





The Process Of Resolving Compensation Claims Against Victims Of Defamation Through Social Media

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Abstract: Defamation through social media has become a significant problem in the digital era. This study aims to analyze the process of resolving compensation claims due to defamation and the form of legal protection based on the Civil Code. The research uses a normative juridical method with a qualitative approach, referring to laws and regulations, court decisions, and legal doctrine. The results show that dispute resolution can be done through litigation and non-litigation channels. Litigation includes formal stages such as filing a lawsuit, mediation, proof, and a judge's decision based on Articles 1365 and 1372 of the Civil Code. Meanwhile, non-litigation channels such as negotiation and mediation emphasize peaceful settlement. Legal protection for victims includes material and immaterial damages, the amount of which is determined based on the perpetrator's guilt, causal relationship, and strong evidence. Although restitution is generally in the form of money, other forms of restitution are also possible. This study emphasizes the importance of a fair and proportional legal approach to safeguard victims' rights and prevent abuse of freedom of expression on social media.

Keywords: Defamation, Compensation, Litigation and Non-Litigation

Introduction

The passage of time in each era brings information technology to experience significant changes in the way society interacts which allows people to communicate more widely and more quickly who get information and disseminate information but can also be a problem, especially related to defamation which can be done prevention efforts for the community by finding out the facts and filtering all information (Isti'anatul Mashlahah & Syamsul Arifin, 2023).

Regulations related to social media will become provisions that bind the community by providing the value of a method or norm that can be referred to as a legal system that provides legal protection by helping to prevent the loss of public confidence in the government system that can take place because of defamation (Damaitu, 2021).

The act of committing defamation through the media is called the imposition of honor which is a special form of unlawful act committed by someone intentionally regulated also in the Criminal Code, ITE Law, Civil Code in Articles 1372-1380 of the Civil Code which in the concept of civil law is an act of violation in the form of an act against Article 1365 of the Civil Code (Pratini, 2021).

Civil law recognizes compensation claims that regulate relationships between individuals in order to seek losses experienced in the form of proper order that can be in writing or unwritten and strict proof. Every citizen has the right to obtain or claim his civil rights that are violated by the party that harms him by filing a lawsuit for compensation to the local court, the interested party submits a claim for the right to compensation consciously (Irham Afriansyah Nasution, 2019). The success of a civil lawsuit is based on the need for proof of intentionally intending to insult in accordance with Article 1372 of the Civil Code in order to obtain compensation and repair of good name by restoring honor and good name.

However, sometimes the payment of compensation is not necessarily in the form of money but can be realized in other forms. The form of compensation according to Article 1372 of the Civil Code is a sum of money, for compensation of material losses and immaterial losses. Determining the amount of compensation for material losses is not difficult because material losses can be valued in money, while the determination of immaterial damages is quite difficult because it is difficult to assess the honor and good name of a person by valuing money.

However, Article 1372 paragraph (2) provides little direction to judges in considering compensation in the form of money by looking at the size of the insult, the rank and position and the ability of the two parties to the matter. Judges must consider various aspects to reach a fair and proportional decision. The judge's decision not only affects the parties to the case, but can also serve as jurisprudence for similar cases in the future. This lawsuit can no longer be filed if after one year, which is calculated from the time of committing the insult, the party begins to know that the act has defamed his honor and good name based on Article 1380 of the Civil Code. Mediators play an important role in the non-litigation resolution of defamation cases, particularly in helping the parties reach an agreement on compensation. Although not as "decisive" as a judge, the mediator facilitates dialog, negotiation and identification of damages to reach a mutually beneficial solution. The mediation process offers a faster, more efficient and peaceful alternative to litigation in court.

Based on this description, the author is interested in examining more deeply how the procedure for resolving compensation claims filed by victims of defamation through social media, as well as the form of legal protection provided to victims of defamation in accordance with the provisions stipulated in the Civil Code.

