specified period or until the occurrence of the event; the risk may be property, profits, income, or human life.[4]

Insurance is part of the law of engagement, where the type, object and dispute resolution are determined when the insurer and the insured bind themselves in the agreement. An agreement known as an insurance policy determines the legal relationship between the insurer and the insured in all forms of insurance. Among those mentioned in the policy are the insurer, the insured, and the beneficiary. The beneficiary is a third party appointed by the insured in the event of an event, which is an event that cannot be ascertained or even if it is certain to occur; the time is unknown and cannot be expected to occur.[5] The agreement will return the insurance fund if no event occurs during the contract period.

[1] Mulhadi Mulhadi, *Dasar-Dasar Hukum Asuransi* (Rajawali Pers, 2017).
[2] H M N Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia* (Djambatan, 2002).
[3] Abdulkadir Muhammad, *Hukum Asuransi Indonesia* (Bandung: Citra Aditya Bhakti, 2006).
[4] A Abdurrachman, "Ensiklopedia Ekonomi Keuangan Perdagangan Jakarta," *Pradnya Paramita*, 1991.
[5] Abdul Kadir Muhammad, *Pokok-Pokok Pertanggungan* (Bandung: Citra Aditya Bakti, 1990).

Conversely, if an event occurs, the insurer will provide a sum of money as a guarantee of uncertainty to certain individuals or beneficiaries mentioned in the policy.[6]

In the study of civil law, insurance funds are not viewed as joint property or inherited property, but rather as the rights of the person named in the policy as an heir. J. Satrio explains that the assessment of insurance funds is not as inherited property as it appeared at the time of acquisition. Insurance funds, obtained after death, do not qualify as inherited property.[7]

The Supreme Court Decision Number: 2831 K/Pdt/1996, dated July 7, 1999, has affirmed the position of the insurance fund. The jurisprudence consists of two legal rules. First, the policy lists the insured's name as the recipient of the insurance money, adhering to the adage that every insurance money payment should clearly identify the claimant's entitlement. Second, paying insurance money that deviates from the policy's provisions is an unlawful act.[8]

2. Research Method

The purpose of employing research methods is to gather various insights into the subject of study, aligning with the research goals. The object under study is the theory of certainty, justice, and benefit of Islamic law, and how it is implemented in the settlement of life insurance coverage disputes according to Islamic inheritance law.[9]

Therefore, the chosen research method employs descriptive analytical methods, specifically analyzing the theories of justice, certainty, and benefit of Islamic law. This analysis is then applied to the judge's decision-making process when resolving disputes related to Sharia Insurance and Islamic Inheritance Law in the religious court. This research approach employs empirical juridical research, a type of legal study that examines the enactment or application of normative legal provisions in specific societal events.[10]

3. Results and Discussion

Lampung Province is the largest Robusta coffee producing area in Indonesia witha plantation area of 154,168ha and a production of 91,917 tons of dry beans. Lampung Coffee Cultivation started in 1841 by bringing in a number of agricultural and plantation experts from Java Island who at that time planted Arabica and Liberica species. In 1910 there was an infection of Arabica and Liberica varieties, then Robusta Coffee was introduced in Lampung as a substitute for the two types of coffee.

[6] Amiur Nuruddin and Azhari Akmal Tarigan, *Hukum Perdata Islam Di Indonesia : Studi Kritis Perkembangan Hukum Islam Dari Fikih UU No 1/1974 Sampai KHI* (Jakarta: Rajawali Pers, 2004).
[7] J. Satrio, *Hukum Waris* (Bandung: Alumni Bandung, 1992).
[8] Mahkamah Agung RI, "Yurisprudensi Mahkamah Agung RI" (Jakarta: MARI, 2000).
[9] Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2009).
[10] Bambang Waluyo, *Penyelesaian Perkara Pidana* (Jakarta: Sinar Grafika, 2020).

