

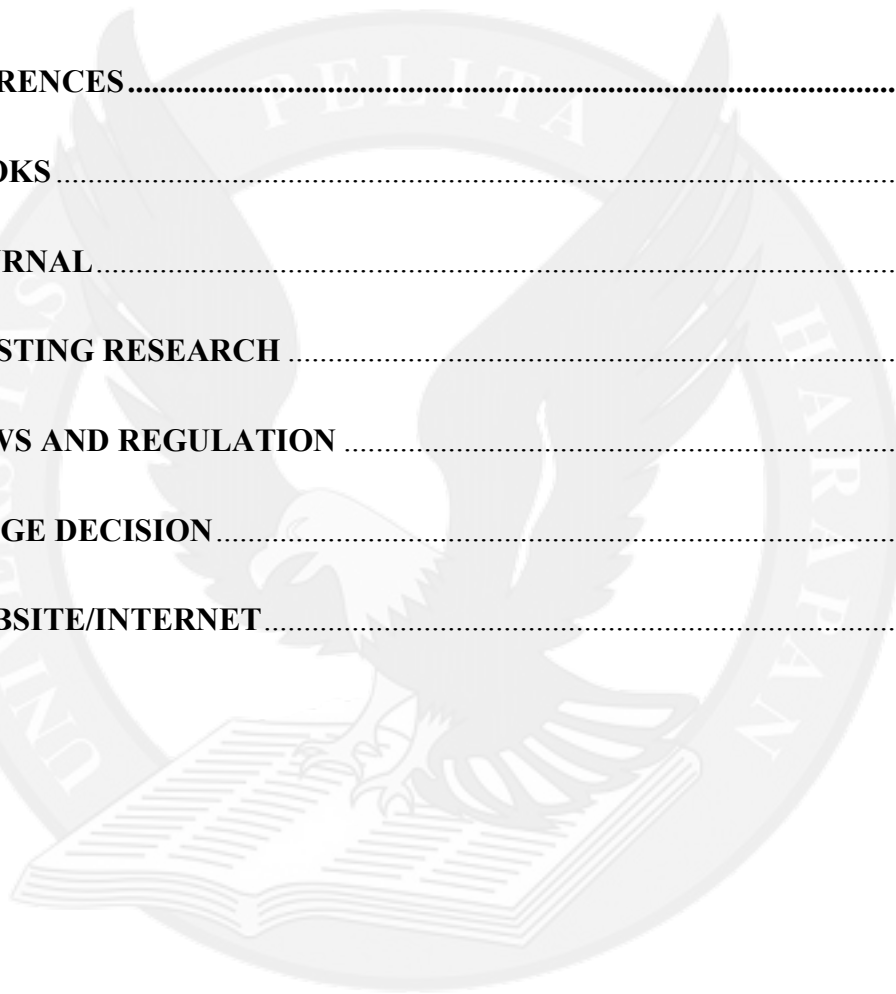
TABLE OF CONTENTS

| | |
|---|------------|
| ACKNOWLEDGEMENTS..... | v |
| TABLE OF CONTENTS..... | vii |
| LIST OF TABLES | xi |
| CHAPTER I..... | 1 |
| INTRODUCTION..... | 1 |
| 1.1. Background..... | 1 |
| 1.2. Formulation of Issues | 11 |
| 1.3. Research Purposes..... | 12 |
| 1.4. Research Benefits..... | 12 |
| 1.4.1. Theoretical Benefits | 12 |
| 1.4.2. Practical Benefits..... | 12 |
| 1.5. Framework of Writing..... | 13 |
| CHAPTER II..... | 16 |
| LITERATURE REVIEW..... | 16 |
| 2.1. Theoretical Framework | 16 |
| 2.1.1. The Main Concept and Elements of Tort and Breach of Contract.. | 16 |
| 2.1.1.1. The Main Concept of Tort..... | 16 |
| 2.1.1.2. The Main Concept of Breach of Contract | 21 |

| | | |
|------------------------|--|-----------|
| 2.1.2. | Parties involved in Tort Proceeding | 23 |
| 2.1.2.1. | The Defendant | 24 |
| 2.1.2.2. | The Plaintiff | 24 |
| 2.1.2.3. | The Judge | 25 |
| 2.1.3. | The Judge's Authority in Tort Proceeding | 25 |
| 2.1.3.1. | Law No. 48 of 2009 | 26 |
| 2.1.3.2. | The authority of the judge in determining the amount of material and immaterial damage compensation | 26 |
| 2.1.4. | The Concept of Damage and Compensation | 27 |
| 2.1.4.1. | Material damage compensation | 28 |
| 2.1.4.2. | Immaterial damage compensation | 29 |
| 2.2. | Conceptual Framework | 29 |
| 2.2.1. | The Legality of Damage and Compensation under Indonesian Law 29 | |
| 2.2.2. | Compensation from The Prospective of Victims of Tort and Breach of Contract | 30 |
| 2.2.3. | The Determination of The Amount of Compensation on Indonesian Civil Code | 32 |
| 2.2.3.1. | The determination of the amount of material compensation | 32 |
| 2.2.3.2. | The determination of the amount of immaterial compensation ... | 32 |
| CHAPTER III | | 34 |
| RESEARCH METHOD | | 34 |

| | |
|---|-----------|
| 3.1. Type of Research | 34 |
| 3.2. Type of Data | 34 |
| 3.3. Obtaining Data | 35 |
| 3.4. Research Approach | 36 |
| 3.4.1. Statutory Approach | 36 |
| 3.4.2. Case-Based Approach | 36 |
| 3.4.3. Conceptual Approach | 36 |
| 3.5. Data Analysis Method | 36 |
| CHAPTER IV | 37 |
| ANALYSIS | 37 |
| 4.1. Research Summary | 37 |
| 4.2. The Legal Void in Determining the Amount of Immaterial Damage Compensation in Indonesia | 43 |
| 4.2.1. Injustice on Determining the Immaterial Damage Compensation .. | 48 |
| 4.2.2. The inconsistency of the Amount of Immaterial Damage Compensation in Indonesia / Problem Arises | 55 |
| 4.2.3. The Essence of Immaterial Damage Compensation | 57 |
| 4.3. The problem and solution regarding the authority of the judge on the determining the amount of Immaterial Damage Compensation | 59 |
| 4.3.1. Problem | 59 |
| 4.3.2. Solution | 61 |

| | |
|---------------------------------------|-----------|
| CHAPTER V | 65 |
| CONCLUSION AND SUGGESTION..... | 65 |
| 5.1. Conclusion | 65 |
| 5.2. Suggestion..... | 66 |
| REFERENCES..... | 70 |
| BOOKS | 70 |
| JOURNAL..... | 71 |
| EXISTING RESEARCH | 71 |
| LAWS AND REGULATION | 71 |
| JUDGE DECISION..... | 71 |
| WEBSITE/INTERNET..... | 72 |



LIST OF TABLES

Table

Table 4.1 37