Methodology

This research uses a normative juridical method with a qualitative approach to examine legal norms related to defamation through social media. The main focus of the research is to analyze legislation, legal doctrine, and court decisions regarding legal protection and the mechanism for resolving compensation claims in the Civil Code. This type of research is descriptive-analytical with the aim of providing a comprehensive description of the settlement of defamation disputes and legal protection for victims. The object of research includes legal norms in the Civil Code, especially Article 1365 jo Article 1372, as well as dispute resolution mechanisms both through litigation and non-litigation (Zainuddin Ali, 2009). The data used consists of primary data in the form of laws and court

decisions, secondary data in the form of legal literature, and tertiary data in the form of encyclopedias and other supporting materials. Data collection is carried out through literature studies by reviewing related legal documents. The data analysis technique uses a qualitative approach, including legal interpretation, systematization, and critical evaluation of the relevance and effectiveness of legal regulations. This research was conducted for three months with a non-field location, which is based on literature research and relevant online sources. The results of the research are expected to provide theoretical and practical contributions in the development of law related to defamation in the era of social media.

Result and Discussion

The Process of Settling a Lawsuit for Damages Against Victims of Social Media Defamation

Freedom of expression on social media is often misinterpreted between interactions with the community, causing problems in it, every problem is certain to have a solution (YAHYA, 2024). In civil procedural law, including civil lawsuits for compensation, there are various parties that have a crucial role in the case settlement process. Each party has its own obligations and rights, and all parties must work together to achieve a fair and objective settlement. Every existing problem can be resolved in litigation and non-litigation efforts known in civil procedural law, namely as follows:

A. Litigation

In the settlement of litigation procedures that can be taken in each procedure for resolving civil cases, namely:

Defamation in civil procedural law is arguably a tort that is associated with obtaining compensation for losses including losses and profits that are obtained, in this loss one of the elements that are complied with in individuals filing a lawsuit refers to article 1356 of the Civil Code (Desfito, 2021). This means that losses include losses, costs, and interest that have been concretely or originally required to be estimated as long as the agreement has been created. In addition, if the non-fulfillment of the obligation is due to the deception carried out by him.

A lawsuit signed signed by the plaintiff or his lawyer and distributed to the head of the local district court can be used to seek compensation for the victim's suffering. After the plaintiff receives an advance payment for court costs at the amount decided by the district court, the lawsuit will be numbered and entered in the registry (Andari Yurikosari, 2022). The claim for compensation for defamation can be filed for a maximum of one year from the time the defamed person becomes aware of the unlawful act (Lelly Muridi Zham-Zham, Wahyu Mustariyanto, Ferika Nurfransiska, 2024).

After the completion of the registration of the case filed by the plaintiff, the dispute becomes a dispute in a case at a District Court, it requires law enforcement officials such as judges, clerks, lawyers, bailiffs, experts, mediators, notaries and others to be able to carry out their respective roles to achieve a fair and objective settlement. The form of the lawsuit is composed of an oral lawsuit and a written lawsuit, this oral lawsuit means that the plaintiff cannot read, write, is illiterate but is intended within the

scope of not being legally blind or not understanding the law and not being financially capable, this condition is decided in Article 120 HIR (Article 144 RBG) and this written form of lawsuit is required to be submitted to the District Court accompanied by a petition signed by the plaintiff or his attorney. In this condition, it is emphasized in Article 118 paragraph (1) HIR (Article 142 RBG).

According to civil procedure law, a lawsuit can be classified as a contentious or unilateral (ex-parte) lawsuit, depending on which court is authorized to decide the case in which the disputing parties are said to have contentious jurisdiction. A unilateral claim is one that is filed solely for the benefit of the claimant and does not involve a dispute (undisputed matters). This type of lawsuit is known as voluntary lawsuit jurisdiction. For this reason, according to civil procedural law, there are 2 types of lawsuits that are not the same, compensation lawsuits and petition lawsuits (voluntair).

a) Peacemaking

Mediation is one of the ways to resolve disputes in the judicial system (Sikri et al., 2022). This process is regulated by the rules of the Supreme Court in its provisions contained in the Supreme Court Regulation (PERMA) No. 1 of 2008 and is carried out before the trial officially begins. In mediation, a judge from the same District Court, but not handling the case, will assist both parties to reach an agreement on compensation. Mediation is free of charge and takes place in a court room. The mediation process is generally confidential, unless both parties wish otherwise. The judge presiding over the mediation will try to encourage both parties to reach an agreement and resolve the dispute over compensation amicably (RI, 2016).

b) Reading of the lawsuit

If the attempt to reach an amicable agreement on the determination of damages for the tort fails, the trial will commence (S.M et al., 2024). The plaintiff's attorney will read the claim for damages filed by the plaintiff. This compensation claim must be submitted in writing and signed by the plaintiff or his attorney. The contents of the lawsuit are as follows:

- Identity of the parties
 - The completeness of the information of the parties involved in the case is clearly stated about their capacity and position whether as plaintiff or defendant.
- Posita (Funamentum Petendi)
 Posita (Funamentum Petendi) is an incident of defamation in interactions on social media such as Whatsapp, Facebook, Instagram, Tiktok, Telegram, Twitter, Linkedln, Line, Messenger, and other existing social media applications that can
 - be the basis for filing a lawsuit based on applicable law.
- Petitum is a matter that is based on the posita, the preparation of the posita and petitum needs to look at the legal relationship between them. In the lawsuit, the plaintiff can also provide an explanation by describing the event that defamation occurred so that it becomes the basis for triggering the claim for compensation to the plaintiff.

c) Defendant's answer

The defendant's answer is in the form of an admission, where a defendant can provide an admission in the form of denying (rejecting) the entire claim that the defendant has never committed an act or does not fulfill the elements of defamation alleged by the plaintiff. With this in the contents of the answer the defendant defends the arguments of legal facts accompanied by evidence that supports the demands of the answer such as witnesses who can prove that the defendant did not commit the act, or other evidence that can refute the plaintiff's allegations (Widjaja, 2024).

d) Replik and Duplik

A replication in a defamation damages case can be in the form of a written or oral response from the plaintiff to the answer submitted by the defendant. The replication is the plaintiff's answer to the defendant's answer, where the plaintiff explains why the defendant's argument is wrong and reaffirms the reason for the compensation claim. This replication is like the second round in a civil trial, after the defendant has presented his argument, the plaintiff is given the opportunity to clarify and strengthen his position by adding further evidence or explanation. The aim is to strengthen the initial claim and refute the arguments put forward by the defendant to reject the claim.

In response to the plaintiff's replication, the defendant submitted a duplic. The duplic is the defendant's final right of reply to the plaintiff's replication. In the duplic, the defendant may admit the truth of some or all of the arguments put forward by the plaintiff in his replication. However, the defendant also has the right to submit new arguments to strengthen its rebuttal to the replication. This process of exchanging arguments (replication and duplicates) can continue until an understanding is reached or at least the main issues in dispute are identified. However, the judge has the authority to stop this process if it is deemed that the replication and duplicates only repeat the arguments that have been presented previously. The right of last word always rests with the defendant. The judge's questions and the parties' arguments must be relevant to the law and submitted with the permission of the chairperson of the panel. General questions related to the proceedings are always asked by the chairperson. A shared understanding between the parties and the judge of the relevance of the law will speed up the trial process.

At the same time, both parties are given the opportunity to exchange written documents, namely the replication (the plaintiff's response to the defendant's answer) and the duplic (the defendant's response to the plaintiff's replication). The process of submitting these replications and duplicates is done in a similar manner, i.e. submitted to the court clerk along with other supporting documents.

e) Evidence

Evidence in a lawsuit for compensation for defamation is crucial in deciding the rights and obligations of the parties involved in the dispute to win the case (Jeremiah & Rasji, 2024). Interests in civil law, namely civil rights and obligations, are regulated in substance in material Civil Law (Retnowulan Sutantio, 1997). In contrast, formal civil law regulates the manner in which such interests are enforced or defended. The plaintiff must be able to prove that there has been defamation that is detrimental to him by fulfilling a number of elements of unlawful acts with the provisions of Article 1365 KuhPerdata.

This process must be carried out carefully and based on applicable legal principles, in order to achieve justice for all parties concerned. Evidentiary efforts in the realm of civil law can be pursued through a variety of methods, including the collection of material evidence such as letters, testimony, confessions, oaths and examination of witness testimony, or summoning experts as expert witnesses to provide views or explanations related to complex issues so that the validity of the evidence can be proven and the judge handling the case will decide which party, either the plaintiff or the defendant, is obliged to provide evidence, so that the judge determines who bears the burden of proof.

f) Conclusion

HIR and Rbg do not specifically regulate the submission of conclusions in defamation compensation cases after the evidentiary process, this practice has become a habit in court. This means that parties who do not submit conclusions will not be considered to have violated the applicable rules. In fact, some parties choose to expressly state that they will not submit a conclusion and entrust the decision to the discretion of the judge.