The most common problem in filing a life insurance claim is that the beneficiary does not know how to start. The insured (the person who dies) is usually also the policyholder, who bought and paid for the policy. While still alive, he is actively in contact with agents and insurance companies. While the beneficiary may not know about the insurance policy, they rarely receive an explanation.[11]

In the takaful concept, every premium payment from the start will be divided in two, going into the policyholder's account, and another one is put into a special participant account, which is intended as *tabarru'* or charity to help other brothers.[12]

An insurance claim is a claim for compensation filed by the insured with the insurer or insurance company. Before filing a claim for compensation (claim), an insured needs to understand in advance the terms and procedures for filing a claim for compensation. In practice, the process of settling compensation often lacks smoothness.[13]

Sharia and conventional life insurance products are similar, but their management differs; whereas conventional companies collaborate with any company, including cigarettes and alcohol, sharia insurance does not. Fellow sharia members/customers divide premium management in sharia insurance into two categories: *tabarru* savings and participant savings. If sharia customers require or experience coverage, it indicates that they are assisting other customers. Therefore, the scope is limited to sharia customers, and any results from fund management will be shared through a *mudharabah* contract.[14]

The insurance agreement that runs Sometimes the insured party has difficulty in fulfilling its obligations, among others, due to economic or other factors, such as death. This situation causes the insured to be unable to pay insurance premiums smoothly. Therefore, the insurance premiums are due as they have passed the grace period.

Insurance provides several options that customers can take if they are temporarily unable to pay premiums due to emergency conditions but can still get insurance benefits, namely:

1. Reduce the amount of premium. Although the amount of Sum Assured decreases and the basic insurance benefits are reduced, the protection benefits continue.
2. Reduce additional benefits.

[11] Dominikus Rato, "Filsafat Hukum Mencari: Memahami Dan Memahami Hukum" (Yogyakarta: Laksbang Pressindo, 2010).
[12] Gemala Dewi and S GH, "Aspek-Aspek Hukum Dalam Perbankan Dan Perasuransian Syariah Di Indonesia," 2020.
[13] Mulyadi Nitisusastro, *Asuransi Dan Usaha Perasuransian Di Indonesia* (Alfabeta Bandung, 2013).
[14] Mulhadi, *Dasar-Dasar Hukum Asuransi*.

3. Taking premium leave facility.[15]

The grace period is 45 days. Once the grace period has elapsed, the premium will experience a lapse in which the cash value benefits persist, but the coverage benefits become unavailable. If a lapse occurs, for instance, after two years, we can apply for premium leave. This type of leave does not increase the cash value, but it still allows us to obtain benefits. For instance, if there is coverage during the leave period, we can still make claims.[16]

If the insured experiences a death while the policy is in a state of non-current premium (lapse), the required procedure differs from the standard claim procedure. Customers who experience lapse and do not leave premiums and then experience death cannot submit a claim submission procedure, and the insurance company is not willing to pay insurance claims if the policy is in lapse and makes insurance claims rejected.

This has been stated in the initial policy (agreement) where the black and white contract already has legal force on the stamp, more detailed benefits are also included in the policy. In accordance with the provisions of KUHD Article 255:

"Perjanjian pertanggungan harus dibuat secara tertulis didalam sebuah akta yang disebut polis. Polis ini sebagai alat bukti tertulis bahwa telah terjadi pertanggungan antara penanggung dengan tertanggung. Di dalam polis tersebut disebutkan bahwa semua ketentuan dan persyaratan tentang pertanggungan yang telah dibuat."[17]

Families or insurance beneficiaries can carry out procedures to recover the cash value upon reinstatement of the policy. For example, if the policy is overdue for 2 months, then the premium must be paid for the 2 months with a waiting period of one month. Then fill out a withdrawal form, such as a savings withdrawal form provided by the Prudential insurance company, which is then sent to the head office in Jakarta. After that, wait for a maximum of 15 (fifteen) working days, and the cash value can be checked in the customer's account, or it can be said that the cash value of the policyholder has decreased.[18]

If there is coverage for the customer when the premium is not current (lapse), then what the customer will get is the cash value fund (savings) because the funds will not be lost and remain but the benefits are lost or cannot be obtained. In accordance with sharia principles that divide premiums into two savings, even with lapse conditions, customers will get back their savings / cash value from the

[15] Prusales Academy, *PRU Fast Start* (Jakarta: PT. Prudential Life Assurance, 2012).
[16] Nuruddin and Tarigan, *Hukum Perdata Islam Di Indonesia : Studi Kritis Perkembangan Hukum Islam Dari Fikih UU No 1/1974 Sampai KHI*.
[17] R. Subekti and R. Tjitrosudibyo, *Kitab Undang-Undang Hukum Dagang Dan Undang-Undang Kepailitan* (Jakarta: Nusa Media, 2003).
[18] Abdurrachman, "Ensiklopedia Ekonomi Keuangan Perdagangan Jakarta."

insurance company.[19]

In life insurance, insurance is held to guarantee if the Insured experiences an event that causes the Insured to die or be disabled. Then, there are at least three types of risks that affect the holding of life insurance agreements, namely the risk of death, the risk of old age and the risk of accident or illness.

The insured can enter into life insurance for a third party or for himself, so in life insurance there are Insurers, Insureds and third parties, namely people who receive benefits (beneficiary) from the Insured.

Basically, the insurer is an insurance company that bears the burden of risk (life/sport) in exchange for the premium it receives from the insured. In life insurance, if an event occurs that results in the death of the insured, the insurer is obliged to pay compensation in accordance with the promised insurance money, or if the insurance period ends without an event occurring, the insurer is obliged to pay a sum of money back to the insured.[20]

The insured appoints a third party or beneficiary, either through a general or special power of attorney, without the interested party's (the insured's heirs) knowledge. If an event occurs that causes the insured's death, the beneficiary has the right to enjoy the promised compensation.[21]

However, if the event does not occur, the insured or policyholder is entitled to enjoy the return of the amount of money paid by the insurer for the premium payment from the insured.

The third party or beneficiary has no obligation to pay premiums to the Insurer. So, the beneficiary has no responsibility for the life insurance held by the Insured. Life insurance for the benefit of third parties or beneficiaries must be included in the policy.[22]

The risks faced by humans cover all aspects of life, including death. Risk is an unpredictable event that can lead to financial losses. For this reason, humans constantly strive to find ways to mitigate the potential risks. When a risk affects a person's life, the life insurance company (insurer) assumes the risk of death. Life insurance primarily safeguards against financial losses resulting from the loss of income-generating capacity due to death or old age. Additionally, life insurance serves as an investment or savings tool.[23]

To register as a prospective insured in an insurance company, usually a person has the right to choose and come directly to the insurance company he wants, this is as stated in Article 6 of Law No. 2 of 1999 concerning insurance business, which

[19] Nitisusastro, *Asuransi Dan Usaha Perasuransian Di Indonesia*.
[20] Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia*.
[21] Subekti, *Aneka Perjanjian* (Semarang, 1981).
[22] Muhammad, *Hukum Asuransi Indonesia*.
[23] Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia*.

determines that insurance coverage of insurance objects must be based on the freedom to choose the insurer, except for social insurance programs. This provision aims to safeguard the insured's freedom to select the insurance company as their insurer. This is considered necessary considering that the insured is an interested party in the insured object, so it is only natural that they are free without influence and pressure from any party in determining the insurer.[24]

In accordance with the above provisions, to become a prospective insured in life insurance, the prospective insured usually comes directly to the company and registers himself by requesting an Insurance Request Letter (SPA) accompanied by a photocopy of an ID card as proof of self, or for those less than 18 years old, submit a birth certificate.

In order to prevent errors during the filling process, the insurance officer will fill out the Insurance Request Letter form beforehand. The prospective insured is only required to provide accurate information about the matters specified in the Insurance Request Letter.[25]

In addition to the data above, in the Insurance Request Letter there are also attachments to changes or additions to SPA data, receipts for the first premium, and certificates of receipt of conditional premiums. The statement sheet and power of attorney include a declaration from the potential insured, confirming that they have answered all questions truthfully and completely, without concealing or omitting any information. They fully comprehend and consent to the policy's nullification, and the insurance company relinquishes all responsibility to cover the entire insured amount or a portion of it, should the answer prove to be incomplete or incorrect. Furthermore, the policy grants authority to any doctor, hospital, health center, insurance company, legal entity, individual, or other organization that has records or knowledge of the insured's condition or health, the history of hospital treatment, or the doctor's advice, whether the insured is alive or deceased, to inform the insurance or those authorized by him.[26]

In addition, the statement and power of attorney also explain that basically this request for coverage is not yet valid as a closing of coverage, and coverage will only take effect after:

1) The policy or notification letter of acceptance of coverage has been issued by the Insurance.
2) The first premium has been paid and received by the Insurance, so that the provisions in accordance with the conditional receipt certificate apply.

[24] Muhammad, *Hukum Asuransi Indonesia*.
[25] Riduan Syahrani, *Rangkuman Intisari Ilmu Hukum* (Banjarmasin: Pustaka Kartini, 1991).
[26] A. Sonny Keraf, *Etika Bisnis - Tuntutan Dan Relevansinya* (Yogyakarta: Kanisius, 1998).