However, submitting a conclusion is actually very important for the attorney. The conclusion is an opportunity for counsel to carry out an analysis of the arguments of the damages claim or their answer, based on the evidence obtained during the trial. Through this analysis, they can conclude whether the claim for damages is proven or not. The plaintiff's attorney will then ask the judge to grant the claim, while the defendant's attorney will ask for the rejection of the claim.

For the panel of judges, the conclusion is very useful to formulate legal considerations. The judge will assess the legal analysis in the conclusion issued by the attorney, and use it as a consideration in the decision. If the legal analysis in the relevant conclusions is rational and has reasons, it will be a strong basis for the judge's decision. Legal discovery by the judge in his decision can have a beginning from the conclusion issued by the attorney.

g) Judgment

In a verdict in a civil case, specifically a tort, the argument is that the judge's decision statement is imposed for violating someone's rights. The judge's decision consists of legal considerations (consideration) and the ruling, where legal considerations are the basis for decision making.

There are interim decisions (provisional decisions) as well as final decisions. Interlocutory decisions include preparatory, incidental, and provisional decisions, which are used to prepare a case or as a preliminary measure in favor of one of the parties. Interlocutory judgments, which are often used in short cases, are handed down when immediate action is required; e.g. the issue of:(Kementerian Keuangan,

- 2011). Illustrative example related to the issue of compensation claims against victims of defamation through social media:
- Case: An entrepreneur named Budi owns a well-known culinary business in X city. Candra, a business competitor of Budi, spread false information through social media that the food in Budi's restaurant contained dangerous ingredients and was not suitable for consumption. As a result, Budi's restaurant turnover decreased dramatically, and his reputation was tarnished in the eyes of the public (Social Media).
- Compensation Lawsuit: Budi filed a lawsuit for compensation against Candra on the basis of defamation. In his lawsuit, Budi included:
- Unlawful Acts: Candra spread false information that harmed Budi's good name and his business.
- Material Loss 1: Decreased turnover of Budi's restaurant due to false information disseminated by Candra.
- Immaterial Loss: Loss in the form of damage to Budi's reputation and image as a culinary entrepreneur.
- Evidence:

Budi included evidence in his lawsuit, such as:

- Screenshots of Candra's posts on social media containing false information.
- Sales data of Budi's restaurant before and after the false information was disseminated.
- Witnesses who can prove the decline in turnover and reputation of Budi's restaurant.
- Purpose of the Lawsuit:

Budi demands Candra to:

- Stop spreading false information.
- Pay compensation related to material and immaterial losses experienced by Budi.
- Apologize publicly to Budi and the public.

That the Illustrative Example related to the issue of compensation claims to victims of defamation through social media above, determines in the illustration that the type of decision is a condemnatoir decision. The condemnatoir verdict is a verdict that can be executed immediately, in the form of a punishment for compensation for both material and immaterial losses that obliges the losing party to carry out an action.

B. Non-Litigation

Non-litigation is an effort to resolve legal issues outside the court that aims to prevent, reduce, and resolve disputes peacefully (Awaludin, 2021). This method is generally used in civil cases. By providing legal consultation and advice, non-litigation helps avoid protracted disputes that are detrimental to all parties. Among others:

Negotiation

Negotiation is a dynamic process involving the exchange of information, offers and concessions to reach a mutual agreement (Lapae et al., 2022). An effective negotiator will be able to identify each party's interests, build rapport, and use persuasive communication skills to achieve negotiation goals. As someone who can conduct negotiations. Steps that need to be observed in conducting negotiations include:

- Understanding the target to be pursued
- The ability to control the negotiation material
- Knowing the achievement of the negotiation
- Application of skills using negotiation techniques, including relate communication skills.

Mediation

Mediation is similar to negotiation in resolving disputes out of court. The main difference lies in the presence of a mediator, a neutral third party who acts as a facilitator. The mediator's role is to provide advice and guide the process, but the final decision remains with the parties to the dispute. Involving a neutral third party (mediator) to facilitate dialog and provide advice is important because of this neutrality, professional mediators require special certification.

Arbitration

The settlement of the dispute over compensation for defamation in arbitration, which examines and decides the case is not a court judge, but an arbitrator (PRATAMA, 2022). In order for the arbitration process to be pursued, the main requirement is the existence of an "arbitration clause" contained in the agreement concluded before the dispute over compensation for defamation arose. This clause is an agreement between the parties to resolve the dispute through arbitration, so the court is not authorized to hear the case.