After the prospective customer agrees to all matters as stated in the SPA, the SPA is then signed by the prospective insured, the prospective policyholder, and the parent or guardian if the prospective insured is less than 18 years old, along with an agent from the company who had previously recorded all information provided by the prospective insured. After the SPA filling stage is completed, the company will issue an insurance policy for the prospective insured.[27]

Article 255 of the KUHD mandates that an insurance agreement take the form of a written deed known as a policy. Furthermore, Article 19 paragraph 1 of Government Regulation No. 73 of 1992 concerning the settlement of insurance business determines that the policy or form of insurance agreement by any name, along with the attachment, which is an integral part of it, must not contain words or sentences that can lead to different interpretations regarding the risks covered by the insurance, the obligations of the insured, and the obligations of the insurer, or make it difficult for the insured to manage his rights.[28]

In a life insurance agreement, determining the amount of coverage depends on the agreement between the insurer and the insured. This is as contained in the provisions of Article 305 of the KUHD, which reads as follows:

"Perkiraan tentang jumlah uang untuk mana diadakan pertanggungan tersebut dan penentuan tentang syarat-syaratnya pertanggungan itu diserahkan samasekali kepada persetujuan kedua belah pihak."

In the practice that occurs in insurance, the determination of the amount of the sum insured is determined by the insured. According to Article 246 of the KUHD, the premium is the obligation of the insured, in return for the insurer's obligation to compensate the insured. This premium is usually expressed as a percentage of the sum insured, which reflects the insurer's assessment of the risk it bears. Usually the premium is paid upfront in cash. However, if the coverage will be valid for a long time, the premium payment can be agreed upon in installments.[29]

In the practice that occurs in insurance, there are 3 factors to determine the amount of premium, namely:[30]

1. Sum insured, the amount of money stated in the policy whose payment is linked to the life and death of the insured, the greater the sum insured, the greater the premium that must be paid because the risk that the insurance company must bear is higher.
2. Age, the younger the age of the insured, the lower / cheaper the premium to be paid, while the older the age of the insured, the more expensive the

[27] Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia*.
[28] Muhammad, *Hukum Asuransi Indonesia*.
[29] Rachmadi Usman, *Aspek-Aspek Hukum Perorangan Dan Kekeluargaan Di Indonesia* (Jakarta: Sinar Grafika, 2006).
[30] Mulhadi, *Dasar-Dasar Hukum Asuransi*.

premium to be paid. This is because the higher the age level of the insured, the greater the risk of death.

3. The period or period of premium payment, the shorter the period or period of premium payment, the cheaper the premium to be paid, especially for the premium payment period at once, it will be even cheaper because the company will provide a discount, while the longer the premium payment period, the more expensive the premium to be paid.

The premium to be paid by the insured to the insurer, in this case Insurance, can be made in a lump sum or installments. For installment payments, the insured can choose to pay premiums once a year, half a year, quarterly, or monthly.[31]

For the payment mechanism, usually from the insurance there is a collector or special officer in charge of withdrawing the payment of the insured premium by visiting the insured to his place of residence or a place that has been previously agreed upon, so the insured does not need to come to the company. In addition, the insured can also go directly to the company, the company also accepts payments through the Bank or by using a credit card, check or giro. Thus, it can be seen that the insured is given the freedom to choose a payment method that can facilitate the insured itself.

However, sometimes as humans, we often make negligence both intentional and unintentional. In response to this, the insurance company will take action by imposing a fine on the insured if he is late for up to two months, if more than that period has not been paid either then there is a two-year grace period, if more than the grace period has not been paid then the premium is considered invalid and thus the insurance agreement ends.

Insurance is a special form of agreement regulated in the KUHD. As an agreement so that the provisions of the valid terms of an agreement, in the Civil Code also apply to insurance agreements, because insurance agreements are special agreements, then in addition to the provisions of the valid terms of an agreement, the valid terms of an agreement also apply special conditions regulated in the KUHD.[32]

In general, the validity of an agreement is regulated in Article 1320 of the Civil Code and the Articles that protect the Article, namely Articles 1321-1329 of the Civil Code. Every agreement including insurance agreements must fulfill the following general conditions:[33]

1) Agreement of those who bind themselves.
2) Capacity to enter into an agreement.

[31] Dewi and GH, "Aspek-Aspek Hukum Dalam Perbankan Dan Perasuransian Syariah Di Indonesia."
[32] Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia*.
[33] Purwosutjipto.