If the dispute is still submitted to the court, the court must reject it. The parties may choose one or three arbitrators to resolve the dispute. Arbitrators must be independent, neutral and have expertise relevant to the case. Awards in arbitration, made by arbitrators or arbitral tribunals, are based on existing legal provisions, or on considerations of justice and propriety. The parties have the right to determine for themselves the law to be applied in the settlement of disputes over compensation for defamation, whether they may arise in the future or have already occurred.

In arbitration, the arbitrator or arbitral tribunal chooses the award according to the applicable law or the principles of justice and propriety, by giving the parties the right to choose the law to be used. The award is announced a maximum of 30 days after the examination is completed. After the award is received, the parties are given 14 days to submit administrative corrections or adjustments to the claims. Subsequently, the judgment is registered with the Registrar of the District Court within 30 days of its pronouncement.

These three forms of dispute resolution can be pursued by parties who feel aggrieved or feel inequality of arguments, whether between individuals, between groups, or between business entities. Dispute resolution through non-litigation channels aims to reach consensus through deliberation and produce solutions that are familial in nature.

Forms of Legal Protection to Victims of Defamation According to The Civil Law Code

Community interaction on social media is very much a part of life today. Its ease of access and interactive nature allows people to connect with individuals and communities around the world (Raden Shintya Ayuningtyas Rusyana, Rully Khairul Anwar, Siti Chaerani Djen Amar, 2024). However, too much freedom in interacting on social media can lead to pollution problems, whether in the form of misinformation or negative social impacts.

Victims of defamation have the right to file a claim for compensation against the perpetrator through the civil legal process, which is based on Article 1365 jo 1372 of the Civil Code. The principle of responsibility for compensation serves as a form of legal protection based on the existence of fault on the part of the perpetrator. In primitive times, there was no clear distinction between losses caused by negligence or intentional acts and losses arising from unintentional acts.

Basically, compensation is generally given in the form of money, although other forms of compensation are possible. Ideally, compensation is distributed in full, covering all losses that the victim has suffered. However, the awarding of compensation considers several important factors, namely the existence of fault on the part of the perpetrator, the existence of a clear causal relationship between the perpetrator's actions and the losses felt by the victim, as well as strong evidence of the postulated losses.

There are several exceptions to the award of damages. One of these is the judge's power to reduce or harmonize the amount of damages (matigings bevoegdheid). In addition, exceptions also apply when the law has specifically determined the type of loss and compensation that can be demanded. For example, Article 1370 of the Civil Code limits damages to the cost of living that could have been achieved. This means that in the case of loss of life due to murder or negligence, immaterial (idiil) damages for the loss of life cannot be claimed.

In practice, the calculation of the amount of profit expected as compensation is often based on the principles of justice and propriety (aequo et bono), as reflected in the decision of the Supreme Court of the Republic of Indonesia dated April 7, 1976 No. 1037 K/Sip/1973 related to compensation (as quoted from Sudargo Gautama, Set of Indonesian Jurisprudence volume 3 page 73). It is important to emphasize that only losses that are protected by law can be claimed under Article 1365 of the Civil Code.

The issue of compensation due to non-fulfillment of an obligation that causes losses to creditors is regulated in Articles 1246-1248 of the Civil Code. However, many legal experts have the opinion that the relevant articles actually regulate compensation in the context of secondary obligations. A secondary obligation is an obligation that arises as a substitute for a primary obligation that is not voluntarily performed by the debtor. In

contrast, compensation in the case of tort (onrechtmatige daad) is the primary or main obligation of the obligation. Due to this difference, the provisions in Articles 1246-1248 of the Civil Code can only be applied by analogy to claims for damages based on tort.

Conclusion

Settlement of defamation claims on social media can be done through two main channels: litigation and non-litigation. The litigation route involves a formal court process with stages: filing a lawsuit, mediation, proof, and a judge's decision. The victim must prove the unlawful act in accordance with Article 1365 of the Civil Code by submitting valid evidence. Compensation can be in the form of money or other forms such as restitution, with the amount determined by the judge considering fault and loss. Non-litigation pathways include negotiation, out-of-court mediation, and arbitration, which emphasize peaceful resolution through deliberation. Both channels aim to provide legal protection for victims of defamation by taking into account justice and the interests of the parties.

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