3) A specific thing.

4) A lawful cause.

Based on the description of the process by which the prospective insured requests an insurance letter from the insurance company, it can generally be seen that an agreement has been made. With the signing of the statement letter and the power of attorney between the prospective insured, the prospective policyholder, or guardian (if the insured is under 18 years of age) and the insurance agent who has recorded it, mutual consent has been established between the parties involved. The prospective insured and the insurance company, as the insurer, agree to the terms of the agreement and the consequences arising from it, including the rights and obligations of each party. This is evidenced by the agreement on the SPA and the subsequent issuance of the life insurance policy, which specifically outlines the provisions of life insurance at the insurance company.[34]

So that what has been agreed by the insurer is also agreed by the insured party. Thus, a common understanding is reached between the two parties about what is promised and the conditions that apply to the agreement.[35]

The second general requirement is the ability to make an agreement. This relates to both parties entering into an agreement to perform legal acts recognized by law. The authority to act is subjective and objective. Subjective authority means that both parties are adults, of sound mind, not under guardianship, not in a state of bankruptcy and holders of valid power of attorney. Objective authority, meaning that the insured has a legitimate relationship with the object of insurance, while the insurer is a legitimate party representing the insurance company based on the company's articles of association, if the insurance is held for the benefit of a third party, the insured who holds the insurance needs to mention for whose benefit he holds the insurance.[36]

Looking at the second general requirement as described above, the parties entering into an insurance agreement can be said to be capable or authorized to perform a legal act, both subjectively and objectively. At the beginning of the agreement, when the prospective insured applies for SPA, the prospective insured is asked to fill out a medical history list to find out whether the prospective insured is authorized or not. If the insurance is held for the benefit of a third party and the policyholder is different from the prospective policyholder. Furthermore, if the prospective insured is <18 years old, they can be represented by their parents or guardians. The SPA and insurance policy are then signed by both parties, both the insured and the insurer, namely the agent representing the

[34] Purwosutjipto.
[35] Muhammad, *Hukum Asuransi Indonesia*.
[36] Muhammad.

Insurance.[37]

Certain objects in insurance agreements are insured objects, which can be in the form of property, can also be in the form of human life or body. If a particular object is in the form of human body or soul, it is found in life insurance. The definition of a particular object is that the object of insurance must be clear in whose name, how old he is, what his family relationship is, where his address is and so on. In addition, the insured must also have a direct or indirect relationship with the object of insurance.[38]

Based on these provisions, the insurance company, as a life insurance provider, acts as the insurer of the life of the insured person. Therefore, as stated in the Insurance Application Form, the prospective insured must clearly state their identity. If the prospective policyholder is different from the prospective insured, the relationship with the insured must also be specified.

In addition to fulfilling the three general conditions of the agreement as described above, for the validity of the agreement must also fulfill the fourth condition, namely the halal cause, meaning that the contents of the agreement do not conflict with the Law, do not conflict with public order and do not conflict with decency. An example is insuring objects that are prohibited by law to be traded, because in life insurance the object of coverage is the human body or soul, so this is clearly not against the law, public order and decency.[39]

Because an agreement is consensual or reciprocal, there are consequences arising from the agreement in the form of rights and obligations for each party. As an insurer, the insurer has an obligation to pay compensation or guarantee to the insured in the form of a sum of money in accordance with the agreed amount of coverage. In addition, the insurer also has the right to receive premium payments from the insured. Vice versa, the insured has the obligation to pay premiums and is entitled to receive compensation or guarantees if the event occurs or not until the insurance period ends.[40]

4. Conclusion

The procedure for determining the receipt of life insurance benefits is that the insured can hold life insurance for third parties or for himself, so in life insurance there are Insurers, Insureds and third parties, namely people who receive benefits (beneficiary) from the Insured. Basically, the Insurer is an insurance company that bears the burden of risk (life / sport) in exchange for the premium it receives from the Insured. In life insurance, if an event occurs that results in the death of the Insured, the Insurer is

[37] Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia*.
[38] Nitisusastro, *Asuransi Dan Usaha Perasuransian Di Indonesia*.
[39] Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia*.
[40] Purwosutjipto.

obliged to pay compensation in accordance with the promised insurance money, or if the end of the insurance period without an event occurring, the Insurer is obliged to pay a sum of money back to the Insured.

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